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Highlights

Briefings on How To Use the Federal Register—For details on briefings in **Washington, D.C.**, see announcement in the **Reader Aids** section at the end of this issue.

69904 **Nuclear Safety** FEMA adopts interim rule on planning and preparedness for peacetime nuclear emergencies; effective 10–22–80; comments by 12–22–80

69847 **Loan Programs—Agriculture** USDA/FmHA amends regulations on insured emergency loans; effective 10–22–80, comments by 12–22–80

69875 **Rural Loan Programs** USDA/FmHA amends administrative rules for all FmHA guaranteed loan programs; effective 10–22–80

69933 **Excise Taxes** Treasury/IRS proposes to update and revise rules on manufacturers and retailers excise taxes on special fuels; comments by 12–22–80

69933 **Gift Taxes** Treasury/IRS publishes proposal on transfer of life income interest and exercise of nongeneral powers of appointment; comments by 12–22–80

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There are no restrictions on the republication of material appearing in the **Federal Register.**

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

69879 **Federal Reserve System** FRS issues interpretation on reserve requirements of depository institutions; effective 11–13–80

69880 **Banks, Banking** FCA amends personnel requirements for banks and associations of the Farm Credit System; effective 10–22–80

69887 **Banks, Banking** FCA revises internal control requirements for operation of Farm Credit banks and associations; effective 10–22–80

70198 **Endangered and Threatened Wildlife** Interior/FWS proposes critical habitat for hawksbill sea turtle in Puerto Rico; comments by 1–21–81; meetings 12–2 through 12–4–80 (Part III of this issue)

70032 **Fisheries** Commerce/NOAA seeks comments on taking of bowhead whales by Indians, Aleuts, and Eskimos; comments by 12–1–80

70023 **Television** FCC considers improvements to UHF television reception; comments by 1–5–81; reply comments by 2–19–81

69911, 69915 **Securities** SEC publishes proposal regarding net capital requirements for brokers and dealers; comments by 1–15–81 (2 documents)

70033 **Freedom of Information** Administrative Conference of the United States requests information on actual instances of improper disclosure of information by Federal agencies; comments by 11–20–80

70000 **Improving Government Regulations** PADC publishes semiannual agenda of significant regulations

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70161 NRC

70169 **Sunshine Act Meetings**

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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

Farmers Home Administration

7 CFR Parts 1865, 1945, and 1951

[F.C.D.A. No. 10.404, Emergency Loans]

Emergency Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) is amending its regulations pertaining to insured Emergency (EM) Loans. This action is needed to implement the provisions of Pub. L. 96–302 and to implement other related administrative changes desired by FmHA. The primary effect of this action is to enable those applicants who can get their needed credit elsewhere to obtain an EM loss loan(s) *only*, not to exceed $500,000, from FmHA at a formula rate of interest set by the Secretary, and subject to a graduation review three years after the initial EM loan is made and every other year thereafter. Graduation reviews will be conducted to determine whether borrowers can obtain sufficient and suitable other credit to meet their credit needs. Should FmHA determine that sufficient credit is available elsewhere to meet the borrower's credit needs, the borrower will be required to obtain such credit and satisfy the financial obligations it has with FmHA. In addition, this action also implements the amendments to the Memorandum of Understanding between the Small Business Administration and FmHA.

EFFECTIVE DATE: Effective October 22, 1980. Comments must be received on or before December 22, 1980.

ADDRESSES: Submit written comments in duplicate to Joseph H. Linsley, Chief, Directives Managment Branch, Farmers Home Administration, USDA, Room 6346–S, Washington, D.C. 20250, Telephone 202–447–4057.

FOR FURTHER INFORMATION CONTACT: James E. Vollmer, Emergency Loan Officer, Farmers Home Administration, USDA, Room 5336–S, Washington, D.C. 20250, telephone 202–447–6257. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Mr. Joseph Linsley, Chief, Directives Management Branch, USDA, FmHA, 14th Street, and Independence Avenue, SW., Room 6348–S, Washington, D.C. 20250. Telephone: 202–447–4057.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under the procedures established in the Secretary's Memorandum 1955 to implement Executive Order 12044, and has been designated as "nonsignificant." Gordon Cavanaugh, Administrator, FmHA, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action because this action is essential to enable the public to gain immediate access to the benefits provided by PL 96–302. The present economic difficulties attributable to the recent drought and other natural disasters are pervasive and pose a great burden on agricultural producers. The provisions of PL 96–302 authorize additional financial assistance to those who would not otherwise qualify for FmHA assistance, and it is in the public's best interest to implement this authority promptly. Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency final action are impracticable and contrary to the public interest; and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register**. Comments are solicited for 60 days after publication of this document, and this emergency final action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Accordingly, Part 1865, Subparts A and B of Part 1945, and Subpart A of Part 1951 of Chapter XVIII, Title 7, Code of Federal Regulations are amended as follows:

PART 1865—ANALYZING CREDIT NEEDS AND GRADUATION OF BORROWERS

1. The introductory paragraph of § 1865.3(b) and the first sentence of § 1865.3(c) of Part 1865 are revised to read as follows:

§ 1865.3 Graduation of FmHA borrowers to other sources of credit.

* * * * *

(b) *When borrowers should be advised to refinance their FmHA indebtedness.* Borrowers, other than those indebted only for the current year's operating expense, will be advised to obtain credit from other sources to refinance their FmHA debts when the County or Area Committee and County Supervisor determine they have made sufficient progress to qualify for credit for similar purposes and periods of time from other sources in the area on reasonable rates and terms. For EM borrowers who were *able* to obtain their credit elsewhere when they received their EM actual loss loans, the initial review will be conducted three years after the loan is made and every other year thereafter. In making this determination, consideration will be given to the following factors:

* * * * *

(c) *Review of borrower's status and progress.* Each October 1, the Finance Office will furnish county offices with lists of active borrowers who have been indebted for at least three years on Emergency type (EM and EE) loans, four years on Operating (OL) loans, and six years on Real Estate (FO, SW, RL, etc.) loans.

* * * * *

PART 1945—EMERGENCY

Subpart A—Disaster Assistance—General

Table of Sections [Amended]

2. In the Table of Sections delete "Exhibit A—Agreement Between the USDA–SBA".

§ 1945.26 [Amended]

3. Section 1945.26(b) (1) and (2) are revised to read as follows:

* * * * *

(b) * * *

(1) Named by FEMA under a major disaster declaration by the President; and

(2) Declared by the SBA Administrator.

4. Section 1945.26 (c) and (d) are deleted and § 1945.26(e) is renumbered to § 1945.26(c) without change.

5. Exhibit A is deleted.

Subpart B—Emergency Loan Policies, Procedures, and Authorizations

1. Section 1945.54(a)(11) is amended to require an entity to derive over fifty percent of its *gross* income from the farming operation in order to meet the Agency's "established farmer" criterion.

2. Section 1945.54(a)(21) is amended to clarify the definition of a nonfarm enterprise as being one which provides less than 50 percent of the total *net* income from all sources (farm and nonfarm) which is needed to supplement farm income.

3. Section 1945.56 is amended to add the criteria under which the Agency may consider an applicant who *can* get credit elsewhere, for loss loan assistance only, not to exceed $500,000. Prior to passage of PL 96–302 the Agency had no authority to provide loss loan assistance to those who could obtain their credit elsewhere. Section 1945.56(a) requires the applicant's Certification Statement on Form FmHA 410–1 to be modified when the applicant certifies that other credit *can* be obtained.

Section 1945.56(b) is amended to describe the criteria under which the Agency will consider requests for Emergency loan assistance from those applicants certifying that outside credit *cannot* be obtained. Section 1945.56(b)(2)(i)(C) is amended to more closely conform with similar provisions contained in 7 CFR, Part 1945, Subpart C (Economic Emergency Loan Instruction 1945–C). This section now permits County Supervisors to waive the requirement of a written declination of credit for a request for total EM loan(s) of $300,000 or less. Section 1945.56(b)(3) is amended to delete cumbersome administrative determinations which were previously required before approval action, when nonfarm assets were involved. Section 1945.56(b)(4) is amended to clarify the conditions under which loan approval officials may require the sale of nonessential assets as a condition of loan approval for those applicants who *cannot* obtain their needed credit elsewhere. This section also describes how such proceeds from the sale of nonessential assets are to be applied to the FmHA EM debt.

4. Section 1945.61(a)(1) is amended to require applications for actual loss loans to be processed within 12 months after they are filed.

5. Section 1945.61(a)(3) is amended to clarify that applications for major adjustment and/or annual production loans may be processed within specified time frames *only* from applicants who will receive, or have received, an EM actual loss loan.

6. Section 1945.61(b) is amended to delete duplication of regulations printed on Form FmHA 1945–22, "Certification of Disaster Losses" under "Instructions to the Applicant."

7. Section 1945.62 is amended for clarity and to set out added test for credit eligibility certification criteria.

8. Section 1945.63 is amended by inserting a new opening paragraph for added clarity and by amending § 1945.63(c) to reflect amended policy on treating SBA disaster loan assistance in determining loss loan eligibility and in calculating loss loan entitlement.

9. Section 1945.66(a)(1) is amended to delete repetitive language and to limit EM actual loss loans so that the resulting farming operation is not substantially larger (due to the direct or indirect use of loan funds) than the pre-disaster operation, does not realistically project a net farm income (gross income less annual farm operating expenses) substantially greater than that of the normal operation conducted before the disaster, and is financially sound.

10. Section 1945.66(b) is amended for clarification purposes, and to require that annual production loan assistance be limited to such amounts as will ensure that the resulting farm operation is not substantially larger (due to direct or indirect use of loan funds) than the pre-disaster operation, does not realistically project net farm income (gross income less annual farm operating expenses) substantially greater than that of the normal operation conducted before the disaster, and is financially sound.

11. Section 1945.66(c) is amended for clarity. Section 1945.66(c)(2)(iv)(E) is amended to clarify the Subtitle A loan ceiling policy.

12. Section 1945.66(d) is amended to set forth the loan ceiling limitations governing annual production and major adjustment loans.

13. Section 1945.68(b)(1) is amended to clarify the terms for making annual production loans and major adjustment loans for Subtitle B (operating) purposes. This action corrects an improper cross reference citation found in the previous instruction.

14. Section 1945.68(d) amends the graduation requirements. All EM borrowers will be reviewed for graduation three years after the initial loan is made and every other year thereafter.

15. Section 1945.69(f) is amended for clarity. Section 1945.69(f)(2) deletes a sentence for clarity.

16. Section 1945.83 is amended for clarity and to add § 1945.83(b)(5) instructing Supervisors to modify the applicant's Certification Statement on Form FmHA 440–1 when the applicant certifies that credit *can* be obtained elsewhere.

17. Exhibit B is amended to implement the new Memorandum of Understanding between the Small Business Administration and the Farmers Home Administration. The following changes are the most significant as they relate to FmHA:

(a) Potential farm loan applicants suffering from disasters with a beginning incidence period occurring after July 2, 1980, should contact FmHA for an interview to determine whether they are eligible for disaster loan assistance from the FmHA. Applicants suffering production losses and/or physical losses to farm structures will be considered for FmHA assistance, and only when it is determined that such applicants cannot or would not have qualified for FmHA assistance will the SBA consider processing a loan for such assistance.

(b) When applicants need loan assistance to restore or replace their housing losses, regardless of whether or not other production losses or physical losses have been sustained, such applicants will have the option of applying to SBA or FmHA for disaster loan assistance for their housing losses. However, *in all cases,* applications for loans for production losses or physical losses to farm structures will be processed for those types of EM loan assistance in accordance with the policies described in paragraph (a) above.

Note.—Test of amendments follow signature.

PART 1951—SERVICING AND COLLECTIONS

Subpart A—Account Servicing Policies

6. Section 1951.10(a) (5) and (6) are renumbered § 1951.10(a) (6) and (7), respectively.

7. Section 1951.10 (a) (5) is added and the renumbered § 1951.10 (a)(7) is revised to read as follows:

§ 1951.10 Application of payments on Operating (OL), Emergency (EM), Economic Emergency (EE), Economic Opportunity (EO) loans to individuals, Soil and Water Conservation (SW) Coded "24", and other production type loan accounts. * * *

(a) *Rules for selection of accounts.*

* * *

(5) When nonfarm assets have been sold, the payments will be applied as set out in § 1945.56(b)(4) of Subpart B of Part 1945 of this Chapter, if they were sold as a condition for EM loan assistance.

* * * * *

(7) Employees receiving collections are authorized to make exceptions to paragraphs (a)(1), (2), and (6) of this section when it is necessary to apply a part of a payment to delinquent accounts to prevent the Federal Statute of Limitations from being asserted as a defense in suits on FmHA claims.

* * * * *

The Office of Management and Budget (OMB) has given temporary approval of all the recordkeeping and reporting requirements found in these regulations. The Agency has submitted its request to OMB seeking final approval of the recordkeeping and reporting requirements found in these regulations. These instructions do not directly affect any FmHA programs or projects which are subject to A-95 clearinghouse review.

This document has been reviewed in accordance with FmHA Instruction 1901-G, "Environmental Impact Statements." It is the determination of FmHA that this action does not constitute a major Federal Action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

(7 USC 1989; 7 CFR 2.23; 7 CFR 2.70)

Dated: September 26, 1980.

Gordon Cavanaugh,

Administrator.

Subpart B of Part 1945 is revised as follows:

Subpart B—Emergency Loan Policies, Procedures, and Authorizations

Sec.

1945.51 Introduction.
1945.52 Program objectives.
1945.53 [Reserved]
1945.54 Definitions and abbreviations.
1945.55 Relationship between FmHA and other federal agencies.
1945.56 The test for credit and certification requirements for availability of credit elsewhere.
1945.57—1945.60 [Reserved]
1945.61 Receiving and processing applications.
1945.62 Eligibility requirements.
1945.63 Determining qualifying losses, eligibility for actual loss loan(s) and the maximum amount of actual loss loan(s), annual production and major adjustment loan(s).
1945.64—1945.65 [Reserved]
1945.66 Loan purposes.
1945.67 Loan limitations and special provisions.
1945.68 Rates and terms.
1945.69 Security requirements.
1945.70—1945.72 [Reserved]
1945.73 General provisions—compliance requirements.
1945.74 [Reserved]
1945.75 Options, planning, and appraisals.
1945.76—1945.79 [Reserved]
1945.80 County committee certification.
1945.81 [Reserved]
1945.82 Loan docket preparation.
1945.83 Loan approval or rejection.
1945.84 [Reserved]
1945.85 Actions after loan approval.
1945.86—1945.87 [Reserved]
1945.88 Chattel lien search.
1945.89 Loan closing.
1945.90 Revision of the use of EM loan funds.
1945.91 [Reserved]
1945.92 Loan servicing.
1945.93—1945.100 [Reserved]
Exhibit A—Processing guide—Insured Emergency (EM) Loans
Exhibit B—Memorandum of Understanding: SBA—FmHA
Exhibit C—Memorandum of Understanding: ASCS—FmHA

Subpart B—Emergency Loan Policies, Procedures, and Authorizations

§ 1945.51 Introduction.

(a) *Policy.* This Subpart prescribes the policies, procedures, and authorizations of the Farmers Home Administration (FmHA) for making Insured Emergency (EM) Loans to farmers, ranchers, and aquaculture operators (hereinafter referred to as farmers). FmHA's policy is to make loans to any otherwise qualified applicant without regard to race, color, religion, sex, national origin, marital status, age, or physical/mental handicap (provided the applicant can execute a legal contract). These regulations apply to borrowers and FmHA personnel involved in making EM loans.

(b) *Program administration.* The County Supervisor is the local contact person for loan processing and servicing activities.

§ 1945.52 Program objectives.

The objective of EM loans is to provide financial assistance to cover actual losses sustained by eligible farmers, make major adjustments, and provide annual production credit so that they can maintain sound farming operations after they have sustained substantial losses as a result of an authorized disaster. EM loans are made to assist eligible disaster victims in sustaining and rehabilitating their normal operations. This objective will be accomplished through the extension of credit and such supervisory assistance as is determined necessary to achieve the objectives of the loan and protect the Government's interest. Supervisory assistance will be given in accordance with the provisions of Subpart B of Part 1924 of this Chapter.

§ 1945.53 [Reserved]

§ 1945.54 Definitions and abbreviations.

(a) *Definitions.*—(1) *Applicant.* The person or entity carrying on the farming operation at the time of the disaster and requesting EM loan assistance from FmHA.

(2) *Approval official.* An FmHA field official who has been delegated loan and grant approval authorities within applicable loan programs, subject to the dollar limitations contained in tables available in any FmHA Office (see FmHA Instruction 1901-A Exhibit C).

(3) *Aquaculture.* The husbandry of aquatic organisms in a controlled or selected environment. Aquatic organisms are fish (the term "fish" includes any aquatic gilled animal commonly known as "fish", as well as mollusks, crustaceans, or other invertebrates produced under controlled conditions—that is, feeding, tending, harvesting, and such other activities as are necessary to properly raise and market the products—in ponds, lakes, streams, or similar holding areas), amphibians, reptiles, or aquatic plants. An aquaculture operation is considered to be a farm only if it is conducted on grounds which the applicant owns, leases, or has an exclusive right to use. An exclusive right to use must be evidenced by permit issued to the applicant and the permit must specifically identify the waters available to be used by the applicant only.

(4) *Borrower.* All parties liable for the loan or any part thereof.

(5) *Calendar year.* The 12-month period beginning January 1, and ending December 31.

(6) *Consolidate.* To combine and reschedule the rates and terms of two or more EM loans made for operating purposes. This also may include a new EM loan made for operating purposes.

(7) *Cooperative.* An entity which has farming as its purpose and whose members have agreed to share the profits of the farming enterprise. The entity must be recognized as a farm cooperative by the laws of the State(s)

in which the entity will operate a farm(s).

(8) *Corporation.* For the purpose of this Subpart, a private domestic corporation recognized as a corporation and authorized to carry on farming, ranching, or aquaculture operations under the laws of the State(s) in which the entity will operate a farm(s).

(9) *Deferment.* To postpone the payment of interest in part and/or principal in whole or in part.

(10) *Eligible area.* A county or similar political subdivision in which EM loans are made available.

(11) *Established farmer.* An individual or a principal of a legal entity who was actively participating in the operation and management of the farming operation at the time of the disaster, spends a substantial portion of time in carrying out the farming operation, and had planted a crop or had purchased livestock which were on the farm at the time of the disaster. If the applicant is a cooperative, a corporation or a partnership, it must be primarily engaged in farming, i.e., the entity applicant must derive over fifty percent (50%) of its gross income from the farming operation.

(12) *Farm.* A tract or tracts of land, improvements, and other appurtenances considered to be farm property which are used or will be used in the production of crops or livestock. This includes aquaculture operations which meet the requirements set forth in paragraph (a)(3) of this section and includes nonfarm operations which meet the requirements set forth in paragraph (a)(21) of this section. It also includes a residence which, although physically separate from the farm acreage, is ordinarily treated as a part of the farm in the local community.

(13) *Farmer.* One who conducts a farming or ranching enterprise. One who actively manages an aquatic operation or performs such duties as are necessary to properly raise and market the products of an aquatic operation. A farmer can be an individual, a cooperative, a corporation, or a partnership.

(14) *Farming enterprise.* The business of producing and marketing crops, livestock, livestock products, and aquatic organisms through the utilization and management of land, water, labor, capital, and basic raw materials.

(i) *Single enterprise.* An enterprise which constitutes an integral part of an applicant's total farming operation. The following are examples of single enterprises:

(A) Individual cash crops.

(B) Individual feed crops to be fed to, or pasture to be grazed by, livestock owned by the applicant.

(C) Individual types of livestock operations, i.e., beef, dairy, hog, poultry, and aquaculture operations.

(D) Small acreages of several cash crops may be combined to constitute a single enterprise.

(ii) *Basic part of a farming operation.* Any single enterprise which normally generates sufficient income to be considered essential to the success of the total farming operation.

(15) *Fixture.* Generally, an item attached to a building or other structure or to land in such a way that it cannot be removed without defacing or dismantling the structure, or substantially damaging the item itself.

(16) *Hazard insurance.* Includes coverage against losses due to fire, windstorm, lightning, hail, explosion, business interruption, riot, civil commotion, aircraft, vehicles, marine, smoke, builder's risk, public liability, property damage, flood or mudslide, workmen's compensation, or any similar insurance that is available and needed to protect the security, or that which is required by law.

(17) *Incidence period.* The specific date or dates during which a disaster occurred.

(18) *Insured loan.* An EM loan made directly by FmHA as lender from the Agricultural Credit Insurance Fund, and serviced by FmHA personnel.

(19) *Majority or controlling interest.* Any individual or a combination of individuals owning more than a 50 percent interest in a cooperative, corporation, or partnership.

(20) *Market value.* The amount which a willing buyer would pay a willing, but not forced, seller in a completely voluntary sale.

(21) *Nonfarm enterprise.* Any business enterprise, including a recreational enterprise, which provides less than 50 percent of the total net income from all sources (farm and nonfarm), which is needed to supplement farm income. It must provide goods or services for which there is a need and a reasonably reliable market.

(22) *Normal year's production.* The yield per acre or production per animal as established by eliminating the poorest year of the 5-year production history taken from actual farm records, Agricultural Stabilization and Conservation Service (ASCS) records of acres grown and proven (actual) yields, county averages, or State averages (where county averages are not available), immediately preceding the disaster year and averaging the remaining 4 years' production. The applicant may select the year to be eliminated. The year selected to be eliminated must be the same year for all farm enterprises and for all crops, livestock, and livestock products that constitute a part of the applicant's farming operation in that year. Average yield or production records used will be provided by the State Crop and Livestock Reporting Service, State Office of the Statistical Reporting Service (SRS), or similar State or Federal body. When this information is published by county, county averages will be used. If published only by State, the State average will be used throughout the State. A uniform source(s) will be used in each State for the yield per acre or production per animal data and the source(s) will be provided in a State supplement. For tobacco and other crops under acreage-poundage control the normal year's production will be the pounds per acre as authorized by ASCS for the disaster year.

(i) In those States where neither a county nor State average is published for an enterprise(s), the State Director, with the advice of representatives of other Federal and State Agricultural agencies, will establish county or State averages and advise County Offices of these averages in a State supplement. State Directors and Farmer Program Chiefs in adjoining States should consult with each other before releasing the figures.

(ii) If an applicant presents actual reliable records for at least 4 of the 5 years immediately preceding the disaster which verify a higher normal production than that established in accordance with paragraph (a)(22) of this section, the higher normal years' production may be used in calculating the loss.

(23) *Partnership.* An entity consisting of individuals or entities who have agreed to operate a farm. The entity must be recognized as a partnership by the laws of the State(s) in which the entity will operate a farm and must be authorized to own both real and personal property and to incur debts in its own name.

(24) *Physical loss.* Damages to or destruction of physical property including farmland (except sheet erosion); structures on the land such as buildings, fences, dams, etc.; machinery, equipment, and tools; livestock; livestock products; harvested crops; and supplies.

(25) *Principal members, stockholders, and partners.* Any member, stockholder, or partner owning or controlling a 10 percent interest in a cooperative, corporation, or partnership is considered

a principal member, principal stockholder, or principal partner. If no member, stockholder, or partner owns or controls at least a 10 percent interest, all members, partners, or stockholders will be considered principal members, partners, or stockholders.

(26) *Production loss.* The reduction in normal production, directly attributable to the natural disaster, of yield per acre and/or quality of crops produced, of quantity and/or quality of livestock products produced per animal unit, and of weight gain and/or natural increase in numbers of livestock units.

(27) *Qualifying disaster.* A major disaster, Presidential Emergency, or natural disaster as defined in Subpart A of Part 1945 of this Chapter.

(28) *Qualifying physical loss.* To qualify for EM loan assistance, the damaged or destroyed physical property must be essential to the successful operation of the farm, and if it is not repaired or replaced, the farmer would be unable to continue operations on a reasonably sound basis.

(29) *Qualifying production loss.* To qualify for EM loan assistance, the production loss an applicant sustained must be equivalent to at least a 20 percent loss of normal per acre or per animal production as a result of the disaster in one basic part of the farming operation. Losses of livestock increases (i.e. calves, pigs, etc.) are considered production losses *except* when live animals are destroyed, which is considered a physical loss. Reductions in the production of livestock, livestock products or reductions in weight gains of animals due to homegrown feed crop losses will not be considered production losses when replacement feed is available to purchase, regardless of the cost of that feed. When the disaster has severely disrupted the usual feeding schedule of a livestock enterprise because of extended utility failure or inaccessibility to the livestock, losses in production of milk, eggs, weight losses, etc., may be considered as production losses. Production losses will be calculated based on the reduction from normal which occurs during the disruption period and the period needed to bring production back up to the normal level.

(30) *Reamortize.* To rearrange the payments of an EM loan made for real estate purposes within either the remaining years of the original repayment period, or, when the repayment period has been extended to the maximum statutory repayment limit, within those years.

(31) *Reschedule.* To rewrite the rates and/or terms of EM loans made for operating purposes.

(32) *Security.* Property of any kind subject to a real or personal property lien.

(i) *Basic security.* Real estate and fixtures and personal property such as foundation herds, flocks, aquatic animals and plant organisms, machinery, and equipment, serving as security and crops when crops are the only security.

(ii) *Normal income security.* All security planned to be marketed in the regular course of business unless liquidation is approved. If liquidation is approved, such security becomes basic security.

(iii) *Additional security.* All security not covered by subparagraphs (a)(32) (i) or (ii) of this section including general intangibles, accounts, and contract rights.

(33) *State or United States.* The United States itself, each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(34) *Subsequent loans.* Any EM loans processed by the Finance Office after it processed the first EM loan to a borrower. This includes any subsequent annual production loans. The disaster designation number has no effect in determining whether an EM loan is a subsequent loan.

(35) *Termination date.* The date specified in a disaster authorization which establishes the final date after which EM loan applications may no longer be received. However, applications will be accepted for EM loans after the termination date has passed if the applicant filed an application for disaster assistance with the Small Business Administration (SBA) during the period SBA would accept applications and not more than 6 months has elapsed since the FmHA's termination date.

(b) *Abbreviations.* The following abbreviations are used in this Subpart.

(1) *ASCS*—Agricultural Stabilization and Conservation Service.

(2) *ECP*—Emergency Conservation Program.

(3) *EFP*—Emergency Feed Program.

(4) *EM*—Emergency Loans.

(5) *FCIC*—Federal Crop Insurance Corporation.

(6) *FmHA*—Farmers Home Administration.

(7) *FMI*—Forms Manual Insert.

(8) *OGC*—Office of the General Counsel.

(9) *SBA*—Small Business Administration.

(10) *UCC*—Uniform Commercial Code.

(11) *USDA*—United States Department of Agriculture.

§ 1945.55 Relationship between FmHA and other federal agencies.

(a) *SBA and FmHA.* A Memorandum of Understanding between the SBA and USDA–FmHA pertaining to Disaster Loan Assistance is attached as Exhibit B.

(b) *ASCS and FmHA.* A Memorandum of Understanding between the ASCS and FmHA on Disaster Assistance is attached as Exhibit C.

(c) *FCIC and FmHA.* A Memorandum of Understanding between the FCIC and FmHA pertaining to crop insurance and exchanging information essential to the elimination of duplication of disaster compensatory benefits is Exhibit A of Subpart N of Part 2000 of this Chapter (available in any FmHA office).

§ 1945.56 The test for credit and certification requirements for availability of credit elsewhere.

(a) *Applicants who certify that other credit is available.* Applicants applying for EM actual loss loan assistance who certify they are *able* to obtain sufficient and suitable credit elsewhere to meet their actual farming and family living needs must meet the requirements set out in this section.

(1) Individual applicants or the authorized official(s) of entity applicants who submit the Form FmHA 410–1, "Application for FmHA Services," will evidence the applicant's ability to obtain needed credit elsewhere by striking through the word "unable" whenever the word appears in the certification statement at the end of the application form, writing in the word "able," and initialing above each such change.

(2) Applicants or applicants' representatives will be advised that they will be considered for an actual loss loan only. Such applicants will *not* be required to evidence compliance with the provisions of subsection (b) of this section.

(b) *Applicants who certify that other credit is NOT available.* Applicants who certify they are *not able* to obtain sufficient credit elsewhere to meet their actual farming and family living needs must meet the requirements set out in this subsection.

(1) *Test for credit for individuals and entities.* Applicants must be *unable* to obtain sufficient and suitable credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time. If the

applicant has been getting credit away from the local community where the farming operation is located, such source(s) of credit must also be contacted and considered. The applicant's equity in *all assets,* including, but not limited to, real estate, chattels, stocks, bonds, and Certificates of Deposit will be considered in determining the applicant's ability to obtain such credit from other sources. Also, the applicant must offer to pledge *all assets* as security when requesting credit from other lenders. Cooperatives, corporations, and partnerships and the principal members, principal stockholders, and principal partners, both individually and collectively, must be unable to provide the required financing from their own resources or with credit obtained from pledging those resources to other lenders. Form FmHA 1940–38, when appropriate, must be completed and filed in the applicant's County Office case folder, and any additional facts concerning the findings, in all cases, must be documented and recorded in the running case record.

(2) *Test for credit certification requirements.* Applicants will certify in writing on the application form, and the County Supervisor *shall* determine, that adequate and suitable credit is not available elsewhere to finance the applicant's actual needs at reasonable rates and terms taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time. The County Supervisor will consider all such information obtained from other lenders in making the determination, but is required to make an independent decision concerning the applicant's ability to obtain the needed credit elsewhere. Should the County Supervisor determine that the applicant can obtain the necessary credit elsewhere to meet actual needs, the applicant will be notified, in writing, that it is eligible for only actual loss loan consideration and that it must comply with the requirements set out in paragraph (a) of this section, and a new certification must be signed by the applicant indicating that it is able to obtain other credit. Should the applicant refuse to comply with the provisions of subparagraph (a)(1) of this section, the County Supervisor will record this fact in the running record and notify the applicant that EM loan assistance has been denied, the reason(s) for denial, and the applicant's right of appeal.

(i) For applicants whose total EM loan(s) request is for $300,000 or less, the following actions will be taken:

(A) Applicants will be required to apply for the credit needed from their normal lender(s) and, if their normal lender(s) is located outside the local community, from at least one agricultural lender in the local community to determine whether such lender(s) will provide the credit, either with or without the benefit of an FmHA guarantee. Form(s) FmHA 1940–38 must be completed by all lending sources contacted unless an exception is made under the provisions of subparagraph (b)(2)(i)(C) of this section. If it is determined the applicant cannot qualify for the needed credit from the lenders contacted, but one or more of them has indicated they would provide the credit with an FmHA guarantee, the applicant will be advised to file an application with that lender(s) so that a guaranteed EM loan request can be processed by the lender for consideration by FmHA. Only when the applicant is not able to obtain a loan, either with or without an FmHA guarantee, from one or more of the lending sources contacted, will the applicant be considered for an insured EM loan. If the County Supervisor believes it necessary, the action required in subparagraph (b)(2)(ii) of this section will be taken.

(B) When the County Supervisor receives letters or other written evidence, including Form FmHA 1940–38, from a lender(s) indicating that the applicant is unable to obtain satisfactory credit from that source(s), such correspondence will be included in the loan docket.

(C) If it appears from a review of the application that it would be unduly burdensome for the applicant to obtain written declinations of credit from other lenders, the County Supervisor may make an exception to this requirement, provided the County Supervisor is familiar enough with other lenders' farm loan programs to determine that no possibility exists for the applicant to obtain the credit needed from those lenders. When this conclusion is reached, the basis for it will be recorded in the running case record, and further checks will not be necessary. However, when this exception is used, the applicant's normal lender(s) *must be contacted in all cases* and the results of that contact(s) must be well documented in the running case record.

(ii) For applicants whose total EM loan(s) request is for more than $300,000, the following actions will be taken:

(A) Applicants will be required to apply at not fewer than three conventional lending sources, including the Production Credit Association or Federal Land Bank, as appropriate, in the local community. In addition, when an applicant has a net worth of $1 million or more and produces evidence that it cannot obtain the necessary credit in the local community, either with or without an FmHA guarantee, the applicant will be required to contact at least two other lending sources outside the local area. One or more of those lenders contacted must be the applicant's normal lender(s).

(B) Form FmHA 1940–38 must be completed by all lending sources contacted, returned to the county office and handled in accordance with subparagraph (b)(2)(i)(B) of this section.

(C) When the County Supervisor receives Forms FmHA 1940–38 indicating that the applicant is unable to obtain satisfactory credit, the forms will be placed in the loan docket. However, such evidence will not preclude the County Supervisor from contacting other farm lenders in the area and making an independent determination of the applicant's ability to obtain credit elsewhere.

(3) *Use of nonfarm assets when seeking other credit.* The basic objective of EM loans is, through financial assistance, to enable eligible *Farmers* to maintain a sound *farming operation* after they have sustained substantial losses as a direct result of an authorized disaster. Therefore, since the goal of EM loans is maintaining a sound *farm* economy, an applicant with holdings in *nonfarm* assets not essential to the successful operation of its *farm* will offer those assets as security for loans requested from other lenders.

(4) *Use of nonfarm assets when approving FmHA loans for those who cannot obtain credit elsewhere.* When an EM loan(s) will be made, after other lenders have declined to provide needed credit, the County Supervisor may require as a condition of loan approval that the applicant sell, within a specified time period(s), all or a part of such nonessential nonfarm assets to meet a portion of the applicant's needs in connection with processing an EM loan for the difference between the applicant's actual needs and the amount realized from the sale of the assets. If the applicant cannot sell the nonessential assets before the loan is closed, the applicant will mortgage all such assets to FmHA and agree in writing, in a manner approved by OGC, to sell them within a specified period not to exceed one year from the date of loan closing and apply the proceeds as an extra payment on the EM loan carrying the lowest interest rate, which is secured by the asset(s) being sold.

§§ 1945.57—1945.60 [Reserved]

§ 1945.61 Receiving and processing applications.

(a) *Applications.* Applications for EM loans will be received and processed as outlined in Subpart A of Part 1910 of this Chapter. Form FmHA 410–1 will be used for this purpose.

(1) Applications for EM actual loss loans will be received only in areas where EM loans are made available in accordance with Subpart A of Part 1945 of this Chapter, and must be postmarked or received in the county office before the specified termination date has passed. *These applications must be processed within twelve months after they are filed.*

(2) An applicant conducting a farming operation in different counties or locations will be considered for only one application, and will file that application in the county in which the farm headquarters is located, unless determined otherwise by the State Director. When the operation is located in more than one State, the State Directors involved will consult and determine which State will process the application and service the loan(s).

(3) Applications for initial EM major adjustment and/or initial annual production loans may be processed only from applicants who will receive, or have received, an EM actual loss loan(s) and are unable to obtain their needed credit elsewhere. *Such applications may not be received later than twelve months after the disaster authorization date and must be processed within one full calendar year after they are filed.*

(4) Applications for subsequent EM annual production loans may be processed from indebted EM borrowers annually for such periods after the disaster year as indicated in section 1945.66(b)(2) of this Subpart, so long as the borrower is unable to obtain the needed production credit from other sources. Former EM borrowers who have paid their EM loan(s) in full, before the periods specified in section 1945.66(b)(2) of this Subpart have expired, and who cannot obtain sufficient credit elsewhere, may obtain subsequent EM loans for annual production purposes to satisfy their production credit needs, provided the loans are made within the authorized periods.

(5) Provided applicants would have been eligible for EM actual loss loans, applications may be received from indebted SBA disaster loan borrowers for annual production and/or major adjustment loan(s) for up to twelve months after the FmHA disaster authorization date. Such applications must be processed within one full calendar year after they are filed.

(6) Applications may be received and processed from FmHA EM loan borrowers or SBA disaster loan borrowers for that portion of the maximum actual loss loan originally authorized, but not requested initially from FmHA or SBA, provided the application is *received within twelve months of the disaster authorization date.*

(7) Applications for subsequent EM major adjustment loans to complete items financed with initial EM major adjustment loans may be received and processed only *within one full calendar year after the intial* application for major adjustment assistance is filed.

(8) Applicants who are determined to be *ineligible* for an EM actual loss loan may be considered for other types of FmHA farm loans, when appropriate.

(b) *Statement of losses.* Applicants' statements of loss or damage will be obtained in support of their applications by having them complete Form FmHA 1945–22, "Certification of Disaster Losses."

(c) *ASCS Verification of Farm Acreages, Production and Benefits.* From information obtained on Form FmHA 1945–22, the County Supervisor will send a separate Form FmHA 1945–29, "ASCS Verification of Farm Acreages, Production and Benefits," to the appropriate ASCS county office for each ASCS farm number that the applicant has certified constituted a part of the disaster year's operation.

(d) *Evidence of operation.* If the applicant is a cooperative, corporation or partnership, it will provide evidence that it was operating as a qualifying farming entity at the time the disaster loss occurred, or has changed its form in accordance with section 1945.62(j) of this Subpart, after the loss occurred. The following information will be obtained and included in the loan docket:

(1) A complete list of members, stockholders or partners showing the address, citizenship, principal occupation, and the number of shares and percentage of ownership, or stock held in the cooperative or corporation by each, or the percentage of interest held in the partnership by each.

(2) A current personal financial statement (not over 30 days old at the time of filing the application) from each of the principal members of a cooperative, principal partners of a partnership or principal stockholders of a corporation. Any other member, stockholder or partner whose financial statement, in the judgment of the loan approval official, is pertinent to consideration of the financial strength of the cooperative, corporation, or partnership will also be required to provide personal financial statements.

(3) A current financial statement (not over 30 days old at the time of filing the application) from the cooperative, corporation, or partnership itself.

(4) A copy of the cooperative's or corporation's charter, or written partnership agreement, articles of incorporation and by-laws, certificate or evidence of current registration (good standing), and a resolution(s) adopted by the board of directors, members or stockholders authorizing specified officers of the cooperative or the corporation to apply for and obtain the desired loan and execute required debt, security, and other instruments and agreements.

(5) A copy of any written lease, contract, or agreement entered into by the cooperative, corporation or partnership which may be pertinent to a consideration of its application. When a written lease is not obtainable, a statement setting forth the terms and conditions of the agreement will be included in the loan docket.

§ 1945.62 Eligibility requirements.

To be eligible for EM loan assistance, applicants must meet the following requirements:

(a) *Test for credit.* All applicants will certify in writing at the end of Form FmHA 410–1, whether or not adequate and suitable credit is available elsewhere to finance their actual needs.

(1) Applicants who filed EM applications *on or before July 2, 1980,* requesting actual loss loan assistance based on FmHA disaster designations having beginning incidence period dates *on or before July 2, 1980,* must meet the "credit elsewhere" requirement set out in section 1945.56(b) of this Subpart. Applicants who filed *after* July 2, 1980, based on disaster incidence period dates *on or before July 2, 1980,* must also meet the requirement of section 1945.56(b) of this Subpart.

(2) Applicants who filed EM applications *after July 2, 1980,* requesting actual loss loan assistance, based on FmHA disaster designations having beginning incidence period dates *after July 2, 1980,* may meet the requirements set out in either section 1945.56(a) *or* section 1945.56(b) of this Subpart.

(3) Applicants requesting EM annual production and/or EM-major adjustment loan assistance must meet the requirements set out in section 1945.56(b) of this Subpart.

(b) *Citizenship.* (1) An individual applicant must be a citizen of the United States (see section 1945.54(a)(33) of this

Subpart for the definition of "United States").

(2) A cooperative, corporation or partnership applicant must meet the requirements set out in sections 1945.54 (a)(7), (a)(8) or (a)(23) of this Subpart. In addition, more than a 50 percent interest in the cooperative, corporation or partnership must be owned by United States citizens (see section 1945.54(a)(33) of this Subpart for the definition of "United States"). The member, stockholder or partner who manages the farming operation must be a United States citizen. Also, if another entity owns *any* interest in the applicant entity, more than a 50 percent interest in that other entity must be owned by a United States citizen(s).

(c) *Established farmer.* An applicant must be an established farmer (as defined in section 1945.54(a)(11) of this Subpart) doing business either as an owner-operator or tenant-operator. An applicant who conducts the farming operation as an individual must manage the farming operation.

If the applicant is a cooperative, corporation or partnership, it must derive over fifty percent (50%) of its gross income from farming, and at least one principal member, principal stockholder or principal partner must manage the farming operation. Also, the entity must be authorized to conduct the farming operation(s) in the State(s) in which the farming operation is conducted. One who does not devote full time to the farming operation may be considered the manager provided that person, (1) visits the farm at sufficiently frequent intervals to exercise control over the farming operation, (2) makes decisions and gives directions on how the operation(s) should be run, and (3) sees that the operation is being carried on properly. Any applicant that employs an outside full-time hired manager or management service does not qualify as an established farmer, regardless of the number of visits made by the individual applicant or the principal member, principal stockholder or principal partner.

(1) An estate or trust; a corporation with over 50 percent of the ownership held by an estate, trust, another corporation, or a partnership; a partnership with over 50 percent of the ownership held by an estate, trust, corporation or another partnership is not considered to be an established farmer for EM loan purposes.

(2) An individual engaged in a joint farming operation and/or owning an undivided interest in the property of such an operation is not considered to be an established farmer for EM loan purposes.

(3) Integrated livestock, poultry, and fish processors who operate primarily and directly as commercial businesses through contracts or business arrangements with farmers are not considered to be established farmers and are not eligible. However, a grower under contract with an integrator or processor is considered an established farmer even though the applicant operates through a contract arrangement with an integrated processor, provided the operation is not managed by an outside full-time hired manager or management service. Farmers operating through contract may be considered for EM physical loss loan eligibility. However, eligibility for and the amount of their production losses will be determined from the applicant's share of the agricultural production as set forth in the contract.

(d) *Operate in a disaster area.* An applicant for an actual loss loan must have sustained qualifying losses in an area in which the availability of EM loans for actual losses has been determined in accordance with Subpart A of Part 1945 of this Chapter and has filed an application before the expiration of the termination date.

(e) *Losses.* An applicant must have suffered qualifying production and/or physical losses to be eligible for an actual loss loan. Production losses must be to property in which the applicant has an ownership interest or an interest in which a security interest may be obtained. Physical losses must be to property in which the applicant has an ownership interest. See section 1945.63 of this Subpart for the methods of determining qualifying losses.

(f) *Legal capacity.* An applicant must possess the legal capacity to contract for the loan.

(g) *County committee certification.* The county committee will certify that the applicant meets the following additional eligibility conditions by using Form FmHA 440–2, "County Committee Certification or Recommendation:"

(1) An applicant must possess the training and/or experience, character (emphasizing repayment ability and reliability), industry and ability necessary to carry out the proposed farming operations to assure a reasonable prospect of success with the assistance of the loan, and

(2) The applicant will honestly endeavor to carry out the undertakings and obligations required of the applicant in connection with the loan.

(h) *Intent to continue farming.* An applicant must show an intent to continue the operation after the disaster. Those applicants who were required to stop temporarily because of the disaster loss or damage to their operations, but intend to continue farming with EM loan assistance meet this requirement.

(i) *EM Loan(s) to cooperatives, corporations, or partnerships.* When an EM loan is made to a cooperative, corporation, or partnership, only one initial EM actual loss loan can be made to the entity constituting the farming operation to cover the losses per disaster. However, an individual member, stockholder, or partner may obtain a separate EM actual loss loan to cover losses to a *separate farming operation* which the applicant conducts as an individual on a different farm tract.

(j) *Change in the form of an applicant.* A change in the form of an applicant between the time of a qualifying loss and the time an EM loan is closed does *not* make the applicant ineligible for EM loan assistance. (Examples of changes in form are as follows. An entity may split into its individual members or into more than one entity. One or more individuals may leave an entity. An individual may incorporate. A partnership may become a corporation, a cooperative, or another partnership. A corporation may become a partnership, a cooperative, or another corporation. A cooperative may become a partnership, a corporation, or another cooperative. Joint operators may become a partnership, a corporation, a cooperative or may split into individual members.) Such an applicant is eligible for EM loan assistance subject to *all* of the following limitations and qualifications:

(1) The applicant must meet all FmHA eligibility requirements at the time of loan closing.

(2) The applicant must *not* conduct an operation substantially larger in physical size than the operation at the time of the disaster.

(3) In the case of an entity applicant, all of the people who have an interest in the entity must have had an ownership interest (or an interest in which a security interest could be obtained) in the operation at the time of the disaster and/or must be heirs of those who had an ownership interest (or an interest in which a security interest could be obtained) in the operation at the time of the disaster. Heirs have to have been participating in the operation at the time the disaster occurred and have to be engaged in farming the operation at the time of loan approval.

(4) In the case of an individual applicant, that person must have had an ownership interest (or an interest in which a security interest could be obtained) in the operation at the time of

the disaster and/or must be an heir of those who had an ownership interest (or an interest in which a security interest could be obtained) in the operation at the time of the disaster. An heir has to have been participating in the operation at the time the disaster occurred and has to be engaged in farming the operation at the time of loan approval.

(5) To determine the amount of an actual loss loan an applicant may receive, first calculate the actual loss suffered by the operation as it existed at the time of the disaster, in accordance with section 1945.63 of this Subpart. Then look at the individual applicant *or* the individual members, partners or stockholders of an entity applicant and determine each person's percentage of ownership interest (or interest in which a security interest could be obtained) in the operation as it existed at the time of the disaster. For an entity applicant, add the individual percentages together. Multiply the actual loss suffered by the operation as it existed at the time of the disaster by this percentage figure; the result is the amount of actual loss loan the applicant may receive. For example, if one partner withdraws from a four-partner partnership (each person owning a 25% interest), the remaining three partners are eligible for 75 percent of the actual loss suffered by the operation as it existed at the time of the disaster.

(6) The applicant may receive FmHA annual production and/or major adjustment assistance needed to conduct a sound farming operation in accordance with the loan purposes authorized in this Subpart.

(k) *Annual production and major adjustment loans.* For an applicant to be eligible for an annual production and/or major adjustment loan(s) the qualifying losses (as determined in accordance with section 1945.63 of this Subpart) and the actual loss must have had such an impact on the farming operation that an annual production and/or major adjustment loan(s) is actually needed to permit the applicant to continue the operation on a sound basis.

§ 1945.63 Determining qualifying losses, eligibility for actual loss loan(s) and the maximum amount of actual loss loan(s), annual production and major adjustment loan(s).

Disaster losses will be reported by applicants on Form FmHA 1945–22, "Certification of Disaster Losses," which states the physical and production losses suffered as the result of the qualifying disaster. The applicant will report, on Form FmHA 1945–22, total acres and actual yields for *all* crops planted and/or grown in the disaster year, and the number of *all* animal units and production per animal unit being maintained at the time of the disaster. This information will come from the applicant's own records or from ASCS records of acres grown and proven actual yields in the disaster year. Applicants will also report their previous 5-year production levels as set forth in subsection (a) of this section. This form will be completed and submitted to the county office with the application, as soon as the losses and/or damages can be accurately assessed. The information provided by applicants on Form FmHA 1945–22 will be the primary basis for FmHA's calculation of qualifying losses, eligibility for EM actual loss loan(s) based on production losses, and an applicant's maximum amount of actual loss loan eligibility. Therefore, applicants are required to certify, subject to penalties of law, that the accuracy and completeness of the information provided on Form FmHA 1945–22 can be supported by written records. Applicants will be asked to identify on that form one or more farming enterprises they consider basic to the success of their total farming operation, and in which they have suffered a loss. When an applicant's certified production loss claims seem unreasonable, they will be verified. Physical loss claims will be verified by requiring the applicant to funish evidence of ownership and proof of the property loss or damage. Proof of ownership could be by deeds, mortgages, financial statements, insurance policies, and the like. Proof of the loss or damage could be by the applicants' own pictures, written certification by other persons or, when practical, by visual inspections by FmHA employees.

(a) *Production losses.* (1) Applicants have several options under which their normal year's production may be reported and calculated for the farm currently being operated. (References herein to "County averages" is taken to be "State averages" when State averages are set in accordance with section 1945.54(a)(22) of this subpart).

(i) Applicants may elect to use their own accurate farm records of acres grown and yields obtained for all crops; and the number of all animal units and production per unit for all livestock being maintained at the time of the disaster, for the 5 years immediately preceding the disaster year.

(ii) Applicants may elect to accept county average yields per acre for crops and county average production per animal unit for livestock and livestock products which have been established as set forth in section 1945.54(a)(22) of this Subpart for the 5 years immediately preceding the disaster year. When this option is selected, applicants need provide only the number of acres and yield per acre for each crop grown and the production per animal unit produced for all livestock being maintained in the disaster year.

(iii) Applicants may elect to use applicant's ASCS records of acres grown and proven (actual) yields for crops grown in the 5 years immediately preceding the disaster year. For tobacco and other crops under acreage-pounding control, the normal year's production will be the pounds per acre as authorized by ASCS for the disaster year.

(iv) Applicants may elect to combine their own farm records and the ASCS records of acres grown and proven actual yields when neither the applicant nor ASCS can provide records of acres grown and proven (actual) yields for every crop grown in the 5 years immediately preceding the disaster year.

(v) Applicants may elect to combine the county average and the ASCS records of acres grown and proven (actual) yields when neither the county averages nor the ASCS can provide complete records for every crop grown in the 5 years immediately preceding the disaster year.

(vi) When none of the options in subparagraphs (a) (i), (ii), (iii), (iv), or (v) of this section can be used, applicants may be permitted to use combinations of their own records, ASCS records of acres grown and proven (actual) yields, and county averages provided:

(A) The applicant has been farming for fewer than 6 production years, or

(B) The applicant operated a different farm or conducted farming enterprises different from those conducted in the disaster year for one or more years of the 5 years prior to the disaster year.

(2) FmHA loan official(s) will complete Form FmHA 1945–26, "Calculation of Actual Losses."

(i) Production loss calculations will use the same established unit prices for the disaster year and the normal year in computing the dollar value of each enterprise. Unit prices will be established in accordance with subparagraph (a)(2)(iii) of this section. Production loss calculations will use those crop production yields and production per animal unit records authorized in accordance with section 1945.54(a)(22) and section 1945.63 of this Subpart.

(ii) Actual disaster year and normal year production information for only those enterprises in which a loss occurred will be transposed from Form FmHA 1945–22 for each crop grown in

the disaster year and each livestock enterprise maintained at the time of the disaster, to the appropriate places on Form FmHA 1945–26. The FmHA official completing Form FmHA 1945–26 is responsible for verifying loss information provided by the applicant when there is any question concerning the accuracy of such information. Information obtained from ASCS on Form FmHA 1945–29 will be cross checked with information provided by the applicant on Form FmHA 1945–22. Any discrepancies will be checked out and the correct information will be recorded in the County Office case file. When the applicant's disaster loss is due to a reduction in *quality* that can be substantiated rather than due to a reduction in *quantity*, the applicant will be given credit for this by adjusting actual production downward enough to compensate for the quality loss.

(iii) The gross dollar amount of production losses will be computed for each basic part of the farming operation by calculating the value of the disaster year's production and subtracting that amount from the calculated production value in the normal year. Unit prices for agricultural commodities for the disaster used in these calculations will be established by the FmHA State Director from the current year's market price for the commodity involved if available, otherwise the prices will be for the calendar year immediately preceding the disaster year and distributed to all County Offices affected by the disaster. These prices (current or past calendar years) will be determined by averaging the market price for each commodity, on a countywide basis, if available, or on a Statewide basis.

If Statewide figures are not available, the State Director will consult with other agricultural agency representatives and agricultural leaders in the local area before establishing commodity prices. State Directors and Farmer Program Chiefs in adjoining States should consult each other before releasing the figures. These prices will be based on information provided by the State Crop and Livestock Reporting Service, the State Office of the SRS, USDA, or similar State or Federal agency or body. These prices will be established when EM actual loss loans are authorized and, once established, will not be changed for determining the production actual loss loan entitlement under that disaster authorization.

(iv) The amount of the actual production loss will be determined by subtracting all compensatory disaster payments which are related to the disaster and which have been received or will be received, *i.e.*, crop insurance claims settlements, ASCS disaster program payments or any other compensation *for that enterprise* from the gross dollar amount of production losses (as determined in subparagraph (a)(2)(iii) of this section). For tobacco and other crops under acreage-poundage control the under produced pounds have a value since it can be sold or produced in future years. Therefore, the value of this under produced poundage must be subtracted from the loss. The locally established price will be used.

(v) The actual production loss for each basic part of the farming operation will be divided by the previously calculated normal year's gross income for that enterprise. This establishes the percentage reduction in production from normal for that enterprise. If the percentage loss in *any* basic part of the farming operation equals or exceeds 20 percent, the applicant is eligible for EM actual loss loan assistance.

(vi) Once eligibility is established, the total production loss sustained by the applicant and directly attributable to the disaster is computed by adding the actual dollar amount of production losses of *all* single enterprises, whether or not they constitute a basic part of the farming operation, and subtracting from this total all compensatory disaster payments received or to be received and the value of any under-produced pounds.

(vii) The maximum production loss loan is limited to *90 percent* of total actual production loss sustained by the applicant. A 10 percent drop in production from normal is not considered abnormal and applicants are expected to absorb their production losses to this extent.

(viii) Losses to pasture to be grazed by livestock are production losses and may be calculated by one of three methods as follows if approved by the State Director. The State Director will decide the method(s) that will be used throughout the State to calculate losses to pasture by issuance of a State supplement.

(A) The price per acre method. The price per acre method is used to calculate pasture losses in the following manner:

(*1*) Determine the normal year gross dollar value. To calculate this, multiply *the number of acres available to be grazed for the disaster year;* by *the established rental charge per acre per month* (this figure is established by the State Director in accordance with subparagraph (a)(2)(iii) of this section); by *the average number of months grazed per year during the highest 4 out of the preceding 5 years.*

(*2*) Determine the disaster year gross dollar value. To calculate this, multiply *the number of acres grazed during the disaster year;* by *the established rental charge per acre per month* (as determined in accordance with subparagraph (a)(2)(viii)(A)(*1*) of this section); by *the number of months the livestock were able to be grazed during the disaster year.*

(*3*) Subtract the disaster year gross dollar value (see paragraph (a)(2)(viii)(A)(*2*) of this section) from the normal year gross dollar value (see paragraph (a)(2)(viii)(A)(*1*) of this section) to determine the value of pasture loss suffered during the disaster year.

(B) The charge per head or animal unit method. The charge per head or per animal unit method is used to calculate pasture losses in the following manner:

(*1*) Determine the normal year gross dollar value. To calculate this, multiply *the number of animals or animal units grazed per month during the disaster year;* by *the established rental charge per animal or per animal unit per month* (this figure is established by the State Director in accordance with subparagraph (a)(2)(iii) of this section); by *the average number of months grazed per year during the highest 4 out of the preceding 5 years.*

(*2*) Determine the disaster year gross dollar value. To calculate this multiply *the number of animals or animal units grazed per month during the disaster year;* by *the established normal rental charge per animal or per animal unit per month* (as determined in accordance with subparagraph (a)(2)(viii)(B)(*1*) of this section); by *the number of months grazed during the disaster year.*

(*3*) Subtract the disaster year gross dollar value (see subparagraph (a)(2)(viii)(B)(*2*) of this section) from the normal year gross dollar value (see subparagraph (a)(2)(viii)(B)(*1*) of this section) to determine the value of pasture loss suffered during the disaster year.

(C) The forage equivalent method. The forage equivalent method is used to calculate pasture losses in the following manner:

(*1*) Determine the normal year gross dollar value. To calculate this, multiply the *number of acres grazed during the disaster year;* by *the established price per pound or ton* (this figure is established by the State Director in accordance with subparagraph (a)(2)(iii) of this section); by *the average number of pounds or tons of forage equivalent produced per acre per year during the 4 out of the preceding 5 years for forage of the type being used in this calculation.* (The State Office will set forth the

forage equivalent values to be used or the methodology to be used to derive this value in a State supplement. This information may be set forth on a countywide or statewide basis. The State Director may contact the State's Extension Service or other knowledgeable sources to assist in establishing the forage equivalent determination).

(*2*) Determine the disaster year gross dollar value. To calculate this, multiply *the number of acres grazed during the disaster year;* by *the established price per pound or ton* (this figure is established by the State Director in accordance with subparagraph (a)(2)(viii)(C)(*1*) of this section); by *the number of pounds or tons of forage equivalent produced for forage of the type being used in this calculation produced in the disaster year.* (See subparagraph (a)(2)(viii)(C)(*1*) of this section for further information.)

(*3*) Subtract the disaster year gross dollar value (see subparagraph (a)(2)(viii)(C)(*2*) of this section) from the normal year gross dollar value (see subparagraph (a)(2)(viii)(C)(*1*) of this section) to determine the value of pasture loss during the disaster year.

(ix) When a crop cannot be planted and the applicant chooses to treat the loss as a production loss, the loss will be calculated as set out in the paragraph. When a crop can be only partially planted due to a disaster *or* when perennial crops (such as fruits or nuts) already growing cannot be produced or harvested due to a disaster, the loss will be considered a production loss. Such loss will be calculated as follows: Add all income that is derived from the enterprise to the variable and fixed costs which are not incurred because of the disaster. (The cost figure will be derived from current crop enterprise budgets prepared by State Agricultural Extension Service economists, based on normal farming conditions in the area.) Subtract this figure from the value of the normal year's production. The resulting figure is the gross dollar amount of production loss.

(x) When a crop is planted and completely destroyed by a disaster, a yield of "zero" may be shown on Form FmHA 1945–22 for the disaster year only if no part of the crop could be harvested and no substitute crop could be planted and harvested. If a substitute crop is planted and harvested during the same crop year, a yield of "zero" should be shown for the original crop on Form FmHA 1945–22. On Form FmHA 1945–2, the dollar value of from the substitute crop must be subtracted from the dollar value of the normal year's production. When figuring the actual dollar amount of production losses, subtract the normal costs of harvesting and marketing which were not incurred.

(xi) When a crop cannot be planted, an applicant may treat the loss as a production loss (see subparagraph (a)(2)(ix) of this section) or as a physical loss (see subsection (b) of this section).

(xii) Eligibility for production losses to livestock enterprises will usually be based on loss of feed crops to be fed and pasture to be grazed; and such losses should be calculated as crop losses rather than livestock losses. A livestock enterprise must be a basic part of the farming operation in order for losses to feed crops to be considered as a basic enterprise in determining eligible qualifying production losses.

(xiii) Losses to crops to be fed to livestock will be established by determining the normal year's gross dollar value of feed produced for livestock and subtracting the disaster year's gross dollar value of feed produced for livestock from this figure. The difference establishes the disaster year's gross dollar loss for crops to be fed to livestock. The gross value of feed produced for livestock is derived by multiplying the number of crop acres to be fed to livestock by the yield per acre by the unit price.

(xiv) When an applicant elects to sell livestock at an earlier date or lighter weight than usual rather than purchase feed to replace that which was lost as a result of the disaster, the difference between what the sale price would have been if the livestock had been fed for the normal period and the disaster year's sale price may *not* be claimed as a loss.

(xv) Claims of production losses from the applicant will be verified by FmHA when the applicant's claims appear to be unreasonable.

(xvi) Production losses for orchard crops (fruit or nut) will be only for the crop loss due to the qualifying disaster and determined in accordance with paragraph (a)(2) of this section.

(b) *Physical losses.* (1) In order to qualify for EM loan assistance, the damaged or destroyed physical property must be essential to the successful operation of the farm and if not repaired or replaced, the farmer would be unable to continue operations on a reasonably sound basis. The financing necessary to recover from the physical loss must be actually needed to permit the applicant to continue the operation.

(2) The claimed value of all physical losses due to disaster damage or destruction must be supported by written estimates for the necessary repair or replacement requested.

(3) Physical loss loan funds can be used to pay for only contracted or hired labor and materials and supplies purchased. Labor, machinery, equipment, and materials contributed by the applicant or borrower will not be chargeable to the cost of necessary repair and replacement.

(4) Damage to or destruction of nonessential buildings, structures or other items will not be repaired or replaced with EM physical loss loan funds. Any insurance compensation received or to be received for such losses will be considered as compensation for losses to essential farm buildings, structures and other items which need to be repaired or replaced.

(5) The maximum physical loss loan(s) will be determined by subtracting all insurance claims and any other compensation received or to be received for physical disaster losses from the value of all actual physical losses caused by the disaster.

(6) The actual physical loss equals the market value at the time of the disaster for the following items lost or destroyed by or as a result of the disaster:

(i) Basic livestock.

(ii) Livestock products.

(iii) Harvested or stored crops.

(iv) Supplies on hand.

(7) The actual physical loss for farm dwellings to be used by the operator and existing labor is the lesser of:

(i) The market value of the property at the time it was damaged or destroyed; or

(ii) The amount required to repair the dwelling or replace it with one of like quality and size which will meet all applicable code requirements and which will provide permanent, adequate, decent, safe, sanitary, and modest living quarters.

(8) The actual physical loss for farm service buildings and farm real estate other than buildings is the amount required to repair the property or replace it with a building or property of like quality and capacity which will meet all applicable code requirements and which will adequately meet the needs of the farming operation. This amount cannot exceed the market value of the property at the time of the disaster.

(9) If, in addition to the maximum physical loss loan made under this Subpart, an additional loan must be made to repair, restore or replace damaged or destroyed essential farm property, it will be processed as a major adjustment loan.

(10) The actual physical loss for income-producing trees (fruit or nuts) is the cost of removing the damaged or

destroyed trees, cleaning debris and preparing the land for replanting, plus the cost of suitable replacement trees and other expenses necessary to reestablish income-producing trees. Losses will not be determined by establishing a value for the trees destroyed or damaged. Any salvage value will be deducted from the loss. The applicant may choose to replace the damaged or destroyed trees with a different enterprise and may use actual loss loan funds for that purpose.

(11) The actual physical loss to trees (grown for timber) will be determined by establishing the value of trees less any salvage value. This estimate of value must be determined by a recognized forester who will cruise the timber and establish the value of the destroyed and damaged trees. The applicant may choose to replace the damaged tree enterprise with a different enterprise and use the actual loss loan funds for that purpose. Those applicants whose major farming enterprises are other than tree farming, but who have a wood lot that has been damaged, will have their tree losses considered as physical losses in the same manner as set forth for tree farms.

(12) The actual physical loss for crops or pasture is the cost of cleaning debris, preparing the land for replanting, seed, fertilizer, and other expenses necessary to reestablish the crops or pasture. These costs can exceed the market value of the crops or pasture at the time of the disaster.

(13) When a crop cannot be planted during the disaster year due to the disaster and the applicant chooses to treat the loss as a physical loss, the actual physical loss is limited to the cost of land preparation, other expenses incurred to the date of the disaster for crops that could not be planted, and a pro rata share of the total operation's fixed costs such as rent, taxes, and insurance. The applicant must provide an itemized list of all the claimed expenses incurred in the disaster year for those enterprises for which disaster losses are claimed. This list must be signed by the applicant. The amount of an actual loss loan cannot exceed the total itemized expenses listed by the applicant.

(14) EM actual loss loans will not be made to flood and mudslide victims to repair or replace damaged or destroyed farm dwellings or farm service buildings and their contents in areas where "National Flood Insurance" is available, except as authorized in Subpart B of Part 1806 of this Chapter (FmHA Instruction 426.2).

(15) When an applicant has *only housing* losses and is eligible for an SBA physical loss loan in an area where SBA physical loss loans are available, only SBA will make the loans for restoration or replacement of farm housing.

(c) *Compensation for losses.* Compensation for losses from a disaster through insurance, government disaster program benefits or any other disaster program relief received by an EM loan applicant, *which does not have to be repaid,* will reduce the applicant's actual loss by the amount of such compensation, and thus will be considered in determining the applicant's eligibility for EM loan assistance and the maximum amount of actual loss loan entitlement. The amount of any disaster program benefits received from ASCS, including the Emergency Livestock Feed Program (ELFP), Emergency Conservation Program (ECP), and Disaster Program payments *will* be considered as compensation for losses (ASCS Deficiency Payments are not to be considered as Compensation). The amount of any SBA physical disaster *loan* assistance received for the same disaster, based on physical and/or production losses to the same property *will not* be considered as compensation in determining the applicant's eligibility, but *will* be deducted from the applicant's actual disaster losses in determining the applicant's maximum actual loss loan entitlement.

(d) *Maximum actual loss loan.* This amount will be limited to the amount necessary to restore the farm to pre-disaster condition; however, this amount will not exceed the sum of the maximum production loss (subsection (a) of this Section) and the maximum physical loss (subsection (b) of this Section) or *$500,000* whichever is the lesser. If the applicant has also received an SBA disaster loan for the same losses, the sum of the actual loss EM loan and the SBA disaster loan cannot exceed *$500,000.* Indebted EM loan borrowers could receive later actual loss loans not to exceed *$500,000* for each additional qualifying disaster. However, for disasters occurring on or before September 30, 1978, the amount of the actual loss loan cannot exceed *$250,000* or the amount of the actual loss, whichever is the lesser.

§§ 1945.64–1945.65 [Reserved]

§ 1945.66 Loan purposes.

EM loans may be made for the following purposes:

(a) *Loans for actual losses.* (1) The amount of the maximum actual loss loan(s) in addition to the limitations contained in § 1945.63(d) of this Subpart, is further limited to the actual dollar loss, or the actual amount of essential family, farm, and nonfarm enterprise credit that the applicant needs to carry on normal operations, *whichever is the lesser.* However, actual loss loan funds will not be used to finance a nonfarm enterprise, unless such enterprise is needed to support a reasonable standard of living for the family. The use of the loss loan funds will be identified in the farm and home plan so that a determination can be made as to whether such loan(s) covered all or a portion of the actual dollar loss. Actual loss loan funds not needed immediately will be scheduled for later disbursement through the Finance Office "Loan Disbursement System". After each actual loss loan is made the resulting operation must be one which is not substantially larger (due to the direct or indirect use of loan funds) than the pre-disaster operation, does not realistically project a net farm income (gross income less annual farm operating expenses) substantially greater than that of the normal operation conducted before the disaster, and is financially sound.

(2) Actual loss loan funds may be used for any of the following:

(i) Repair or replacement of disaster damaged or destroyed farm property;

(ii) Payment of farm operating debts incurred during the disaster year;

(iii) Payment of current capital expenditure loan installments, e.g., for chattel, livestock and real estate debt payments;

(iv) Payment of essential family living expenses;

(v) Payment of current taxes due;

(vi) Payment of other current debts;

(vii) Payment on delinquent debts;

(viii) Any major adjustment loan purpose; however, refinancing of debts will be restricted to those debts (in whole or in part) that must be refinanced to provide a sound basis for making the EM actual loss loan;

(ix) Financing all or a part of the next year's production cost; and

(x) Payment of reasonable expenses customarily paid when obtaining, planning, and closing an actual loss loan, such as fees for legal, architectural and other technical services which are required to be paid by the borrower, and which cannot be paid from other funds. Loan funds also may be used to pay the borrower's share of social security taxes for labor hired by the borrower in connection with land and building development. It is not intended that this subparagraph be interpreted to include fees charged applicants by management consultants and other professionals for preparation of EM loan dockets, including farm and home plans and

other FmHA forms used in processing such loans.

(b) *Annual production purposes.* (1) When more than one annual production loan is made during the same production year, the loans will be considered a single loan. Annual production loans for operating purposes may be made by:

(i) Payment of essential annual production expenses, including annual installments of principal and interest on debts.

(ii) Payment of essential family living expenses.

(iii) Refinancing debts when the amount loaned can be expected to be repaid from income received from crops or livestock produced during the next succeeding production year.

(2) After the initial EM loan for annual production purposes is made, subsequent EM annual production loans, for subsequent production years, may be made until the borrower is able to return to normal credit sources or for the periods contained in subparagraphs (b)(2)(i) and (ii) of this section, whichever is the shorter period.

(i) Borrowers with loans outstanding for any EM purpose on or before December 15, 1979, may receive subsequent EM loans for annual production purposes, provided no more than five (5) annual subsequent EM loans are made per disaster and provided they are made within six (6) full calendar years after the disaster authorization date. This includes all EM borrowers whose EM loan was approved on or before December 15, 1979.

(ii) Borrowers not having outstanding EM loans on or before December 15, 1979, may receive subsequent EM loans for annual production purposes, provided no more than two (2) annual subsequent EM loans are made per disaster and provided they are made within three (3) full calendar years after the disaster authorization date. This also includes borrowers indebted who are affected by a new disaster, and who do not have entitlement for more than two years under a previous disaster.

(3) After each annual production loan is made the resulting operation must be one which is not substantially larger (due to the direct or indirect use of loan funds) than the pre-disaster operation, does not realistically project a net farm income (gross income less annual farm operating expenses) substantially greater than that of the normal operation conducted before the disaster, and is financially sound.

(4) The total EM annual production loan indebtedness owed by a borrower cannot exceed the annual production and major adjustment indebtedness ceiling established in paragraph (d) of this section.

(c) *Major adjustment loans.* Major adjustment loans can be made only to assure that applicants will have a reasonable prospect of maintaining a sound farming operation after they have sustained severe losses as a result of a qualifying disaster. A major adjustment loan(s) must be necessary to permit the applicant to continue in operation on a sound basis. Major adjustment loans must assist disaster victims in sustaining or rehabilitating their normal operations until such time as they are able to return to other sources of credit. These loans can be used for any crop or livestock changes needed to achieve these objectives and to overcome financial difficulties caused by the disaster. The resulting operation must be one which is not substantially larger (due to the direct or indirect use of loan funds) than the pre-disaster operation, does not realistically project a net farm income (gross income less annual farm operating expenses) substantially greater than that of the normal operation conducted before the disaster, and is financially sound.

(1) The total major adjustment loan indebtedness owed by the borrower cannot exceed the annual production and/or major adjustment indebtedness ceiling established in subsection (d) of this section.

(2) Real estate purposes (Subtitle A). The following are authorized real estate purposes, and major adjustment loan funds may be used to:

(i) Purchase real estate necessary to (these funds may be used in conjunction with loss funds):

(A) Replace land that cannot be restored due to the disaster;

(B) Establish a new site for farm dwellings and service buildings so that the applicant can relocate outside of a flood or mudslide prone area;

(C) Provide land and water resources necessary to make a viable family farming operation; and

(D) Replace land necessary to restore an effective operation which was liquidated as a result of the disaster before an EM loan could be made.

(ii) Construct, buy, or improve buildings and facilities needed on the applicant's farm, including:

(A) The construction of an essential farm dwelling and service buildings of modest design and cost, including facilities and structures for nonfarm and recreational enterprise uses or fish farming such as docks, fish hatcheries, shooting blinds, refreshment or marketing stands, processing or assembly plants, sales buildings, repair shops, lodging facilities, trailer parks, picnic areas, target ranges, tennis courts, shuffleboard courts, golf driving ranges, campsites and modest rental housing.

(B) The improvement, alteration, repair, replacement, relocation, or purchase and transfer of such essential dwellings and service buildings, facilities, structures and fixtures that become part of the real estate or customarily pass with the farm when it is sold. This includes pollution control and energy saving devices.

(C) The purchase and/or installation of water and sewage systems and other equipment, including pollution control and energy saving devices necessary to operate a farm and/or a nonfarm enterprise, provided the items upon installation become part of the real estate, or customarily pass with the farm when it is sold.

(iii) Provide land and water development, pollution control and energy saving measures, acquire water supplies and rights, and promote the use and conservation essential to the operation of the farm and any nonfarm enterprise facilities. This includes providing fencing, drainage and irrigation facilities, basic applications of lime and fertilizer, and facilities for land clearing. This also includes establishing approved forestry practices, fish ponds, trails and lakes, improving orchards, and establishing and improving permanent hay or pasture. Sources of water may be located outside the land owned provided appropriate rights or easements are obtained to ensure that the water and rights will pass with the farm when it is sold. The funds for land and water development may include the costs of machinery and equipment needed to do the development only when the total cost of the development and machinery or equipment would not exceed the cost of contracting the work or hiring the labor and machinery needed to do it. Loan funds may be used to pay that part of the cost of facilities, improvements, and "practices" which will be paid for in connection with participation in such programs as the Agricultural Conservation or Great Plains programs only when such costs cannot be covered by purchase orders or assignments to material suppliers or contractors. If loan funds are advanced and the portion of the payment for which the funds were advanced is likely to exceed $1,000, the applicant will assign the payment to FmHA.

(A) Funds may be used for development costs on land owned with defective title provided:

(*1*) There is adequate security for the loan,

(2) The tract with defective title is not included in the appraisal report, and

(3) Not more than $25,000 is loaned to an applicant to use for development costs on a tract with defective title.

(B) Funds may be used for real estate improvements or repairs on land leased by the applicant if all of the following conditions are met:

(1) EM loans will not be needed year after year to make substantial real estate improvements;

(2) The applicant is likely to continue to operate the farm for a sufficient period of time and under such terms as will yield a reasonable return on the investment;

(3) The applicant has reasonably secure tenure for a long enough period to enable the tenant to realize adequate benefits to justify expenditures;

(4) A written lease is obtained which provides for payment, to the tenant or assignee, for any unexhausted value of the improvement if the lease is terminated;

(5) There is adequate security for the loan; and

(6) Not more than $50,000 is loaned to a tenant for real estate improvements, repairs, or for refinancing unsecured debts clearly incurred for such purposes.

(iv) Refinance secured and unsecured debts, including FmHA debts subject to all of the following:

(A) The applicant's present creditors will not furnish credit, even with an FmHA guaranteed loan, at rates and terms the applicant can meet.

(B) When applicants request refinancing of loans owed normal lenders, such as banks, Production Credit Associations, Federal Land Banks or insurance companies, the County Supervisor will obtain early in the loan processing such lender's determination with respect to furnishing the applicant the additional credit necessary to accomplish the objectives of the EM loan and reestablish the borrower's operations on a sound basis within the borrower's ability to pay.

(C) Major adjustment loans *will not* normally be made to refinance intermediate and long-term debts. Only existing delinquent installments, plus the next installment which the applicant cannot pay, can be refinanced. In unusual circumstances, when the above refinancing is essential to enable the applicant to conduct a sound farming operation the above provisions may be waived. Ordinarily, in the case of old unsecured debts or inadequately secured debts, applicants will be requested to contact their creditor(s) and make every effort to obtain a substantial compromise reduction of such debts before they are refinanced.

(D) The County Supervisor must contact the appropriate lender; verify and document, either in the running record or by letter from the lender, the need to refinance secured debts and major unsecured debts; and determine the reason(s) the lender will not carry the debt, even with an FmHA guarantee. The unpaid balance of the debts to be refinanced will also be verified.

(E) Major adjustment loans for refinancing debts which are secured by real estate at the time of application for FmHA EM loan assistance will not exceed $300,000 principal indebtedness, regardless of the number of qualifying disasters.

(v) Pay reasonable expenses customarily paid when obtaining, planning, making and closing a loan made for real estate purposes, such as fees for legal, architectural and other technical services, which are required to be paid by the applicant, and which cannot be paid by the applicant from other resources. Loan funds may also be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with land and building development. It is not intended that this subparagraph be interpreted to include fees charged applicants by agricultural management consultants and other professionals for preparation of EM loan dockets, including farm and home plans and other FmHA forms used in processing such loans.

(vi) Finance a nonfarm enterprise when it will provide another source of necessary income even though the owned acreage for such enterprise is not physically located on the farmland.

(vii) Pay the first year's premium for required insurance on buildings on the property which are to serve as security for the loan. Buildings will be insured in accordance with subpart A of Part 1806 of this Chapter (FmHA Instruction 426.1), except when the appraisal report shows that the land alone adequately secures the loan. However, the applicant will be encouraged to take property insurance on essential buildings to protect the applicant's own interest. Borrowers eligible for insurance under the National Flood Insurance Act of 1968 will be advised of its availability in accordance with Subpart B of Part 1806 of this Chapter (FmHA Instruction 426.2).

(3) Operating purposes (Subtitle B). The following are authorized operating purposes and loan funds that may be used to:

(i) Purchase machinery and equipment, livestock, poultry, fur bearing and other farm animals, aquatic organisms, worms, birds, tools, bees, and supplies; or to purchase an individual's or entity's undivided interest in such items; and to pay costs incidental to reorganizing the farming system which will provide for a sound operation.

(ii) Purchase and repair essential home equipment and furnishings, pay for family living expenses and pay for home equipment repairs required by the applicant's family to sustain itself in a reasonably satisfactory manner.

(iii) Refinance secured and unsecured operating type debts in whole or in part, including existing FmHA debts.

(iv) Purchase milk base, either with or without cows, when such action is necessary to assure the borrower a satisfactory market for dairy production.

(v) Purchase grazing licenses, permits, or rights which can be validly sold and transferred.

(vi) Augment and improve existing water supplies to alleviate the adverse effects of drought and other natural disasters.

(vii) Purchase membership and stock in farm purchasing, farm marketing, or farm service-type cooperative associations, including grazing associations.

(viii) Pay a secured creditor an amount not to exceed 20 percent of the appraised market value of the essential farm and nonfarm equipment under prior lien to that creditor, or 20 percent of the amount owed to such creditor, whichever is the lesser.

(ix) Purchase a franchise, contract, or privilege when essential to the operation of the planned enterprise.

(x) Make a partial payment on crop storage and drying facilities when the Commodity Credit Corporation (CCC), through the ASCS, is providing the rest of the credit under the CCC Farm Storage and Drying Equipment Loan Program.

(xi) Pay reasonable expenses customarily paid when obtaining, planning and closing a loan made for operating purposes, i.e., fees for legal, architectural and other technical services, which are required to be paid by the applicant, and which cannot be paid by the applicant from other resources. Loan funds may also be used to pay the borrower's share of Social security taxes for the labor hired by the borrower in connection with land and building development. It is not intended that this subparagraph be interpreted to include fees charged applicants by agricultural management consultants and other professionals for preparation of EM loan dockets including farm and home plans and other FmHA forms used in processing such loans.

(d) *Annual production and major adjustment loan indebtedness ceiling.* The total annual production and major adjustment loan(s) indebtedness owed by the borrower, insured or guaranteed, cannot exceed $1,500,000 principal indebtedness at any time regardless of the number of disasters under which an applicant may qualify.

However, borrowers indebted for any EM loan on or before December 15, 1979, may receive subsequent EM annual production loans in accordance with the provisions of subsection (b) of this section in amounts necessary to continue their normal farming operation(s) without regard to this indebtedness ceiling.

(e) *Relationship with Economic Emergency (EE) loans.* When an EM loan for annual production or major adjustment purposes is made at the same time as or after an EE loan, subtract the amount of the EE loan (outstanding principal only) from $1,500,000; the result is the maximum loan which can be made for EM annual production or major adjustment purposes. However, borrowers indebted for any EM loan on or before December 15, 1979 will *not* have the amount of the EE loan subtracted from any EM subsequent annual production loan.

§ 1945.67 Loan limitations and special provisions.

(a) *Applicants involved in more than one operation.* Loans to applicants involved in more than one farming operation will be considered as follows:

(1) If an applicant, in addition to the applicant's own farm operation, owns or controls *50 percent or more* of another farm operation(s), and the applicant is actively engaged in both operations, both the applicant and the other farm operation(s) may be considered for separate loans provided the combined total does not exceed the loan limitations as set out in sections 1945.63(d), and 1945.66(d) of this Subpart.

(2) If the applicant is a cooperative, corporation, or partnership and any principal member, principal stockholder, or principal partner owns or controls *50 percent or more* of another farm operation(s) and is actively engaged in both operations, both the applicant entity and the other farm operation(s) may be considered for separate loans provided the combined total does not exceed the loan limitations as set out in sections 1945.63(d) and 1945.66(d) of this Subpart.

(3) If an applicant, including any principal member, principal stockholder, and principal partner who, in addition to the applicant's own farm operation, owns or controls less than 50 percent of another farm operation(s), and is actively engaged in a *separate* farm operation(s), the applicant and the other farm operation(s) will be considered as separate entities for application of the loan limitations.

(4) If the applicant described in paragraphs (a) (1), (2), and (3) of this section is deemed to be ineligible, such determination shall not preclude the other operation(s) in which the applicant holds an interest from being considered for an EM loan(s).

(b) *Insured and guaranteed loan making.* An insured EM loan will not be made simultaneously with a guaranteed EM loan or vice versa.

(c) *Refinancing guaranteed loans.* An insured loan will not be made to refinance a guaranteed loan, except when the following conditions are met:

(1) The circumstances causing the need to refinance were beyond the borrower's control.

(2) Refinancing is in the best interest of the Government.

(d) *Subsequent EM loans.* Subsequent (additional) EM loans may be made for the same purposes and under the same conditions as an initial EM loan.

(e) *New appraisals.* New "Appraisal of Real Estate Reports" are not required if the appraisal report in the file is not over two years old, unless the approval official requests a new appraisal report, or unless significant changes in the market value of real estate have occurred in an area within the two year period. Any changes in the value of real estate or chattel security will be recorded, dated and initialed by the certified appraiser on the appropriate appraisal reports in the file.

(f) *Record keeping.* EM borrowers receiving or indebted for EM loans of $100,000 or more are required to keep *hard farm records* on an approved format or use an accountant or a farm management service computer system as long as they are indebted for EM loans. EM borrowers are required to retain these records for three years. (See Subpart B of Part 1924 of this Chapter.)

(g) *Disbursement of loan funds.* Loan funds (either actual loss, annual production, or major adjustment) which will not be disbursed for specific purposes at loan closing will *not* be requested in the initial request for funds from the Finance Office. The "Loan Disbursement System" will be used to make funds available when they are actually needed. See section 1945.89 (a)(8) for instructions on the use of supervised bank accounts.

§ 1945.68 Rates and terms.

(a) *Interest rates.* Interest on the initial advance will accrue from the date of the promissory note. Interest on other advances will accrue from the date of the loan check for each such advance. Interest rates are specified in Supart A of Part 1810 of this Chapter (FmHA Instruction 440.1, Exhibit B, available at any FmHA office.)

(b) *Terms of loans.* Loans will be scheduled for repayment at such time as the FmHA approval official may determine, consistent with the purpose of and need for the loan, and in accordance with the useful life of the security and the repayment ability of the applicant, as reflected in the completed Form FmHA 431–2, "Farm and Home Plan." There must be at least an interest installment scheduled every year.

(1) *Operating purposes (Subtitle A).* Actual losses of crops, livestock and chattels; annual production; and major adjustment (Subtitle B) loans will be scheduled for repayment as follows:

(i) Terms for actual loss loans for operating purposes under section 1945.66 (a) or for major adjustment Subtitle B purposes under section 1945.66 (c)(3) of this Subpart will be for periods not to exceed 7 years. Loans may be scheduled for a longer repayment period if the FmHA approval official determines that the needs of the applicant justify a longer term. Such longer period may be approved as warranted, but cannot exceed 20 years.

This longer repayment period will be used only when the Farm and Home Plan projections indicate the applicant would be unable to repay the loan in a shorter period, taking into consideration rescheduling possibilities. The reason(s) that a term longer than 7 years is given must be documented in the county office case file.

Generally, real estate will be needed as security when the longer repayment period is authorized. When the longer term is used, rescheduling is *not authorized* to extend beyond 20 years from the date of the original note.

(ii) Loans made for annual recurring production expenses under section 1945.66(b) of this Subpart, or for payment of bills incurred for such purposes for the operating or crop year being financed, will be scheduled for repayment when the principal income from the year's operations is normally received, and will be repaid over an appropriate term consistent with this principle. *However,* the initial loan for annual recurring production purposes may be scheduled for repayment for a period up to 7 years, if additional

security other than crops can be obtained.

(iii) Loans made to purchase or produce feed for productive livestock or livestock to be fed for the market, or to pay bills incurred for such purposes for the crop year being financed, will be scheduled for repayment when the principal income from the sale of such livestock or livestock products is planned to be received.

(iv) When conditions warrant, installments may vary in amount. However, the final installment will not be larger than the amount which can be expected to be refinanced by other agricultural lenders or be repaid within a rescheduled period of not to exceed 7 years. The applicant must be advised before the loan is closed that FmHA will review each case at the end of the initial loan term to determine if rescheduling is warranted. There is no obligation for FmHA to continue with the borrower after the expiration of the initial loan term.

(2) *Real estate purposes.* Loans made for actual losses to real estate and loans made for major adjustment (Subtitle A) purposes (section 1945.66(c)(2) of this Subpart) will normally be scheduled for repayment in not to exceed 30 years. Loans may be scheduled for a longer repayment period if the FmHA approval official determines that the needs of the applicant justify a longer repayment period. Such period may be approved as warranted but cannot exceed 40 years. The longer repayment period will only be used when the applicant would be unable to repay the loan in a shorter period. The reasons the longer period is given must be documented in the county office case file.

(3) *Repayment terms when debts are refinanced.* When secured or unsecured debts are refinanced with a major adjustment loan, the type of basic security taken will determine the terms and interest rate charged.

(i) When basic security is other than real estate, the loan may be scheduled for repayment in accordance with paragraph (b)(1) of this section and the Subtitle B purpose interest rate will be charged.

(ii) When real estate will serve as basic security, the loan may be scheduled for repayment in accordance with paragraph (b)(2) of this section and the Subtitle A purpose interest rate will be charged.

(c) *Consolidation, rescheduling, reamortization and deferral.* (1) *General requirements.* When the loan approval official determines that consolidation, rescheduling, reamortization, or deferral will assist in the orderly collection of an EM loan, the loan approval official may take such action. The requirements of this paragraph apply when a new loan is being made. If only existing loans are involved and no new loan is being made, see Subpart A of Part 1951 of this Chapter.

(i) When deferring, consolidating or rescheduling EM loans made for operating purposes, the requirements set out in Subpart A of Part 1951 of this Chapter, sections 1951.33 (b)(1) through (b)(6) must be met.

(ii) When deferring or reamortizing EM loans made for real estate purposes, the requirements of Subpart A of Part 1951 of this Chapter, section 1951.40(b) that apply to EM loans must be met.

(2) *Consolidation and rescheduling.* EM loans made for operating purposes may be consolidated or rescheduled subject to the conditions set out in Subpart A of Part 1951 of this Chapter, sections 1951.33 (d)(1) through (d)(5) and (d)(7) that apply to EM loans.

(3) *Reamortization.* Existing EM loans made for real estate purposes may be reamortized when a new EM loan is made subject to the conditions set out in Subpart A of Part 1951 of this Chapter, sections 1951.40 (b)(1)(i) through (b)(1)(iii) that apply to EM loans.

(4) *Deferral.* Installments on EM loans, including loans which are consolidated, rescheduled or reamortized may be deferred.

(i) When deferring installments on EM loans made for operating type purposes, the requirements set out in Subpart A of Part 1951 of this Chapter, section 1951.33 (e)(1) must be met.

(ii) When deferring installments on EM loans made for real estate purposes, the requirements set out in Subpart A of Part 1951 of this Chapter, section 1951.40 (b)(2) must be met.

(iii) Deferred installments on EM loans made for operating type or real estate purposes should be scheduled and repaid in accordance with Subpart A of Part 1951 of this chapter, sections 1951.33 (e)(2)(i) through (e)(2)(iv).

(5) *Terms.*—(i) *Consolidation and rescheduling.* All EM loans made for Subtitle B (operating) purposes will be repaid over a period consistent with the borrower's repayment ability, but not in excess of 7 years from the date of the consolidation or rescheduling except in special cases authorized in paragraph (b)(1) of this section, where a longer term is needed. Initial EM loans for operating type purposes may be rescheduled for up to 20 years from the date of the original note.

(ii) *Reamortization.* Existing EM loans made for real estate purposes may be reamortized in accordance with section 1951.40 (c)(1) of Subpart A of Part 1951 of this Chapter.

(6) *Interest rates.* The interest rates for consolidated, rescheduled, and reamortized loans are as follows:

(i) For consolidated, reamortized, or rescheduled *non-actual loss* loans, the current rate specified in Subpart A of Part 1810 of this Chapter (FmHA Instruction 440.1, Exhibit B, available in any FmHA office) at the time of consolidation, reamortization or rescheduling will apply.

(ii) For reamortized or rescheduled *actual loss loans*, the interest rate will not be changed from that in the original note.

(7) *Processing consolidation, rescheduling, and/or deferment.* These functions will be performed in accordance with the FMI to Form FmHA 1940–17, "Promissory Note."

(8) *Disposition of promissory notes.* The original and County Office copy of all notes that are consolidated, rescheduled, reamortized or deferred will be stamped "Consolidated," "Rescheduled," "Reamortized," or "Deferred," as appropriate, by the County Office. The original note will be filed with Form FmHA 452–2, "Reamortization and/or Deferral Agreement," when appropriate, and the copy filed in the borrower's case file. When consolidated, rescheduled, reamortized or deferred notes have been paid in full or otherwise satisfied, the notes will be handled in accordance with the provisions of Subpart A of Part 1951 and of Part 1864 (FmHA Instruction 456.1) of this Chapter.

(d) *Graduation.* Borrowers will be required to graduate when FmHA determines they are able to obtain their needed credit from conventional sources. All borrowers will be advised that they will be reviewed for graduation periodically in accordance with the graduation procedure in Part 1865 of this Chapter (FmHA Instruction 451.6, a copy of which is available in any FmHA County Office). EM borrowers will be reviewed for graduation three (3) years after their initial EM loan is made and every two (2) years thereafter, until graduation is achieved or the EM indebtedness is paid in full. Applicants who cannot get credit elsewhere will be advised during loan processing and again at loan closing that they will be required to refinance at any time when other satisfactory credit is available to them, even though their loans have not fully matured. Applicants who can get credit elsewhere will be advised during loan processing and against loan closing that they will be required to refinance at any time after the initial 3 year waiting period when other satisfactory credit is available to

them, even though their loans have not fully matured.

§ 1945.69 Security requirements.

(a) *Security.* (1) The County Supervisor is responsible for seeing that adequate and proper security is obtained and maintained, and that the security instruments have been properly executed and recorded to protect the interest of the Government.

(2) Except for the modifications contained in paragraph (d)(1) of this section, security must be of such a nature and extent that repayment of the loan is reasonably assured, considering the applicant's managerial ability, soundness of the operation, and projected earnings. When a major adjustment loan for real estate purposes is made, the security will be not less than the best lien obtainable on all farm real estate and, when all other real estate security has been considered and found to be insufficient, the best lien obtainable on farm personal property will also be taken. Security for loans may include, but is not limited to the following: livestock, livestock products, crops, land, buildings, machinery, equipment, furniture, fixtures, inventory, accounts receivable, cash or special cash collateral accounts, personal and corporate guarantees, marketable securities, and cash surrender value of life insurance. Security may also include assignments of leases or leasehold interests, revenues, patents, and copyrights. In unusual cases, the loan approval official may require a co-signer or a pledge of security by a third party. Generally, a pledge of security in lieu of a co-signer is preferable.

(3) A lien will not be taken on property that cannot be made subject to a valid lien, nor will a lien be taken on subsistence livestock, household goods, and small equipment such as handtools, power lawn mowers, and other items of like type not needed for security purposes. A lien on feed crops does not have to be taken if the crops produced by the borrower are used to feed livestock, other than livestock being fed for market, and the loan is otherwise well secured.

(4) When insured and guaranteed loans are involved to the same borrower, separate security must be clearly identified for both the insured and guaranteed loans.

(b) *Personal liability.* The signatures of all principal partners of a partnership, principal members of a cooperative and principal stockholders of a corporation are required to evidence their full personal liabilities on the promissory note as individuals, except in unusual circumstances including legal disability or extended absence from the country.

(1) When the applicant is an unincorporated farm cooperative, the promissory note will be executed so as to evidence the liability of the cooperative as well as each member as an individual. This will be accomplished by typing the name of the cooperative above the space provided for signatures and having the note executed by each member of the cooperative both as a member and as an individual. To evidence the liability of the cooperative, the words "As Members" will be typed immediately beneath the name of the cooperative and each member will sign thereunder. To evidence the members' liability as individuals, the words "As Individuals" will be typed at the top of the blank space to the left of the lines for signatures, and each member will sign thereunder.

(2) When the applicant is a corporation or an incorporated cooperative, the promissory note will be executed by the corporation or cooperative acting through its authorized officials. To evidence the principal stockholders' or members' liability as individuals, each principal stockholder or member will sign the note.

(3) When the applicant is a partnership, the promissory note will be executed so as to evidence the liability of the partnership as well as each principal partner as an individual. This will be accomplished by typing the name of the partnership above the space provided for signatures and having the note executed by the members of the partnership both as partners and as individuals. To evidence liability of the partnership, the words "As Partners" will be typed immediately beneath the name of the partnership and each partner will sign thereunder. To evidence the principal partners' liability as individuals, the words "As Individuals" will be typed at the top of the blank space to the left of the lines for signatures and each principal partner will sign thereunder.

(c) *Personal and corporate guarantees.* (1) If a review of all credit factors indicates the need for additional security, the loan approval official may require additional personal and/or corporate guarantees, including guarantees from principals of parent, subsidiary or affiliated companies. The loan approval official will require that such guarantees be secured by security which has an equity value. Any security referred to in paragraph (a)(2) of this section may be used to secure the guarantees.

(2) Guarantors of applicants will:

(i) In the case of personal guarantees, provide current financial statements (not over 30 days old at time of filing), signed by the guarantors and disclosing community or homestead property.

(ii) In the case of corporate guarantees, provide current financial statements (not over 30 days old at time of filing), certified by an officer of the corporation.

(3) When security is taken under this subsection (c) of this section it will be serviced in accordance with Subpart A of Part 1962 of this Chapter, if chattels, and Subpart A of Part 1872 of this Chapter (FmHA Instruction 465.1), if real estate.

(d) *Applicant's repayment ability.* If the present market value of the security is not at least equal to the amount of the loan, the applicant's repayment ability may be considered by the loan approval official in determining whether the loan should be made. When the applicant's repayment ability is so considered, the following conditions must also be met:

(1) Adequate security is not available because of the disaster or current economic conditions;

(2) The applicant's typical year operating plan indicates ability to repay the loan in full within the proposed repayment period which may provide for a deferment if necessary; and

(3) The applicant will give a lien on all available security.

(e) *Life insurance.* If the applicant's repayment ability is considered or if the loan approval official believes it is needed as additional security, life insurance may be required for the individual borrower or for the principals and key employees of an entity borrower and will be assigned or pledged to FmHA. This life insurance may be decreasing term insurance. A schedule of life insurance available as security for the loan will be included as part of the application.

(f) *Operating purposes.* (1) Loan funds used for annual production purposes will be secured by a first lien on the crop or livestock or both, being financed with EM loan funds plus enough other security, including personal property, real estate and crop insurance, to assure that the Government's financial interest will be protected. When the applicant can provide no security other than a first lien on the crop or livestock or both, the amount of the loan will be limited to the greater of $100,000 or one-half of the estimated gross farm income planned as shown on Form FmHA 431–2, or as shown on another acceptable plan of operation based on normal production and prices authorized by the State Director for developing annual farm plans within the State. When an EM

borrower who is indebted for an annual operating loan which is secured only by a first lien on the crop or livestock or both, needs a subsequent EM loan for annual operating purposes during the current calendar year to complete that year's farming operation and the loan is needed to protect the Government's financial interest, the $100,000 or fifty (50) percent gross income requirement will not apply, provided the loan is otherwise sound and proper.

(2) Loans made for operating purposes authorized in sections 1945.66 (a) and (b) or 1945.66(c)(3) of this Subpart will be secured by a lien on sufficient equity in livestock, crops, equipment and machinery (including trucks and automobiles) and, when necessary, other personal property to protect the Government's interest. A lien on part or all of the real estate owned by the applicant may be taken as additional security, if such additional security is needed to protect the interest of the Government. When the applicant can provide no security other than a first lien on crops or livestock or both, the policy outlined in subparagraph (f)(1) of this Section will apply. A second crop lien may be taken when it has security value and is necessary to assure repayment of the loan(s).

(3) Loans *only* for the acquisition of memberships or the purchase of stock in cooperative associations may be made on the basis of the borrower's promissory note without taking security except as follows:

(i) An assignment, pledge, or other security interest in the stock or other evidence of membership will be obtained provided it has security value. A security interest may also be taken on significant amounts of patronage, dividends or refunds or on undivided profits and other holdings. The security interest will be in the form of an assignment, pledge, or other instrument, and will be taken on FmHA forms and in the manner approved by OGC. Stock certificates and similar security will be kept in the County Office. A notation will be made on Form FmHA 1905–1, "Management System Card-Individual," showing that such security has been retained.

(ii) In individual cases, loan approval officials may require a lien on crops or chattels as additional security for a loan made for the acquisition of a membership or stock, if they determine such additional security is necessary to protect the Government's interest.

(4) The advise of the OGC will be obtained on how to perfect a security interest when milk base and grazing permits are financed or taken as security.

(5) General intangibles, accounts, or contract rights may be taken as security for production loss loans made to contract feeders, tenants with share-lease arrangements, or other farmers with similar arrangements. National Office approval will be obtained before taking such items as security for a loan.

(g) *Real estate purposes.* Loans for the purposes authorized in sections 1945.66(a) (real estate purposes only) and 1945.66(c)(2) of this Subpart will be secured by a lien on real estate. However, if the applicant does not have sufficient equity in the real estate to secure the entire amount of the loan, a lien also will be taken on personal property, plus, if necessary, a second lien on crops or livestock. An EM loan made to a tenant with a long-term lease will be secured by a lien on a transferable leasehold.

(h) *Abbreviated appraisals.* An abbreviated appraisal is one which is completed in accordance with subparagraph (h)(2)(i) of this section. See section 1945.75 of this Subpart for instructions on complete appraisals. Loans may be approved when an abbreviated appraisal is made on the property being taken as security for the loan, provided:

(1) The loan approval official determines that the applicant's equity in the security will adequately secure the EM loan.

(2) When abbreviated appraisals are prepared:

(i) For real estate, the following portions of Form FmHA 422–1, "Appraisal Report (Farm Tract)," will be completed:

The heading of the report, Item A of Part 1, Part 2, Part 3, Part 6, Part 7, and Part 8. The report will be signed and dated by an FmHA authorized appraiser.

(ii) For chattel property, Form FmHA 440–21, "Appraisal of Chattel Property," will list, identify, and show the value of each chattel item and items A through E will be completed.

(i) *Combination of real estate and chattel security.* When an EM loan is to be secured by a lien on real estate or a combination of real estate and chattels, the security will be considered "basic security." However, notwithstanding the definition in section 1945.54(a)(32) of this Subpart, when chattels are primarily relied upon as security and real estate is taken only as additional security to better protect the Government's interest in instances in which the amount of the loan does not exceed the value of the primary chattel security by more than $10,000, the additional real estate security will not be considered basic security. For all loans *over $25,000* when real estate is taken as basic security, title clearance is required. For loans of *$25,000 or less,* and for loans for which real estate is taken as additional security, only a certification of ownership and verification of equity in real estate is required. Certification of ownership may be accepted in the form of a notarized affidavit from the applicant stating who is the owner of record of the real estate in question and acknowledging all known debts, with balances owed, against the real estate. Whenever the County Supervisor is uncertain of the ownership of or debts against the real estate security, and for all loans to cooperatives, corporations, or partnerships, a title search is required.

(j) *Purchase contracts.* If the real estate offered as security is held under a purchase contract, the following conditions must exist:

(1) The applicant must be able to provide a mortgageable interest in the real estate.

(2) The applicant and the seller must agree in writing that any insurance proceeds received for real estate losses will be used only to replace or repair the damaged real estate improvements which are essential to the farming operation, used for other essential real estate improvements, or paid on the EM loan or on any prior real estate indebtedness including the purchase contract. If necessary, the applicant will negotiate with the seller to arrive at a new contract without any provisions objectionable to FmHA.

(3) If a satisfactory contract of sale cannot be negotiated or the seller refuses to enter into the agreement described in paragraph (j)(2) of this section, the applicant will make every effort to refinance the existing purchase contract. If the applicant cannot obtained refinancing from another source, an EM loan will be considered to include funds to pay off the contract.

(4) If the conditions set out in paragraphs (j)(1), (2) and (3) of this section exist and an EM loan is approved, it can be closed provided the FmHA escrow agent or designated attorney certifies on Form FmHA 427–10, "Final Title Opinion", or in separate writing that:

(i) The purchase contract is not subject to summary cancellation on default and does not contain any other provisions which might jeopardize either the Government's security position or the borrower's ability to repay the loan.

(ii) The seller has agreed, in writing, to give FmHA notice of any breach by the purchaser, and has also agreed to give FmHA the option to rectify the conditions which amount to a breach

within thirty days. The thirty days begin to run on the day FmHA receives written notice of the breach.

(k) *Prior liens which may jeopardize the Government's security position.* If any prior liens against real estate offered as security contain future advance provisions or other provisions which might jeopardize the security position of the Government or the applicant's ability to meet the obligations of these prior liens and to pay the EM loan, the prior lienholders involved must agree in writing, before the loan is closed, to modify, waive, or subordinate such objectionable provisions to the interest of the Government. However, the Government's lien may be subject to the lien of another creditor for amounts advanced or to be advanced for annual operating and family living expenses for the operating or calendar year. The County Supervisor will determine if the creditor will be required to execute Form FmHA 441–13, "Division of Income and Nondisturbance Agreement," or a similar form approved by the OGC.

(l) *Circumstances under which advance notice of foreclosure or assignment is required.* When a junior lien on real estate is to be taken as security for a loan in States where a prior lienholder may foreclose the security instrument under power of sale or otherwise and extinquish junior liens of private parties without giving junior lienholders actual notice of the foreclosure proceedings, the prior lienholder must agree in writing to give FmHA advance notice of foreclosure or assignment of the mortgage.

(m) *Hazard insurance.* Hazard insurance with a standard mortgage clause naming FmHA as beneficiary may be required for every loan made. The minimum amount of insurance required is the lesser of the replacement cost of the property being insured or the amount of the loan. If essential insurable buildings are located on the property, or if new buildings are to be erected or major improvements are to be made to existing buildings, the applicant will provide adequate hazard insurance coverage at the time of the loan closing or as of the date materials are delivered to the property, whichever is appropriate. Notwithstanding the requirements of Subpart A of Part 1806 (FmHA Instruction 426.1) of this Chapter, when the real estate appraisal report shows that the present market value of the land after deducting the value of buildings shown on the report exceeds the amount of the debt (including the EM loan) and the owner has equity equal to or exceeding the amount of the debt (including the EM loan), real estate property insurance may not be required. However, the applicant will be encouraged to obtain such insurance, if the applicant does not already have it, to protect the applicant's interest. If insurance claims for loss or damage to buildings to be replaced or repaired with loan funds are outstanding at the time the loan is approved, the applicant will be required to agree in writing that, when settlement is made, the proceeds of such claims will be used for replacement or repair of buildings, application on debts secured by prior liens, or application on the EM loan.

(n) *Special security requirements where personal possessions or home furnishings are involved.* Loan amounts borrowed for repair or replacement of personal possessions and home equipment or furnishings will be secured by a lien(s) on crops, aquatic organisms, livestock, farm machinery, essential trucks or automobiles, and/or farm real estate.

(o) *Crop insurance.* Loan approval officials may require the borrower to carry Federal or other types of crop insurance with a collateral assignment to FmHA during the repayment period of the EM loan if such insurance is available in the county. This decision should be based on the amount and type of security, other than crops, that the borrower can provide. *However, when only a crop lien is taken as security for an EM loan, the borrower will be required to carry Federal or other type of crop insurance during the repayment period of such loan if such insurance is available.* An assignment of Federal Crop Insurance proceeds will be prepared on Form FCI–20, "Collateral Assignment," furnished by the local representative of the Federal Crop Insurance Program. The assignment must be approved by the Federal Crop Insurance Corporation. An assignment of crop insurance proceeds is not required when the crop insurance policy contains a standard mortgage clause naming FmHA as mortgagee or secured party.

(p) *Indian trust lands.* EM loans which are secured by trust or restricted land will be handled as follows: USDA and the Department of the Interior have agreed that FmHA loans which are to be secured by real estate liens may be made to Indians holding land in severalty under trust patents or deeds containing restrictions against alienation, subject to statutes under which they may, with the approval of the Secretary of the Interior, give valid and enforceable mortgages on their land. These statutes include, but are not limited to, the Act of March 29, 1956 (70 Stat. 62). When a lien is to be taken on trust or restricted property in connection with a loan to be made or insured by FmHA, the local representatives of the Bureau of Indian Affairs (BIA) will furnish requested advice and information with respect to the property and each applicant. The FmHA State Director should arrange with the Area Director or other appropriate local official of the BIA as to the manner in which the information will be requested and furnished. A State supplement will be issued to prescribe the actions to be taken by FmHA personnel to implement the making of loans under these conditions.

(q) *Unpatented public lands.* See Exhibit A of Subpart A of Part 1943 of this Chapter for making EM loans to entrymen on unpatented public lands.

(r) *Taking security instruments.* The taking and filing of security instruments will be in accordance with Subpart B of Part 1941 of this Chapter (chattels and crops) and with sections 1945.69 and 1945.89 of this Subpart (real estate). The borrower must have marketable title to the property which secures the loan and FmHA must ascertain that, when the security instruments are filed, no suits are pending or threatened which would adversely affect the interest of the borrower.

(s) *Assignments and consents.* (1) The value of stock required to be purchased by Federal Land Bank (FLB) Association borrowers may be added to the recommended market value of real estate, provided:

(i) An assignment can be obtained on the stock; or

(ii) An agreement is obtained which provides that:

(A) The value of the stock at the time the FLB loan is satisfied will be applied on the FLB loan as long as any FmHA loan is outstanding, or

(B) The stock refund check is made payable to the borrower and FmHA.

(iii) In either case the total of the stock value and the recommended market value of real estate are indicated in the comments section of Form FmHA 422–1.

(2) An assignment of all or part of the applicant's share of income is required when title to a livestock or crop enterprise is held by a contractor under a written contract or when the enterprise is to be managed by the applicant under a share lease or share agreement. The contract, share lease or share agreement will be described specifically as "Contract Rights" or "Contract Rights in Livestock or Crops," (or as "Accounts" or "Accounts in Livestock or Crops," if required by a

State supplement) and so forth, in paragraph (1)(b) of the financing statement. A form approved by OGC will be used to obtain the assignment.

(3) An assignment of income can also be taken when the County Supervisor determines it is necessary to protect FmHA's interests.

(i) Form FmHA 443–16, "Assignment of Income from Real Estate Security," will be used for assignments of real estate security income unless that form is legally inadequate in a particular State, in which case it may be adapted with the approval of OGC.

(ii) Form FmHA 441–8, "Assignment of Proceeds from the Sale of Agricultural Products," will be used for products or income in which FmHA does not have a security interest under the UCC. Other forms approved by OGC may be used when this form is not adequate.

(iii) Form FmHA 441–25, "Assignment of Proceeds from the Sale of Dairy Products and Release of Security Interest," will be used for dairy products in which FmHA has a security interest under the UCC.

(iv) Form FmHA 441–18, "Consent to Payment of Proceeds from Sale of Farm Products," will be used for products or income, except dairy products, in which FmHA has a security interest under the UCC.

(v) Forms provided by ASCS will be used for assignments of incentive and other agricultural program payments.

(4) In UCC States, an assignment of income constitutes a security agreement and should be treated accordingly.

§§ 1945.70—1945.72 [Reserved]

§ 1945.73 General provisions—compliance requirements.

(a) *Scope of operation to be financed.* No ceiling has been established on the size of operations that may be financed with EM loans. Therefore, subject to the eligibility requirements, loan amount ceilings, repayment ability, need, available security and other provisions of this Subpart, loans may be made to finance farming operations of *any size.*

(b) *Flood or mudslide hazard areas.* Flood or mudslide hazards will be evaluated whenever the farm to be financed is located in special flood or mudslide prone areas as designated by the Federal Emergency Management Agency (FEMA). Subpart B of Part 1806 of this Chapter (FmHA Instruction 426.2) will be complied with when loan funds are used to construct or improve buildings located in such areas. This will not prevent making loans on farms if the farmstead is located in a flood or mudslide prone area and funds are not included for building improvements. The flood or mudslide hazard will be recognized in the appraisal report.

(1) In identified special flood or mudslide hazard areas as designated by FEMA, the following policies are applicable for EM loans being made to finance buildings or fixtures and furnishings contained therein.

(i) If flood or mudslide insurance is available and an applicant has not taken such insurance and had flood losses, an EM actual loss loan may be made provided flood or mudslide insurance is purchased before the EM loan is closed.

(ii) If flood or mudslide insurance is available and an applicant previously received and still is indebted for an EM loan, Rural Housing Disaster (RHD), or SBA disaster loan and a condition of the loan required the obtaining of flood insurance but the applicant allowed the insurance to lapse and the applicant had new flood or mudslide losses, the applicant will be considered to be in default on the loan agreement and dealt with accordingly. If it is determined to continue with the borrower and that the EM actual loss loan should be made, flood or mudslide insurance will be obtained before the EM loan is closed.

(iii) If flood or mudslide insurance is available and an applicant had previously received an EM, RHD, or SBA disaster loan and, a condition of the loan required obtaining flood or mudslide insurance and the applicant paid the loan in full and let the insurance lapse, the applicant will be handled in accordance with paragraph (b)(1)(i) of this section.

(iv) In those areas that have been designated by FEMA as special flood or mudslide hazard areas and flood or mudslide insurance is not available or has been withdrawn by FEMA, an applicant can receive an EM actual loss loan provided the farm buildings, including the dwelling, are relocated outside the 100-year flood area.

(v) EM loans to repair or replace farm buildings, including dwellings, must meet the requirements of section 1806.25 (a) or (b) of Subpart B of Part 1806 of this Chapter (paragraph V A or B of FmHA Instruction 426.2) as applicable, or be relocated outside the 100-year flood area.

(2) When land development or improvements such as dikes, terraces, fences, and intake structures are planned to be located in special flood or mudslide prone areas, loan funds may be used subject to the following:

(i) The Corps of Engineers or the SCS will be consulted concerning:

(A) Likelihood of flooding.

(B) Probability of flood damage.

(C) Recommendations on special design and specifications needed to minimize flood and mudslide hazards.

(ii) FmHA representatives will evaluate the proposal and record the decision in the loan docket.

(c) *Civil rights.* The provisions of Subpart E of Part 1901 of this Chapter will be complied with on all loans made which involve:

(1) Funds used to finance nonfarm enterprises and recreation enterprises. Applicants will sign Form FmHA 400–4, "Nondiscrimination Agreement," in these cases.

(2) Any development financed by FmHA that will be performed by a contract or subcontract of more than $10,000.

(d) *Protection of historical and archaeological properties.* If there is any evidence to indicate the property to be financed has historical or archaeological value, the provisions of Subpart F of Part 1901 of this Chapter will apply.

(e) *Environmental impact.* If EM loans are used in populated areas to finance an operation which has relatively large feedlots or holding facilities for livestock or aquatic organisms or smaller feedlots or holding facilities which are likely to have an effect on the environment, the applicant will be requested to complete Form FmHA 449–10, "Applicant's Environmental Impact Evaluation."

(1) The provisions of Subpart G of Part 1901 of this Chapter will be followed to the extent applicable for EM loans in making decisions on operations that may have a significant impact on the environment.

(2) The County Supervisor will complete Form FmHA 440–46, "Environmental Impact Assessment," considering information provided by the applicant in Form FmHA 449–10.

(3) The County Supervisor will forward a copy of the loan application, completed FmHA Forms 449–10 and 440–46, and any other information and docket material relevant to environmental considerations to the State Director. The State Director will determine whether an environmental impact statement should be prepared based on this submittal and any other available information.

(f) *Truth in Lending—Real Estate Procedures Act.* Subpart I of Part 1901 of this Chapter applies as follows:

(1) The provisions in section 1901.401 concerning Truth in Lending apply to any EM loan made to individuals if the amount of the loan is less than $25,000 and involves credit transactions primarily for agricultural purposes including real property transactions.

(2) The provisions of the Real Estate Procedures Act outlined in section 1901.406 apply when EM funds are used involving tracts of less than 25 acres, if:

(i) Any part of the loan is used to purchase all or part of the land to be mortgaged, and

(ii) The loan is secured by a first lien on the property where a dwelling is located.

(g) *Nondiscrimination requirements.* In accordance with Federal Law, the FmHA will not discriminate against any otherwise qualified applicant on the basis of race, religion, sex, national origin, marital status, age, or physical/mental handicap, (provided the applicant can execute a legal contract), with respect to any aspect of a credit transaction. The policy statement set forth in section 1945.51(a) of this Subpart will also apply to credit transactions.

(h) *Compliance with special laws and regulations.* (1) Applicants will be required to comply with Federal, State and local laws and regulations governing building construction; diverting, appropriating, and using water including use for domestic or nonfarm enterprise purposes; installing facilities for draining land; and making changes in the use of land affected by zoning regulations.

(2) State Directors and Farmer Programs Staff members will consult with SCS, U.S. Geological Survey, State Geologist or Engineer, or any board having official functions relating to water use or farm drainage requirements and restrictions for water and drainage development. State supplements will be issued to provide guidelines which:

(i) State all requirements to be met, including the acquisition of water rights.

(ii) Define areas where development of ground water for irrigation is not recommended.

(iii) Define areas where land drainage is restricted.

(3) Applicants will comply with all local laws and regulations, and obtain any special licenses or permits needed for nonfarm, recreation, specialized or aquaculture farming enterprises.

§ 1945.74 [Reserved]

§ 1945.75 Options, planning and appraisals.

(a) *Optioning Land.* An applicant is responsible for obtaining options when purchasing real property in accordance with the provisions contained in section 1943.25(a) of Subpart A of Part 1943 of this Chapter.

(b) *Planning.* (1) Form FmHA 431–2 and Form FmHA 431–4, " Business Analysis—Nonagricultural Enterprise," when appropriate will be completed as provided in Subpart B of Part 1924 of this Chapter and in accordance with the FMI's. This planning process with the applicant is essential to making sound loans and, therefore, must receive careful attention in development of the loan docket. However, when the EM loan will be for not more than $25,000, Tables A, D, and E of Form FmHA 431–2 may be left blank and only the totals in Tables G and J should be shown, provided Form FmHA 410–1 is completed and is believed to accurately reflect the applicant's current circumstances, and no supervision is planned. The plan *will* show any major items of expenditure and the reason(s) these items are needed. In addition, when all of the loan funds are not to be disbursed at loan closing, a *Monthly Budget* will be prepared showing the specific amount to be disbursed for each associated loan purpose for each month. The funds will be disbursed through use of the loan disbursement system or, when needed, through supervised bank accounts.

(2) Development work will be planned and completed in accordance with Subpart A of Part 1924 of this Chapter. Also, the provisions of Subpart E of Part 1901 of this Chapter will be met in connection with EM loans involving recreational enterprises and the construction of buildings.

(c) *Appraisals.* (1) Real estate appraisals will be completed by an FmHA employee authorized to make farm appraisals, when real estate is taken as security. Appraisals are not required when:

(i) The amount of the EM loan is $10,000 or less, and

(ii) The loan approval official determines the loan is adequately secured without an appraisal, and

(iii) The County Supervisor indicates in the loan docket an estimate of the market value of the real estate to be taken as security.

(2) Real estate appraisals will be completed as provided in Subpart A of Part 1809 of this Chapter (FmHA Instruction 422.1).

(3) See section 1945.69 (s) (1) of this Subpart when FLB stock is to be used in establishing the recommended market value (RMV) of the real estate being appraised.

(4) When real estate is taken as additional security (for loans in which the primary security is subject to rapid depreciation or is of a high risk nature, such as crops) no appraisal report will be required for the additional security. For loans including any existing indebtedness of not more than $25,000, or for loans for actual losses of not more than $50,000, including any existing FmHA indebtedness, an appraisal report will not be required. In both instances the County Supervisor will determine that security is adequate and record the estimate of value in the running case record; showing the date the property was inspected and certifying that in the County Supervisor's opinion the estimates are correct based on knowledge of the value of comparable properties in the area. For actual loss loans of not more than $50,000, including any existing FmHA indebtedness, and appraisal is required if the value shown on the applicant's financial statement is not in keeping with comparable values in the community.

(5) A chattel appraisal will be required when chattels are taken as security.

(i) Form FmHA 440–21 will be used.

(ii) The property which will serve as security will be described in sufficient detail so it can be identified.

(iii) Its current market value or, if appropriate, the current cash value will be determined.

(6) See section 1945.69 (h) of this Subpart for instruction on using abbreviated appraisals.

§ 1945.76—1945.79 [Reserved]

§ 1945.80 County Committee certification.

The County Committee will review the application and determine whether or not the applicant meets EM loan eligibility requirements.

(a) *Certification.* If the County Committee finds the applicant eligible, it will prepare Form FmHA 440–2, "County Committee Certification or Recommendation." This form will be retained in the County Office file. The County Committee will comply with Subpart A of Part 1910 of this Chapter.

(b) *Rejection.* If the County Committee rejects the application, the County Supervisor will inform the applicant in writing of the reasons for rejection. Reasons for unfavorable action will be given in the space provided on Form FmHA 440–2 above the space for signatures. The County Committee will comply with Subpart A of Part 1910 of this Chapter. Also, the County Supervisor will complete Part III of all Forms FmHA 1945–29 to show the rejection of the application, sign, date and forward to the appropriate ASCS county office in accordance with the FMI.

(c) *Amount of EM loan assistance.* The County Committee will establish the maximum amount of credit that may be extended under the certification to meet the applicant's total actual needs for which financing has been requested.

The applicant will not be notified of the maximum credit as certified for the calendar year by the County Committee, unless the loan(s) as requested exceeds the maximum amount previously certified.

(d) *Recertification.* If it is found, after an applicant is initially certified as eligible, that there has been an increase in the amount of EM loan assistance needed above the maximum originally certified, it will be necessary for the County Committee to again certify the applicant as eligible on the basis of the changed circumstances. When the County Committee has agreed to certify an increase over the original amount certified, a new Form FmHA 440–2 will be prepared and executed by inserting the following statement on the form: "We, the undersigned members of the County Committee, have again reviewed the applicant's situation and credit needs for the calendar year and find those needs are as indicated above rather than the amount shown on Form FmHA 440–2 dated ————————." The Form FmHA 440–2 previously executed will be retained in the case file.

§ 1945.81 [Reserved]

§ 1945.82 Loan docket preparation.

(a) *Processing guide.* See Exhibit A of this Subpart for Insured Emergency Loan Processing Guide. When a packager has developed the loan docket the County Supervisor will *fully analyze* the docket to assure it is complete and conforms with this EM loan regulation. The County Supervisor will *reverify calculations* in accordance with section 1945.83 (b) and insure that the provisions of section 1945.83 of this Subpart are met before final action is taken on the loan request.

(b) *Form FmHA 440–1, "Request for Obligation of Funds."* A separate Form FmHA 440–1 will be prepared for each EM loan which has a different interest rate and/or a different repayment period, as determined in accordance with section 1945.68 (a) and (b) of this Subpart. Also, on Form FmHA 440–1, for EM loans approved for borrowers presently indebted for an EM loan, but having new qualifying losses from a subsequent authorized disaster, the new appropriate disaster authorization number will be shown. This new number will be used for all subsequent EM loans approved, unless the borrower has new qualifying losses under a later disaster to which another disaster authorization number has been assigned.

(c) *Promissory note.* A separate promissory note will be prepared for each Form FmHA 440–1 used in approving and obligating each of the EM loans. Each scheduled installment on each promissory note will include interest in addition to principal, unless deferral is authorized in accordance with section 1945.68 (c) of this Subpart.

(d) *Lease agreements.* Generally, a copy of the lease agreement between tenant applicants and their landlords will be obtained and made a part of the loan docket. When a written lease is not obtainable, a statement setting forth the terms and conditions of the agreement which are not clearly reflected in Form FmHA 431–2 will be prepared and made a part of the loan docket.

§ 1945.83 Loan approval or rejection.

Loans will be approved in accordance with the authorities and provisions contained in this Subpart and the loan approval conditions and authorities contained in Subpart A of Part 1901 of this Chapter.

(a) *Approval after termination date for receiving actual loss loan applications.* Applications for EM actual loss loans may be processed and approved after the termination date established for receiving such applications, provided they were filed in the County Office before that termination date had expired.

(b) *Reverification before approval.* Before an EM loan is approved the following actions must be taken:

(1) A County Office employee will verify information provided by ASCS on all Forms FmHA 1945–29 in accordance with the FMI. If there have been any changes from the information originally provided and used in the loan docket preparation, appropriate changes will be made.

(2) A County Office employee will verify information provided by the Federal Crop Insurance Corporation (FCIC) regarding any insurance benefits which have been paid or will be paid. If there have been any changes from the information originally provided and used in the loan docket preparation, appropriate changes will be made.

(3) All calculations on Form FmHA 1945–22 and Form FmHA 1945–26 will be checked by a County Office clerical employee (either regular or temporary), using a calculator with a paper tape, to assure that mathematical errors are detected. The County Supervisor or designee will make any changes necessary in the loan docket, when errors are located. The paper tape will be attached to Form FmHA 1945–22 or Form FmHA 1946–26 as appropriate.

(4) A County Office employee will contact the local SBA representative, of appropriate, to determine whether the applicant has applied for or received an SBA disaster loan for the same disaster, and document the result of this discussion in the County Office case file. If the applicant has received an SBA disaster loan for the same disaster, and EM actual loss loan will *not* be approved until it is determined that the requirement of section 1945.63 (d) of this Subpart will be met. If the EM actual loss loan(s) is approved the SBA will be advised by telephone and the call confirmed in writing by the County Office.

(5) If the applicant certifies that credit can be obtained elsewhere as evidenced by compliance with the provisions set out in section 1945.62 (a) of this Subpart, the County Office will make sure that applicant's certification statement on Form(s) FmHA 440–1, "Request for Obligation of Funds," is modified. This will be done by striking through the word "unable" whenever that word appears in the certification statement and writing in the word "able." The applicant or the authorized official(s) of entity applicants must acknowledge each such change by initialing above it.

(c) *Administrative determination and responsibilities.* When the County Committee certification has been made and the reverification has been completed, the loan approval official will determine administratively whether:

(1) The applicant is eligible, likely to be successful in the proposed operations, and likely to achieve the objectives of the loan.

(2) The applicant has satisfactory tenure arrangements on the farm(s) to be operated.

(3) The proposed farm and home operations of the applicant are reasonably sound.

(4) The loan(s) being processed is proper and can be repaid from projected farm and/or non-farm income as scheduled, and that in the planned typical year the farming operation will be self sustaining.

(5) The security requirements can be met.

(6) The certification(s) required of the applicant and the County Committee have been made and are a part of the loan docket.

(7) The proposed changes to be financed by a major adjustment loan(s) are needed, and that the county office case file reflects the need for those changes.

(8) The loan meets all other FmHA requirements.

(d) *Loan docket transmitted to Administrator.* (1) Transmittal memoranda accompanying EM loan dockets requiring approval in the National Office must set forth, as a minimum, the following information:

(i) Proposed loan(s), amount(s), rate(s) of interest, and term(s) of each such loan.

(ii) Outstanding FmHA loan(s) balance(s) and the total proposed EM loan(s) indebtedness.

(iii) Status of outstanding FmHA loan(s).

(iv) Brief statements regarding:

(A) Cause and type of disaster losses.

(B) Inability to obtain other suitable credit.

(C) Purposes for which loan funds are to be used.

(D) Overall feasibility and soundness of the planned operation.

(E) Property offered as security for the loan(s).

(v) The State Director's specific positive recommendation that the requested loan(s) be approved.

(2) Loan dockets should not be forwarded to the National Office for approval unless the State Director is able to make a positive recommendation. Loan requests for which the State Director is unable to make a positive recommendation for approval, should be denied at the State level, and applicants advised of their appeal rights in accordance with Subpart B of Part 1900 of this Chapter.

(3) Memoranda transmitting problem cases, on which State Directors are only seeking National Office counsel, should also contain their thinking, their interpretation of the appropriate FmHA regulations and policies, and their recommendations on how they believe the case in question should be handled.

(e) *Loan approval.* (1) The loan approval official will date, sign and distribute Form FmHA 440–1 in accordance with the FMI and set forth any special conditions of approval, including any special security requirements, in the appropriate section on Form FmHA 440–1.

(2) The County Supervisor will complete Part III of Form FmHA 1945–29 and forward the form to the appropriate ASCS county office(s).

(f) *Rejection of loans.* (1) If a loan is rejected, the loan approval official will indicate the reasons for the rejection in the running case record.

(2) The County Supervisor will notify the applicant by letter of the reason(s) for rejection and will advise the applicant in that letter of appeal rights as set out in Subpart B of Part 1900 of this Chapter.

(3) The County Supervisor will complete Part III of Form FmHA 1945–29 and forward the form to the appropriate ASCS county office.

(4) In areas where EM loans are being made under a *major disaster declaration,* and where FEMA has advised the State Director that Section 408 grants are available, a list of applicants with physical losses, who do not qualify for EM loans, will be prepared and sent to FEMA by County Supervisors at the close of business each week. Those applicants who are not eligible for an EM loss loan because they are not farmers as defined in section 1945.54 of this Subpart will be screened and referred to SBA for disaster loan assistance. The State Director will be advised by FEMA where to send the list and the State Director will so advise the County Supervisors. The list will be prepared in the following format:

United States Department of Agriculture

Farmers Home Administration

To: _____

The following is a list of applicants not qualifying for Farmers Home Administration's Emergency loans in _____ County during the week ending _____, 19__.

Name *Address*

_____

County Supervisor

§ 1945.84 [Reserved]

§ 1945.85 Actions after loan approval.

(a) *Cancellation of loan check and/or obligation.* The County Supervisor will notify the State and Finance Offices of loan cancellation by using Form FmHA 440–10, "Cancellation of Loan or Grant Check and/or Obligation," and the appropriate FMI. If a check received in the County Office is to be cancelled, the check will be returned to the Disbursing Center, U.S. Treasury Department, Post Office Box 3329, Kansas City, Kansas 66103, with a copy of Form FmHA 440–10 (see FmHA Instruction 102.1, a copy of which is available in any FmHA Office).

(b) *Cancellation of advances.* When an advance is to be cancelled the County Supervisor must take the following actions:

(1) Complete and distribute Form FmHA 440–10.

(2) When necessary, obtain a substitute promissory note reflecting the revised total of the loan and the revised repayment schedule.

When it is not necessary to obtain a substitute promissory note, the County Supervisor will show on Form FmHA 440–10 the revised amount of the loan and the revised repayment schedule.

(c) *Increase or decrease in loan amount.* If it becomes necessary to increase or decrease the amount of the loan before closing, the County Supervisor will request that all distributed docket forms be returned to the County Office for reprocessing, unless the change is minor and replacement forms can be readily completed and submitted. In the latter case, a memorandum to that effect will be attached to the revised forms for referral to the Finance Office.

§§ 1945.86—1945.87 [Reserved]

§ 1945.88 Chattel lien search.

See Section 1941.63 of Subpart B of Part 1941 of this Chapter for regulations concerning lien searches covering chattels.

§ 1945.89 Loan closing.

(a) *Closing loans secured by real estate.*—(1) *General.* Loans secured by real estate are considered closed on the date the mortgage is filed for record. Such loans will be closed in accordance with the applicable provisions of Part 1807 of this Chapter (FmHA Instruction 427.1).

(2) *Security instruments.* Security instruments referred to in this subsection (a) are real estate mortgages or deeds of trust.

(i) FmHA real estate mortgage or deed of trust Form FmHA 427–1 (State), "Real Estate Mortgage for _____," will be used in *all* cases where real estate is taken as security.

(ii) Promissory note(s) will be prepared and completed at the time of loan closing in accordance with the FMI. If insured Rural Housing (RH) funds are advanced simultaneously with EM funds the RH loan will be evidenced by a separate note on the proper from as provided in Subpart A of Part 1822 of this Chapter (FmHA Instruction 444.1). However, all notes will be described on the same security instruments.

When a loan is closed between December 1 and January 1, the first installment will be collected at the time of loan closing unless deferment is approved.

(iii) When subsequent loans are made, a new security instrument is required only when the existing instruments do not cover all required security or do not secure the subsequent loan.

(iv) A subsequent loan for any authorized purpose may be made without taking new security instruments when the existing security instruments cover all the property required to serve as security for the subsequent loan, the State law and the language of the existing security instruments will permit the future loan advance to be secured by the existing security instruments, and the existing security instruments will provide the same lien priority for the

subsequent loan as for the initial loan. A new security instrument will be taken if one of these requirements is not met.

(3) *Leaseholds.* Security instruments for loans secured by leaseholds will describe security in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1), and the following provisions will also apply:

(i) The following language, or similar language which in the opinion of the OGC is legally adequate, will be inserted just before the legal description of the real estate:

All Borrower's right, title, and interest in and to the leasehold estate for a term of ——— years beginning on ———, 19—, created and established by a certain lease dated ———, 19—, executed by ———, as lessor(s), recorded on ———, 19—, in Book ———, page ——— of the ——— Records of said County and State, and any renewals and extensions thereof, and all Borrower's right, title, and interest in and to said Lease, covering the following real estate:

(ii) An additional covenant will be inserted in the mortgage to read as follows:

Borrower will pay when due all rents and any and all other charges required by said Lease, will comply with all other requirements of said Lease, and will not surrender or relinquish, without the Government's written consent, any of the Borrower's right, title, or interest in or to said leasehold estate or under said Lease while this instrument remains in effect.

(iii) A copy of the lease will be made part of the loan docket.

(4) *Filing or recording security instruments.* The following appropriate actions will be taken after loan closing:

(i) If the original security instrument is returned by the recording official, it will be retained in the borrower's case folder. If the original is retained by the recording official, a conformed copy, showing the date and place of recordation and the book and page number, will be prepared and filed in the borrower's case folder. A confirmed copy of the security instrument will be sent to a prior lienholder if a substantial interest is held by that lienholder, or if it is required by a working agreement provisions with that lienholder.

(ii) The original deed of conveyance, if any, and a copy of the security instrument will be delivered to the borrower.

(5) *Abstracts of Title.* Any abstract of title will be delivered to the borrower and Form FmHA 140–4, "Transmittal of Documents," will be prepared and a receipt obtained in accordance with the FMI. However, when an abstract is obtained from a third party with the understanding it will be returned, such abstract will be sent directly to the third party and a memorandum receipt will be obtained.

(6) *Requesting title service.* When the loan is approved, the County Supervisor will see that title service is requested in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1), if this has not already been done.

(7) *Fees.* The borrower will pay all filing, recording, notary and lien search fees incident to loan transactions from personal or loan funds. When FmHA employees accept cash for these purposes Form FmHA 440–12, "Acknowledgment of Payment for Recording, Lien Search, and Releasing Fees," will be executed. FmHA employees will make it clear to the borrower that any fee so accepted is only for paying fees on behalf of the borrower, and is not accepted as partial payment on a loan.

(8) *Supervised bank accounts.* If a supervised bank account is required, loan funds will be deposited following loan closing. Supervised bank accounts will be established in accordance with Subpart A of Part 1902 of this Chapter. Loan funds not to be disbursed for specific purposes at loan closing and not needed within 30 days after closing, will not be requested until they are needed. The "Loan Disbursement System" will be used to request future advances at 30 day intervals or as needed. Only in unusual cases will loan funds be kept in supervised bank accounts for more than 60 days, and when such funds are placed in an interest bearing supervised bank account, the interest earned will be applied on the EM loan immediately or used for an authorized EM loan purpose, if the planned EM funds are not sufficient to cover all of the planned items.

(b) *Closing loans secured by chattels and crops.* See Subpart B of Part 1941 of this Chapter.

(c) *Loan closing review.* Immediately prior to loan closing, the FmHA official responsible for closing the loan(s) will review the file for compliance with Agency regulations.

§ 1945.90 Revision of the use of EM loan funds.

(a) *Requirements.* Loan approval officials or their delegates are authorized to approve changes in the purposes for which loan funds were planned to be used, provided:

(1) The loan, as changed, is within the respective loan approval official's authority.

(2) Such a change is for an authorized purpose and within applicable limitations.

(3) Such a change will not adversely affect either the feasibility of the operation or the Government's interest.

(4) Such a change is approved in advance of the loan funds being used for the new purpose(s).

(b) *Additional authority.* The State Director may delegate additional authority to approval officials to approve certain kinds of changes in the use of loan funds by issuing a State supplement describing such changes, provided prior approval is obtained from the National Office.

(c) *Revisions.* When changes are made in the use of loan funds, no revision will be made in the repayment schedule on the promissory note. Appropriate changes with respect to the repayment will be made in Table K of Form FmHA 431–2 and will be initialed by the borrower. The County Supervisor will also make appropriate notations in the "Supervisory and Servicing Actions" section of Form FmHA 1905–1.

§ 1945.91 [Reserved]

§ 1945.92 Loan servicing.

Loans will be serviced in accordance with Subpart A of Part 1806, Part 1863 and Subpart A of Part 1872 of this Chapter (FmHA Instructions 426.1, 425.1, and 465.1, respectively) and Subpart A of Part 1962 of this Chapter.

§ 1945.93–1945.100 [Reserved]

Exhibit A

Processing Guide

Insured Emergency (EM) Loans

I. Purpose

This Exhibit outlines the basic steps involved in processing a loan application including an application kit, and identifies the FmHA forms which should be considered for use at each step as appropriate for EM loans.

II. General

A. The forms listed in this Exhibit will be considered in development of the application. Forms designated with an "x" are required and those designated with a "*" are used when applicable.

B. Consult the appropriate Forms Manual Insert (FMI) for instructions for completion, distribution, and procedural reference for each form.

III. Application Processing

A. Application Filing. The following should be done at the time the applicants file their applications.

1. County Office Assistants (COA) normally will have the first contact with potential applicants. During these contacts the COA should:

a. Be sympathetic and sensitive to applicants' needs.

b. Set up appointments for applicants to meet with supervisory personnel.

c. Inform applicants of the last date for receiving applicants.

d. Discuss credit needs and FmHA's services.

e. Advise applicants eligible for other credit they will be considered for a *loss loan(s) only* at the rate of interest set by the Secretary; and advise applicants appearing eligible for other credit who certified they were unable to get other credit, that they will be referred to other lenders to obtain written evidence they are unable to obtain their needed credit from such other lenders.

f. Begin running case record.

g. Provide applicants with an application kit and any other instructions that are needed to help expedite processing of the application and FmHA forms to be completed.

2. The applicant kit should have a cover sheet with instructions to the applicant, as is appropriate for individuals, corporations, cooperatives and partnerships. The cover sheet will include a notice to the applicant that the completed application must be returned by the termination date shown on the cover sheet in order to be accepted and considered for EM loan assistance. The following FmHA Forms should be included in the kit: 410–1, 410–9, "Statement Required by the Privacy Act," 431–1, "Long Time Farm and Home Plan," 431–2 and 1945–22.

3. The County Office Assistant (COA) will set up a list of names and addresses for all recipients of EM applications given out. This list will be monitored daily or weekly and if an applicant does not keep a scheduled appointment, follow up will be accomplished with a letter or telephone call and recorded in the County Case File.

4. Applications should normally be acted upon by the County Committee within 15 days, and in any event, not later than 30 days from receipt of a completed application by the county office.

5. Applicants will be promptly notified in writing of their eligibility status, and if additional information is needed to make an eligibility determination, it will be requested in writing.

6. The following FmHA Forms will be used as appropriate:

Form No.	Name	Use
410–1	Application for FmHA Services	x
410–5	Request for Verification of Employment.	*
410–7	Notification to Applicant on Use of Financial Information from Financial Institution.	x
410–8	Applicant Reference Letter	*
410–9	Statement Required by the Privacy Act.	x
410–10	Privacy Act Statement to References.	*
431–1	Long-Time Farm and Home Plan	*
431–2	Farm and Home Plan	x
431–4	Business Analysis—Nonagricultural Enterprise.	*
440–32	Request for Statement of Debts and Collateral.	*
440–34	Option to Purchase Real Property	*
440–58	Estimate of Settlement Costs "Settlement Costs" Booklet.	*
443–2	Option for Purchase of Farm—Land to be Subdivided.	*
443–3	Assignment of Interest in Option (Land to be Subdivided).	*
449–10	Applicant's Environmental Impact Evaluation.	*
1940–38	Request for Lender's Verification of Loan Application.	*
1940–51	Crop-Share-Cash Farm Lease	*
1940–53	Cash Farm Lease	*
1940–55	Livestock-Share Farm Lease	*
1940–56	Annual Supplement to Farm Lease	*
1945–22	Certification of Disaster Losses	x
1945–29	ASCS Verification of Farm Acreages, Production and Benefits.	x

B. Field Visit. Notify applicant of planned visit and its purpose.

1. Verification of disaster losses.

2. Evaluate the resources available to the applicant and their adequacy in fulfilling the requirements of the proposed plan of operation, taking into consideration development work planned.

3. Obtain information needed to complete required appraisals (chattel and real estate).

4. If development is planned, discuss plans, specifications, and estimates.

5. Hold landlord-tenant meeting, if necessary, to reach an agreement on the terms of the lease, resolve any problems, etc.; record in running case record.

6. Determine security requirements and record in running case record.

7. The following FmHA forms will be used as appropriate.

Form No.	Name	Use
422–1	Appraisal Report—Farm Tract	*
422–2	Supplemental Report—Irrigation, Drainage, Levee and Minerals.	*
422–3	Map of Property	*
422–10	Appraiser's Worksheet—Farm Tracts for Study of Comparable Properties.	*
424–1	Development Plan	*
424–2	Description of Materials	*
440–13	Report of Lien Search	*
440–21	Appraisal of Chattel Property	*
1945–26	Calculation of Actual Losses	x

C. Eligibility Determination.

1. Obtain all needed application forms and other information from the applicant. Assist the applicant in completing these forms and/or in obtaining needed information, as necessary.

2. Request deed or other evidence of title.

3. Schedule meeting for County Committee, review application and determine eligibility.

4. Inform applicant of the results of Committee action.

5. The following FmHA forms will be used as appropriate:

Form No.	Name	Use
403–1	Debt Adjustment Agreement	*
440–2	County Committee Certification or Recommendation.	x

IV. *Docket Preparation:*

A. Obtain all information from the applicant, prior lienholder(s), landlord(s), etc., needed for the loan docket to be prepared.

B. Check to assure all security requirements have been or will be met by loan closing.

C. Prepare a loan narrative and enter it into the running case record.

D. The following FmHA forms will be used as appropriate:

Form No.	Name	Use
400–4	Nondiscrimination Agreement	x
427–8	Agreement with Prior Lienholder	*
440–1	Request for Obligation of Funds	x
440–4	Security Agreement (Chattels and Crops).	*
440–4A	Security Agreement (Crops)	*
440–6	Severance Agreement	*
440–15	Security Agreement (Insured Loans to Individuals).	*
440–25	Financing Statement	*
440–A25	Financing Statement (Carbon-Interleaved).	*
440–26	Consent and Subbordination agreement.	*
440–41	Disclosure Statement for Loans Secured by Real Estate.	*
440–41A	Disclosure Statement for Loans Not Secured by Real Estate.	*
440–43	Notice of Right to Rescind	x
440–46	Environmental Impact Assessment	*
441–5	Subordination Agreement	*
441–8	Assignment of Proceeds from the Sale of Agricultural Products.	*
441–10	Nondisturb- ance Agreement	*
441–12	Agreement for Disposition of Jointly Owned Property.	*
441–13	Division of Income and Nondisturbance Agreement.	*
441–17	Certification of Obligation to Landlord.	*
441–18	Consent to Payment of Proceeds from Sale of Farm Products.	*
441–25	Assignment of Proceeds from the Sale of Dairy Products and Release of Security Interest.	*
443–16	Assignment of Income From Real Estate Security.	*
443–17	Agreement to Sell Nonessential Real Estate.	*

V. *Loan Approval and Closing:*

A. Loan Approval.

1. Establish loan closing conditions and enter them in the running case record.

2. Execute and distribute all forms necessary for loan approval.

3. For chattel loan—file financing statement or chattel mortage, and obtain a lien search.

4. For real estate loan—request preliminary title opinion.

B. Loan Closing.

1. Arrange for loan closing by escrow agent, designated attorney, or other authorized loan closing agent; furnish loan closing agent with appropriate instructions, forms, and other needed information for loan closing.

2. The following FmHA forms will be provided to and used by the appropriate loan closing agent, in addition to those forms listed under docket preparation which must be executed by the borrower or other party:

Form No.	Name	Use
140–4	Transmittal of Documents	*
400–1	Equal Opportunity Agreement	*
400–3	Notice to Contractors and Applicants.	*
400–6	Compliance Statement	*
402–1	Deposit Agreement	*
402–2	Statement of Deposits and Withdrawals.	*
402–5	Deposit Agreement (Non FmHA Funds).	*
426–2	Property Insurance Mortage Clause (Without Contribution).	*
427–1	Real Estate Mortgage or Deed of Trust for ———.	*
427–4	Transmittal of Title Information	*

Form No.	Name	Use
427-5	Affidavit of Borrowers (or Transferees).	*
427-6	Affidavit of Sellers (or Transferors)	*
427-9	Preliminary Title Opinion	*
427-10	Final Title Opinion	*
427-11	Warranty Deed	*
440-45	Nondiscrimination Certificate (Individual Housing).	*
440-59	Settlement Statement	*
1940-17	Promissory Note	x
1951-4	Change in Rates and Terms	*

Exhibit B

Memorandum of Understanding Between the Small Business Administration (SBA) and the United States Department of Agriculture (USDA)—Farmers Home Administration (FmHA) Pertaining to Disaster Loan Assistance Programs

I. Preamble

Public Law 96–302, which amended the Small Business Act and the Consolidated Farm and Rural Development Act, amends Section 18 of the Small Business Act by—"(1) striking the comma after the phrase 'agriculture related industries' and inserting the following: ': *Provided*, That prior to October 1, 1983, an agricultural enterprise shall not be eligible for loan assistance under paragraph (1) of section 7(b) to repair or replace property other than residences and/or personal property unless it is declined for, or would be declined for, emergency loan assistance at substantially similar rates from the Farmers Home Administration under Subchapter III of the Consolidated Farm and Rural Development Act,' and . . . ."

This legislation makes it clear that farmers are to be directed to the FmHA for disaster loan assistance once a disaster declaration has been made as a result of disasters commencing on or after July 3, 1980.

This joint Memorandum reaffirms the mutual desire of SBA and FmHA to cooperate in the use of their respective disaster loan-making authorities to compliment the disaster program activities of each other, consistent with the basic purpose of the legislation.

It is *not* intended that this Memorandum alter the relationship that currently exists between FmHA and SBA regarding the handling of each Agencies' regular lending programs.

With respect to their regular programs, FmHA and SBA will continue, to the extent possible, to improve and expand the delivery of financial assistance to the agricultural community.

II. *Definitions*

1. *Farming* is the business of producing crops, livestock, livestock products, and aquatic organisms through the management of land, water, labor, capital and basic raw materials, e.g., seed, feed, fertilizer and fuel.

2. *Natural Disaster* (As authorized by FmHA State Directors) is a disaster caused by such natural phenomena as hurricanes, tornadoes, cyclones, excessive rainfall, floods, earthquakes, blizzards, freezes, electrical storms, snowstorms, drought, excessively high temperatures, and hail; insects where abnormal weather contributed substantially to the spreading and flourishing of such insects; fire resulting from lightning, and fires of other origins which could not be controlled because of abnormal weather; and plant and animal diseases where abnormal weather contributed substantially to such diseases spreading into epidemic stages.

3. *Physical Disaster* (As declared by the Administrator of SBA) is a disaster caused by a flood, riot, civil disorder, hurricane, tornado, storm, high water, wind-driven water, tidal wave, snowstorm, drought, fire, explosion or other catastrophic event.

4. *Major Disaster* (As declared by the President) is a disaster caused by any catastrophic event of sufficient magnitude to warrant major disaster assistance by the Federal Government, under the Disaster Relief Act of 1974.

5. *Housing Losses* are losses sustained to the farmowner's personal dwelling, tenant housing or farm labor housing and their contents, and other personal property contained therein.

6. *Agricultural Enterprises* are those businesses engaged in the production of food and fiber, ranching and raising of livestock, aquaculture, and all other farming and agricultural related industries.

7. *Credit Elsewhere:*

(a) For SBA purposes, is the availability of sufficient credit from non-Federal sources at reasonable rates and terms, taking into consideration prevailing private rates and terms in the community in or near where the disaster loan applicant transacts business for similar purposes and periods of time.

(b) For FmHA purposes, is the availability of sufficient credit elsewhere taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time.

8. *Federal Individual Assistance* is the Federal disaster assistance made available to private individuals and privately owned and operated agricultural enterprises as compared to public assistance disaster programs which are available to governing bodies and quasi-governing bodies of political subdivisions.

9. *Presidential Emergency* is any disaster in any part of the United States which is of such magnitude that the President makes a declaration and which requires certain Federal emergency programs to supplement State and local efforts in the preservation of lives and protection of property, public health and safety, or to avert or lessen the threat of a more severe disaster.

III. *General Guidelines*

1. The FmHA administers its financial assistance programs through its State, District and County offices.

The SBA administers its financial assistance programs through its Regional, District and Branch offices.

2. All farm disaster loss loan applications heretofore and hereafter approved by SBA will be serviced by SBA.

3. The SBA and FmHA will have substantially similar interest rates for their respective loss loans. It is agreed, therefore, that such interest rates will not differ by more than one percent per annum at any given time, and will be applied in accordance with Section 114 of Public Law 94–305; and that the FmHA Deputy Administrator for Farm and Family Programs and the SBA Associate Administrator for Financial Assistance will consult before either Agency changes its loss loan rate of interest.

4. FmHA State Directors and SBA District Directors will consult with each other when either is contemplating authorizing or recommending that an area(s) be named where farm disaster financial assistance is to be made available. Each Agency, at the National level, will notify the other in writing when such declaration or authorization is officially made.

5. FmHA State Directors and SBA District Directors will exchange addresses of their respective offices and identify the geographical area(s) served by each. This specific information will be available in all field offices of both Agencies so applicants can be referred to the appropriate offices with a minimum of delay. The FmHA uses its local county offices to administer disaster emergency programs. SBA will either establish special local offices for administering its disaster assistance programs, or utilize permanent SBA offices, as appropriate.

6. SBA Disaster Branch Offices and FmHA County Offices will cooperate to avoid overlapping and duplication of disaster benefits by exchanging loan application and loan approval information while ensuring that farmers and rural resident disaster victims receive the assistance to which they are entitled.

7. FmHA State Directors and SBA District Directors will meet on a frequency of not less than annually to review this Memorandum of Understanding, clarify and agree on each Agency's disaster program responsibilities, and plan appropriate training meetings for their respective employees to assure familiarity with and common understanding of the contents of this Memorandum of Understanding.

IV. *How Loans Are Made Available*

1. *FmHA Emergency (EM) Loans.* EM Loans will be made available in counties named by the Federal Emergency Management Agency (FEMA) as eligible for Federal Individual Assistance under a major disaster or emergency declaration by the President, or in counties where EM Loans are authorized by the FmHA State Director because of a natural disaster.

2. *SBA Disaster Loans.* SBA Physical Loss and Economic Injury Disaster Loans will, as determined to be necessary and appropriate, be made available in counties named by FEMA, as well as in counties declared by the Administrator of SBA. Economic Injury Disaster Loans, as a separate program, will be made available to nonfarm small business concerns in counties where FmHA State Directors have authorized EM Loans, and furthermore, SBA Physical Disaster Loans will be made available to those agricultural enterprises referred to SBA by FmHA pursuant to paragraph IV 4 (e) of this Memorandum of Understanding.

3. FmHA and SBA will establish a liaison at both the State Director/District Director level and the National level and periodically coordinate their activities to: (a) exchange

detailed information concerning the disaster loan programs, (b) define areas of cooperation between the two Agencies, (c) assure that their programs are serving the intended recipients, (d) establish new methods to serve the public more expeditiously, and (e) achieve maximum utilization of their respective resources.

4. The SBA and FmHA agree that the interests of agricultural enterprises will be best served, and that each Agency will achieve better utilization of available resources, through the operating guidelines discussed in this section relative to areas where these Agencies offer disaster assistance. Furthermore, National FmHA and Central SBA office representatives agree to meet on a frequency of not less than annually to review this Memorandum of Understanding, discuss matters of mutual concern relating to each Agency's disaster loan programs and to revise this document, if appropriate.

(a) When an applicant has sustained only housing and personal property losses in areas where SBA's Physical Loss Loans are available, *only* SBA will make loans for the restoration or replacement of disaster caused housing losses as defined in paragraph II 5 of this Memorandum of Understanding. When an agricultural enterprise has suffered farm production and/or physical farm losses, as well as housing losses, and SBA has not approved a physical disaster declaration for the affected area, FmHA will make the loan(s) for the production and physical farm losses as well as the housing losses.

In the event both Agencies have made their disaster assistance programs available for the area, applicants will have the option of going to FmHA *or* SBA for disaster loan assistance to restore or replace their housing losses; however, *in all cases,* farm production and farm physical loss loans will be made by FmHA, providing the applicant is otherwise eligible.

In those instances where an FmHA farm production and/or physical farm loss loan(s) is to be made, following approval of an SBA Housing Loss Loan, the SBA will upon request from FmHA, subordinate its lien to FmHA, as may be required for approval of the FmHA loss loan(s).

(b) When an applicant makes an initial inquiry for disaster assistance from SBA and farm losses are evident, the applicant will be advised of the provisions of (a) above and referred to FmHA for the needed financing based on farm losses. When an applicant makes an initial inquiry with SBA seeking disaster assistance for housing losses *only,* the applicant will be referred to FmHA for consideration whenever the losses suffered were not in an SBA authorized area. Should such an applicant be in an SBA authorized area and be denied SBA assistance because of a lack of repayment ability due to low income, the applicant may be referred to FmHA for its consideration under FmHA's 502 Rural Housing Interest Credit Loan Program, provided the applicant resides in a rural community or in a community under 20,000 population. FmHA may be able to extend interest credit assistance to such borrowers at rates as low as 1 percent under that Loan Program.

(c) In any event, potential farm loan applicants should contact FmHA for an interview to determine whether they are eligible for disaster loan assistance from the FmHA. Those not eligible will be referred to the SBA for consideration, except those discussed in paragraph (e) below. Where a referral or denial action is taken by the FmHA, the referral or denial letter to the applicant will specify the reason(s) why the disaster type assistance requested by the applicant was not made available by FmHA.

(d) Potential applicants are not to be referred back and forth between FmHA and SBA. Representatives of each Agency must be reasonably certain the disaster victim is eligible for assistance from the other agency before a referral is made.

(e) FmHA personnel will refer, by letter, those applicants ineligible for FmHA EM Loan assistance for reasons such as alien status; corporations, partnerships and cooperatives not being primarily engaged in farming; and farm owners who do not operate their farm(s). Referral letters will state the specific reason(s) for ineligibility and will include the following statement, "Applicant has been informed that applicants for SBA Physical Disaster Loan assistance must meet minimum loss criteria substantially similar to that employed by FmHA." Referrals will not be made by FmHA when the reason(s) for loan denial is based on unfavorable credit determinations (includes inadequate security), lack of repayment ability, or when it is known to FmHA that sustained disaster losses are insufficient to meet its minimum loss criteria.

(f) Disaster victims filing for financial assistance from either Agency will give written permission for FmHA and SBA to exchange all prior and current loan application and loan experience information, including appraisals. The format for this permission must be developed in compliance with the Privacy Act.

(g) Applicants filing for financial assistance from either Agency must use the forms and procedures of the Agency being requested to provide such assistance. An applicant who is denied assistance by either Agency must file a new application with the other in accordance with that Agency's forms and procedures. However, the earliest filing date of an application for losses with either Agency will constitute the filing date with regard to termination dates for receiving applications by either Agency; provided *not more than six months* has elapsed since the termination date of the second Agency contacted, at the time that Agency is requested to process an application

V. *Description of Lending Policies*

The FmHA guarantees EM Loans and also makes insured EM Loans. Guaranteed EM Loans are loans where an eligible lender advances the entire loan from its own resources and sevices the loan. The FmHA guarantees repayment to the lender of a certain percentage of any loss of principal and interest. Insured EM Loans are those made from the Agricultural Credit Insurance Fund (ACIF) by FmHA employees and serviced by FmHA employees.

The SBA makes direct, immediate participation, and guaranteed loans. direct loans are made with SBA funds only. Immediate participation loans are those in which SBA agrees to purchase a specified percentage of a loan from a lender immediately after disbursement of such loan. Guaranteed loans are made by a conventional lender from its own funds and SBA guarantees a percentage of the unpaid balance.

VI. *Loan Programs*

The Emergency and Disaster Loan Programs of FmHA and SBA are outlined in Table I which sets forth the comparative similarities and differences of each program.

VII. *Administrative Guidelines*

1. The services of FmHA and SBA, which are available to lenders and applicants are, by mutual agreement, services that each Agency would provide any eligible applicant in the normal course of business; and normally there will be no reimbursement by either Agency to the other for such services.

2. The National Office of FmHA and the Central Office of SBA will cooperate in counseling their field offices and in resolving problems in specific cases.

3. This Memorandum of Understanding in no way alters or supersedes the existing Memoranda between the two Agencies covering FmHA's regular farmer loan authorities and its Business and Industrial Loan authorities, and all of SBA's regular loan programs. However, this Memorandum replaces the previous Memorandum of Understanding on disaster type loan assistance, signed by SBA on July 21, 1977, and by FmHA on August 25, 1977.

4. This agreement may be amended at any time by written agreement of both parties.

5. This agreement shall take effect upon the later date shown below.

Dated: October 23, 1980.

Gordan Cavanaugh,

Administator Farmers Home Administration.

Dated: October 26, 1980.

A. Vernon Weaver,

Administrator, Small Business Administration.

SBA/FmHA Memorandum of Understanding

Disaster Loan Assistance Programs

Table I.—*Comparative Similarities and Differences*

FmHA	SBA
Eligibility	
1. An individual applicant must be a citizen of the United States. For applicants which are organized as a partnership, a cooperative, or a corporation, the principal owners must be U.S. citizens; over 50 percent of the ownership of such entities must be held by U.S. citizens; and the manager of any such entity must have an ownership interest in the entity and be a U.S. citizen. Such entity must be recognized and authorized to farm in the State(s) in which it will operate a farm(s), and such entity will be in good standing in that State(s)	1. Citizenship is not required. However, use of disaster loan proceeds outside the United States or its possessions is not permitted.
2. EM loan applicants *able* to obtain their needed credit elsewhere may be considered for an *Actual Loss Loan only at a current market rate of interest* EM Loan applicants *unable* to obtain their needed credit elsewhere, exclusive of an SBA Physical Disaster Loss Loan, may qualify for an *Actual Loss Loan(s) at 5 percent interest, and EM Annual Production and/or EM Major Adjustment Loan(s) at the current market rate of interest.*	2. Physical Disaster Loans are made to non-business loan applicants, without regard to the availability of other financing or resources, and business loan eligibility is similar. However, the SBA's judgment of the business' capacity to obtain credit elsewhere will determine the applicable interest rate. Applicants for Economic Injury Disaster Loan (EIDL) assistance *must* seek and fully utilize all alternate financing resources prior to obtaining an EIDL loan from SBA. EIDL applicants must be eligible *small* businesses according to SBA size standards.
3. The applicant must be an established farmer, rancher, or aquaculture operator, either tenant-operator or owner-operator. If the applicant is a partnership, corporation, or cooperative, it must be primarily engaged in farming; i.e., it must derive over 50 percent of its gross income from all sources from the farming operation(s), and the farming operation(s) must be managed by one or more of the principal partners, principal stockholders, or principal members.	3. Most homeowners, businesses and nonprofit institutions are eligible for Physical Disaster Loan assistance.
4. The applicant must have been conducting a farming operation(s) at the time of the disaster in a county or counties where EM Loans have been authorized.	4. The applicant must be within the disaster area as defined by the SBA disaster declaration.
5. The applicant must have suffered qualifying property damage or production losses as a direct result of the declared or authorized disaster	5. The applicant must have suffered real or personal property damage as a direct result of the declared disaster.
6. The applicant must be of good character, have the necessary experience and/or training, industry, and ability to carry out the proposed operation.	6. Applicants must be of good character and must be able to provide reasonable assurance of loan repayment ability.
7. Will take all farm disaster applications and approve EM Loans based on disasters commencing *after July 2, 1980*, regardless of whether or not an applicant can obtain the credit needed elsewhere.	7. Will take any farm disaster applications and approve disaster loans based on disasters commencing *on or before July 2, 1980*. Applicants applying for farm disaster loans based on disasters commencing *on or after July 3, 1980*, will be referred to FmHA.
Loan Purposes	
1. For those unable to obtain credit, to cover actual losses for damaged or destroyed farm property and production; provide essential annual farm production and family living expenses; and provide the financing necessary to make adjustments in the farming operation, which will assure the return of the operation to a financially sound pre-disaster base.	1. The purpose of Physical Disaster Loans is to restore the disaster victim's home or business property, real or personal, as nearly as possible to its pre-disaster condition. No upgrading is permitted except as required for code compliance.
2. Housing losses—available under FmHA's Rural Housing Disaster Loan Program only when SBA's Physical Disaster Loan assistance is *not* available. When housing and farm losses are involved, the applicant may choose between SBA or FmHA for loan assistance on the housing loss, but all farm loss assistance will be provided by FmHA.	2. Housing losses—When only housing losses are sustained, SBA will make all Housing Loss Loans caused by the declared disaster. In those areas where both FmHA and SBA disaster programs are available, applicants may select the Agency from which they wish to obtain their Housing Loss Loan, but all applications for farm loss loans will be referred to FmHA.
3. Initial EM Annual Production Loans may be applied for up to 12 months from the disaster authorization date. Subsequent EM Annual Production Loans may be applied for up to three full calendar years after the disaster authorization date. However, EM Annual Production Loans, initial or subsequent, are *not* available to applicants who are initially *able* to obtain their needed credit elsewhere.	3. Economic Injury Disaster Loans are somewhat similar; however, the need for these loans must be specifically related to the physical disaster as declared by SBA.
4. EM Major Adjustment Loans may be applied for up to 12 months after the disaster authorization date, but are *not* available to applicants who are initially *able* to obtain their needed credit elsewhere.	4. No comparable disaster loan program; however, SBA's Regular Business Loan Program is somewhat similar.
Rates and Terms	
1. Actual Loss Loans (a) For applicants who are *able* to obtain their credit elsewhere, the interest rate for EM Actual Loss Loans is established by the Secretary of Agriculture, based on the cost of money to the Government using the statutory formula. (b) For applicants who are *unable* to obtain their credit elsewhere, the interest rates for EM Actual Loss Loans are as follows: (1) For disasters occurring through September 30, 1978, for which loans were approved on or after October 1, 1978, the rate is 3.00 percent. (2) For disasters occurring on or after October 1, 1978, the rate is 5.00 percent. Actual Production Loss Loans are normally made for up to 7 years. Under certain circumstances loss loans for production and chattel losses may extend up to 20 years with special conditions, depending on the life expectancy of the collateral securing the loan(s). Actual Loss Loans for real estate purposes will normally be for 30 years, but may extend up to 40 years.	1. Interest rate on Physical Disaster Business Loans where credit elsewhere is available is determined by a statutory formula which is based upon the cost of money to the Government, and which will remain in effect for all disasters occurring on or after October 1, 1978, and prior to October 1, 1983. During the same period, October 1, 1978, through September 30, 1983, there is a 3 percent interest rate for losses to primary homes and personal property; and a 5 percent rate for loans to businesses, which in SBA's judgment are unable to obtain credit elsewhere. Interest rates on loans for all other purposes are based upon a statutory formula. SBA Home, Personal Property, Business, and Economic Injury Disaster Loans may have maturities of up to 30 years. However, the repayment ability of the applicant will deter nine the actual maturity of the loan.
2. Annual Production Loans—at the current prevailing market rate established periodically by the Secretary and repayable when principal income from the year's operation is normally received.	2. Interest rate for Economic Injury Disaster Loans which are similar is based upon a statutory formula.
3. Major Adjustment Loans—at prevailing current market rate as established periodically by the Secretary. Such loans for chattels are normally made for up to 7 years, and for real estate, normally up to 30 years. Under certain circumstances loans for chattels may extend up to 20 years and loans for real estate may extend up to 40 years.	3. No comparable disaster loan program.

Table I.—*Comparative Similarities and Differences*—Continued

FmHA	SBA
Loan Limits	
1. In addition to the ceiling limitations listed herein, the extent of loan assistance is also limited by the amount of actual loss, potential repayment ability, collateral available, the applicant's needs and other credit factors.	1. Home Loans—No statutory limit; however, the following administrative limits have been established: (a) $50,000 for real estate, (b) $10,000 for personal property, or (c) $55,000 for combined purposes and up to $50,000 for eligible refinancing.
(a) There is a statutory limit of $500,000 per disaster per applicant for Actual Loss Loan assistance for both those who *can obtain* and those who *cannot obtain* their credit elsewhere.	2. Business Loans, Physical Disasters—No statutory limit for disasters commencing prior to enactment of Public Law 96–302, i.e., July 2, 1980; however, a $500,000 administrative limit was in effect; exceptions permitted by SBA Regional Administrator to avoid undue financial hardship.
(b) Administrative ceilings for those who cannot obtain credit elsewhere have been established as follows:.	For disasters commencing on or after July 3, 1980, the *statutory* limit is $500,000 per disaster per borrower.
(1) Actual Loss Loan—$500,000 per applicant per disaster designation for disasters occurring on or after October 1, 1978.	Limit may be waived by Administrator if applicant is a major source of employment in an area suffering a major disaster declared by the President.
(2) $250,000 per applicant per disaster designation for disasters occurring through September 30, 1978.	3. Business Loans, Economic Injury—No statutory limit, the amount of economic injury determines the size of the loan.
(3) Annual Production and/or Major Adjustment Loans—$1,500,000 outstanding principal balance authorized per EM borrower, regardless of the number of disasters. A further sublimitation setting a $300,000 maximum outstanding principal balance on Major Adjustment Loans for refinancing debts, which are secured by real estate, is established within the above $1,500,000 ceiling. However, borrowers indebted for an EM Loan(s) on or before December 15, 1979, who cannot obtain credit elsewhere, may receive subsequent Annual Production Loans in amounts necessary to continue their normal operation(s) without regard to this indebtedness ceiling.	
Graduation Policy	
1. Reviewed to determine ability to obtain credit from other credit sources after a three (3) year period following receipt of the initial EM loan, and every two (2) years thereafter, until graduation is achieved or the loan(s) is paid in full. Refinancing, when available is mandatory for borrowers who, when they received their initial loans, were unable to obtain credit from other sources.	1. Business loan applicants, who can obtain credit elsewhere (loans approved at formula rate), will be reviewed for graduation three years after a Physical Disaster Business Loan is fully disbursed, and every two years thereafter for the term of the loan. Refinancing when available, is mandatory.
Economic Injury Loans	
1. EM loans for annual production purposes are similar.	1. SBA is authorized to make Economic Injury Disaster Loans to small business concerns that have suffered cash flow problems related to the disaster. These loans are for working capital only and do not allow for any expansion.

Exhibit C

Memorandum of Understanding Between Agricultural Stabilization and Conservation Service and Farmers Home Administration on Disaster Assistance

I. *General*

Federal agencies that provide financial assistance to farmers suffering losses as a result of a declared or authorized disaster are required to ensure that there is not duplication of benefits under other programs. Within USDA it is very important that the Agricultural Stabilization and Conservation Service (ASCS) and the Farmers Home Administration (FmHA) maintain close coordination of their assigned disaster programs.

II. *Purpose*

The purpose of this memorandum of understanding is to coordinate certain ASCS disaster activities with the FmHA actual loss emergency loan program.

III. *ASCS and FmHA Coordination on Disaster Activities to Farmers and Ranchers*

The amount of any benefits received from ASCS disaster programs, including disaster payments and cost-sharing payments under the Emergency Conservation Program Emergency Feed Program, will be considered by FmHA in determining the maximum amount of an actual loss emergency loan that a farmer can receive. This will be done in accordance with FmHA regulations.

IV. *Understanding Reached*

A. FmHA County Supervisors prior to determining the maximum amount of any actual loss emergency loan, will consult with ASCS County Executive Directors regarding ASCS disaster benefits provided or to be provided to FmHA emergency loan applicants.

B. ASCS County Executive Directors, at the request of the FmHA County Supervisor, will provide FmHA with the following information from ASCS county office records: farmland and cropland acreages on the applicant's farm(s), production on crops, and amounts of payments or assistance provided or to be provided by ASCS to such applicant. Form FmHA 1945–29, "ASCS Verification of Farm Acreage, Production, and Benefits," will be used for this purpose.

C. FmHA County Supervisor will, in a timely manner, provide ASCS county offices with the names and addresses of farmers or ranchers who have had an actual loss emergency loan approved.

D. ASCS County Executive Directors will consult with FmHA County Supervisors before issuing disaster payments to farmers or ranchers for whom Form FmHA 1945–29 has been received. Sight drafts for payments of ASCS disaster benefits for farmers and ranchers whose FmHA loan application has been approved, will be prepared to show FmHA as joint payee and forwarded to the FmHA county office.

V. *Supersedure*

This memorandum of understanding supersedes the one signed by the Administrator of FmHA on April 18, 1975, and the Administrator of ASCS on April 23, 1975.

VI. *Amendment*

This memorandum of understanding may be amended at any time by mutual consent of the agencies involved.

Dated: November 8, 1979.

Ray V. Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

Dated: October 30, 1979.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

[FR Doc. 80–32695 Filed 10–21–80; 8:45 am]

BILLING CODE 3410–07–M

7 CFR Part 1980

Guaranteed Loan Programs

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations pertaining to the administration of all the FmHA guaranteed loan programs. The changes involve defining local lender, requiring the lender to hold a part of the unguaranteed portion of the loan, and restricting the sale of the guaranteed loan to applicants. The intended effect of these changes is to clarify FmHA's position and strengthen the guaranteed programs. This action is taken in response to agency recommendations to correct deficiencies in the regulations as suggested by the Department's Office of Inspector General.

EFFECTIVE DATE: Effective October 22, 1980.

FOR FURTHER INFORMATION CONTACT: Darryl H. Evans, Director, Business Management and Development Division, USDA, FmHA, Washington, D.C. 20250, Telephone: (202) 447–4150.

The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the office of the Chief, Directives Management Branch, Farmers Home Administration, Room 6346, South Agriculture Building, 14th and Independence Ave. SW., Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "significant". Section 1980.13(a) and parts of Appendix B of Subpart A of Part 1980, Chapter XVIII, Title 7, Code of Federal Regulations have been amended. These

changes are made by FmHA to strengthen the Business and Industry (B&I) program. On November 23, 1979, FmHA published [in the **Federal Register** (44 FR 67134)] a notice of proposed rulemaking setting forth the proposed changes to the regulations. Interested parties were given an opportunity to submit, not later than January 21, 1980, any comments, views or recommendations regarding the proposed changes.

Discussion of Comments

The first issue dealt with redefining local lender. The FmHA indicated the proposed change will broaden lender eligibility within its guaranteed programs and should not adversely affect small local lenders participation in the program. A total of nine comments were received with majority in favor of the change. Several respondents recommended that the changes be effected only on loans closed under commitments issued after the date of publication of the final rules in the **Federal Register**. FmHA agrees with this recommendation. Two respondents suggested the 100-mile limit be expanded to the boundaries of a State. FmHA believes the lender should be located fairly close to the borrower's place of business if it is to carry out its responsibilities for servicing the loan. Having considered all comments FmHA will adopt the proposed rule without change by amending Section 1980.13(a).

The second issue involves an amendment to restrict the lender from selling a portion of the loan to the applicant or other parties which would have a vested interest. This provision is necessary to eliminate any possible conflict of interest the applicant would have when a loan is guaranteed by the Government. The respondents were unanimous in their comments recommending that FmHA implement this amendment. Therefore, FmHA will adopt without change the amendment of paragraph III A of Appendix B, Form FmHA 449-35, "Lender's Agreement."

The final issue deals with requiring the lender to hold in their own portfolio a minimum of 10 percent of each loan for Farmer Program Loans and five percent of the total loan for other loan programs. The respondents held a variety of views concerning this issue. The majority did favor the change with modification. Those respondents who did not favor the amendment represented two groups. The National Association of Home Builders expressed their concern that such a shared risk concept would have an adverse impact upon guaranteed housing loans. Four other respondents, all Mortgage Bankers, opposed the change since they do not generally invest in long-term loans. For B&I loan purposes, Mortgage Bankers represent only two percent of the lenders involved in the program. FmHA believes the shared risk concept is a key factor in strengthening the overall guaranteed programs. However, we recognized that the guaranteed housing loan program will need the backing of the Mortgage Bankers if the program is to continue to grow. Therefore, FmHA will amend its proposed rule regarding paragraph III A 3 b of Appendix B, Form FmHA 449-35 to exclude the housing program from the shared risk requirement. In addition an administrative clarification has been made in paragraph XII B, to indicate FmHA, "at its option", will proceed with liquidation . . .

Accordingly, § 1980.13(a) and parts of Appendix B of Subpart A of Part 1980 are amended as follows:

1. Section 1980.13(a) is amended and reads as follows:

§ 1980.13 Eligible lenders.

(a) *Local lenders.* Local lenders may participate by using the various sources of capital and segments of the money market to meet the necessary financing requirement for guaranteed loan programs. Except in (1), (2), and (3) below FmHA will require that a local lender be involved for each project. A local lender is a lender in or near a community where the project is or will be located who routinely provides loan services to such community. Although the project may involve other lenders, investors, or packagers, the local lender will be the lead lender and the lender for purposes of these regulations responsible for servicing and liquidation (if necessary) of the loan. The lender may use agents, correspondents, branches, financial experts, or other institutions or persons to provide expertise to assist in carrying out its responsibilities. FmHA will use the lender as the point of contact for the administration of the program.

FmHA may also permit a lender to be the lender for the loan without being local if:

(1) The lender normally makes loans in the region or geographic location in which the applicant's project being financed is located; or

(2) The lender has specific expertise in loans for the proposed project and provides evidence of such expertise to the satisfaction of FmHA; or

(3) (For B&I loans only), the lender has provided, in the past, to the applicant a substantial portion of the applicant's credit requirement on a regular basis.

* * * * *

PART 1980—APPENDIX B [AMENDED]

2. Paragraphs III A, III A 3 b and the third sentence of Paragraph of XII B of Appendix B of Subpart A of Part 1980 are amended and read as follows:

Appendix B—Form FmHA 449-35, Lender's Agreement, United States Department of Agriculture, Farmers Home Administration

* * * * *

III. *Lender's Sale or Assignment of Guaranteed Loan.*

A. The lender may retain all of the guaranteed loan. The lender is not permitted to sell or participate any amount of the guaranteed or unguaranteed portion(s) of the loan(s) to the applicant or borrower or members of their immediate families, its officers, directors, stockholders, other owners, or any parent, subsidiary or affiliate. If the lender desires to market all or part of the guaranteed portion of the loan, the lender may proceed under the following options:

* * * * *

3. *Participation.*

* * * * *

(b) The lender is required to hold in its own portfolio or retain a minimum of 10% for Farmer Program loans and 5% for Business and Industry program loans of the total guaranteed loan(s) amount. The amount required to be retained must be of the unguaranteed portion of the loan and cannot be participated to another. The lender may sell the remaining amount of the unguaranteed portion of the loan except for Farmer Program loans only through participation. However, the lender will always retain the responsibility for loan servicing and liquidation.

* * * * *

XII. *Liquidation.*

* * * * *

B. *FmHA's response to Lender's liquidation proposal.* * * *

Should FmHA and the Lender not agree on the Lender's liquidation proposal, FmHA at its option will proceed with the liquidation as follows:

* * * * *

Note.—This document has been reviewed in accordance with FmHA Instruction 1901-G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, P.L. 91-190, an Environmental Impact Statement is not required.

[7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; Sect. 209, Title II, P.L. 95-334, 92 Stat. 432; Sect. 10, P.L. 93-357, 88 Stat. 392; delegation of authority by the Secretary of Agriculture, 7

CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

Dated: May 19, 1980.

Alex P. Mercure,

Assistant Secretary for Rural Development.

[FR Doc. 80-32700 Filed 10-21-80; 8:45 am]

BILLING CODE 3410-07-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Changes in Rules of Practice Governing Discipline in Adjudicatory Proceedings

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations governing discipline in adjudicatory hearings, 10 CFR 2.713, to (1) reiterate the standard of conduct expected of participants in proceedings; (2) clarify who may appear before NRC in a representative capacity; (3) clarify and bolster the authority of the presiding officer, Appeal Board, and Commission to suspend any party or representative of a party from participation in a particular proceeding where, as a result of the party's or representative's conduct, this is necessary for the orderly conduct of the proceeding; and (4) specify special interlocutory appeal procedures governing suspensions from participation.

EFFECTIVE DATE: November 21, 1980.

FOR FURTHER INFORMATION CONTACT: Bruce A. Berson, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 492-7678.

SUPPLEMENTARY INFORMATION: On January 18, 1980, the Nuclear Regulatory Commission published in the **Federal Register** (45 CFR 3594) a proposed amendment to its regulations, 10 CFR Part 2—"Rules of Practice for Domestic Licensing Proceedings," regarding representation and conduct of attorneys in adjudicatory proceedings. Interested persons were invited to submit comments for consideration in connection with the proposed amendment by March 3, 1980.

Four comment letters were received from interested persons during the 45 day comment period. The comments addressed the following issues:

1. The necessity for the rule;
2. The standards of conduct;
3. Representation at NRC proceedings;
4. The process of appealing suspensions; and
5. Referral of suspended attorneys to the state bar.

After careful consideration, the Commission has determined that no changes to the proposed rule based on the comments are necessary. However, the Commission has revised and broadened the process of appealing suspensions and made two other minor clarifications to the rule based upon its own review. The clarifications (1) add the words "or officer" to the second sentence of § 2.713(b) following "duly authorized member" to reflect actual practice and the intent of the rule; and (2) provide for mandatory referral of an attorney suspended for more than 1 day to the appropriate state bar even in the absence of an appeal. (Issues 3 and 5 below). The revision to the process of appealing suspensions is discussed below (Issue 4).

The public comments and changes made by the Commission are discussed below.

1. Necessity for the rule: Two commenters believe the rule is unnecessary. One suggests that the presiding officer has adequate existing authority under 10 CFR 2.718, "Power of the Presiding Officer," to control the conduct of the proceeding and the other states that local authorities could be called if a true disturbance were created. Although disciplinary authority may be implied from 10 CFR 2.718(e), the Commission believes it is preferable to specifically codify such authority and the associated procedures after public notice and opportunity for comment. The Commission also believes presiding officers and other NRC tribunals should have specific authority to discipline representatives in NRC proceedings, when necessary, without routinely requesting (or waiting for a situation to require) the assistance of local law enforcement authorities, as suggested by the second commenter.

2. Standards of conduct: Three commenters express the view that the types of conduct enumerated in proposed § 2.713(c)(1) which may result in the suspension of a representative from a proceeding are vague, overly broad, or subject to abuse by a presiding officer. One commenter also states that the meaning and consequence of "censure" are not defined.

The rule is designed to be read and applied in light of its purpose. Therefore, presiding officers will generally apply judicially developed precedents governing contempt in imposing and fashioning appropriate disciplinary sanctions. Since the presiding officer is charged with conducting a fair proceeding in a reasonable and even-handed manner, he or she is expected to apply the provisions of this rule in a similar fashion. The Commission recognizes that a presiding officer might, on occasion, erroneously suspend a representative from a proceeding for conduct not warranting such action. The appeal process provided in the rule would correct any such error. Therefore, the Commission expects no abuse of the disciplinary standards.

The Commission believes the meaning and consequence of censure are self-explanatory. Censure, public or private, is generally a more appropriate remedy for an isolated instance of misconduct than suspension. In addition, the rule makes clear what conduct is expected of representatives. (See generally, ABA Code of Professional Responsibility and Ethical Considerations, EC-7-34 through and including 7-39 and 8-5.)

3. Representation at NRC proceedings: One commenter suggests that "the restriction of attorney-at-law to only those admitted to the bar of U.S. or District of Columbia Courts or the highest court of any State, territory, or possession of the United States may well work to deprive public-interest intervenors of otherwise well-qualified counsel or other legal representation." The Commission believes the restriction is appropriate because admission before one of the specified courts is generally required before an attorney may be licensed to engage in the practice of law in a particular jurisdiction.

The Commission has determined that the words "or officer" should be added to the second sentence of § 2.713(b), following "duly authorized member." The clarification makes clear that a partnership, corporation or unincorporated association may be represented by a duly authorized *officer*, as well as by a member or attorney and reflects both actual practice and the intent of the rule.

4. Process of appealing suspensions: The provisions for appealing suspensions received a number of comments. Two commenters express concern that the appeals process requires a suspended individual to overcome a presumption of guilt and establish his or her innocence. The Commission disagrees with the characterization. Although there is some presumption that the action of a lower administrative tribunal is correct, the Commission or an Atomic Safety and Licensing Appeal Board need not accede to a lower board's decision simply because it is supported by "substantial evidence" or is not "clearly erroneous." See *Duke Power Company* (Catawba

Nuclear Station, Units 1 and 2), ALAB-355, 4 NRC 397 (1976).

Another commenter recommends that a proceeding be automatically stayed whenever a representative is suspended, even for one day or less. The commenter notes that disciplinary action normally focuses on the conduct of the representative rather than the party and recommends that the "necessary to prevent injustice" standard governing the granting of a stay in § 2.714(c)(2) be deleted. She recommends instead that the party be given the option of electing either an automatic stay pending completion of the suspension (or final disposition of the appeal, if appealed) or a stay for a reasonable period of time in which to secure other representation.

The Commission believes that the proposed rule adequately protects the interests of an affected party by permitting a stay for a reasonable period of time in order to obtain other representation if necessary to prevent injustice. Whether a stay should be granted in a particular case should be left to the discretion of the presiding officer, since that individual will be most familiar with the procedural posture of the proceeding and the impact of the suspension upon the parties. Under the commenter's proposal, a lengthy suspension could translate into a day-for-day stay of the entire proceeding, even though alternative representation might be available much sooner. This could add unnecessary delay to licensing proceedings.

The commenter also suggests the establishment of an alternative appeals process in cases in which the Commission itself orders a suspension so that the Commission does not also function as the appellate body. Since the Commission acts as a collegial body in licensing proceedings, there will be no further administrative appeal of suspensions it orders. Judicial review would be available to a suspended representative. Therefore, the Commission believes an alternative appeals process is unnecessary.

One commenter suggests that the rule be amended to require the completion of an appellate hearing within 10 days of the imposition of the suspension or else the suspension should be revoked, not merely lifted. According to the commenter, this change is designed to prevent an automatic 10-day non-reviewable suspension. The Commission notes that it may not always be practical to complete a hearing within 10 days of the imposition of a suspension because the rule provides 10 days for filing an appeal. Since proposed § 2.713(c)(3) directs that a necessary hearing shall commence as soon as possible after the filing of an appeal, the Commission believes that the intent of the comment is met.

However, after its own further review, the Commission has decided to broaden and revise the process for appealing suspensions in three respects. First, an appeal of a reprimand, censure, or suspension not exceeding 1 day is authorized. The proposed rule limited review to suspensions exceeding 1 day. The Commission believes that a right to appeal any sanction imposed pursuant to this section is desirable because, at least in the case of an attorney, an administratively unappealable sanction may saddle an individual with an irrevocable, and possibly unjustified, professional "black mark." In the District of Columbia, for example, an applicant for admission to the bar must state whether he or she has been suspended, reprimanded or censured as an attorney.

Second, the Commission has revised the proposed rule to delay the effectiveness of suspensions exceeding 1 day for a period of 72 hours from the time of the suspension order to permit the suspended individual to request a stay of the sanction from the reviewing tribunal pending appeal. A timely stay request will stay the imposition of the sanction until the reviewing tribunal rules on the motion. Ten days are provided for the Commission or Appeal Board, as appropriate, to rule on the motion. All time limits will be computed in accordance with 10 CFR 2.710. Responses to the stay request from other parties will not be entertained since they have no substantial interest in the disposition of the motion. In ruling on the motion, the reviewing tribunal will consider only the first two stay factors specified in 10 CFR 2.788(e) (whether the moving party has made a strong showing that it is likely to prevail on the merits and whether the party will be irreparably injured unless a stay is granted). The third and fourth factors (harm to other parties and the public interest) are excluded because each has little bearing on the proper disposition of the motion. This mechanism is provided in a new § 2.713(c)(4).

Finally, the Commission has modified the third sentence of proposed § 2.713(c)(3) to require an Atomic Safety and Licensing Appeal Board or the Commission, as appropriate, to consider each appeal on the merits. The modification will ensure that an appeal would not be declared moot if the suspension has been "served" prior to appellate consideration.

5. Referral to the state bar: One commenter recommends deletion of the provision of proposed § 2.713(c)(3) relating to notification of the appropriate state bar(s) if an attorney's suspension is upheld at the conclusion of the appeal, since no corresponding sanctions are imposed on non-lawyers and no pattern of attorney misconduct is cited. The Commission does not agree with this recommendation. Attorneys have an independent ethical obligation under the American Bar Association's Code of Professional Responsibility to refrain from engaging in undignified or discourteous conduct when appearing before a court or administrative tribunal. (DR 7-106(c)(6)). Therefore, referral to the state bar(s) is appropriate in such cases.

However, proposed § 2.713(c)(3) implies that if an attorney receives a suspension exceeding 1 day and does not appeal, there is no referral to the state bar. The Commission has clarified the rule by requiring mandatory referral of attorneys whose suspensions exceed 1 day even when no appeal is taken. Referral should not depend upon whether an appeal is taken. Logic teaches that a suspended attorney who does not appeal may be more guilty than his peer who elects to appeal; therefore, both attorneys should be referred to the state bar if the suspension exceeds 1 day.

Pursuant to section 161(p) of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552, 553 and 555(b) of Title 5 of the United States Code, the following amendments to Title 10, Chapter 1, Code of Federal Regulations, Part 2 are published as a document subject to codification, to be effective on November 21, 1980.

Section 2.713 is revised to read as follows:

§ 2.713 Appearance and practice before the Commission in adjudicatory proceedings.

(a) Standards of Practice. In the exercise of their functions under this subpart, the Commission, the Atomic Safety and Licensing Appeal Boards, the Atomic Safety and Licensing Boards, and Administrative Law Judges function in a quasijudicial capacity. Accordingly, parties and their representatives in proceedings subject to this subpart are expected to conduct themselves with honor, dignity, and decorum as they should before a court of law.

(b) Representation. A person may appear in an adjudication on his or her own behalf or by an attorney-at-law. A partnership, corporation or unincorporated association may be represented by a duly authorized member or officer, or by an attorney-at-

law. A party may be represented by an attorney-at-law provided the attorney is in good standing and has been admitted to practice before any Court of the United States, the District of Columbia, or the highest court of any State, territory, or possession of the United States. Any person appearing in a representative capacity shall file with the Commission a written notice of appearance which shall state his or her name, address, and telephone number; the name and address of the person on whose behalf he or she appears; and, in the case of an attorney-at-law, the basis of his or her eligibility as a representative or, in the case of another representative, the basis of his or her authority to act on behalf of the party.

(c) Reprimand, Censure or Suspension from the Proceeding.

(1) A presiding officer, an Atomic Safety and Licensing Appeal Board, or the Commission may, if necessary for the orderly conduct of a proceeding, reprimand, censure or suspend from participation in the particular proceeding pending before it any party or representative of a party who shall refuse to comply with its directions, or who shall be guilty of disorderly, disruptive, or contemptuous conduct.

(2) A reprimand, a censure or a suspension which is ordered to run for one day or less shall be ordered with grounds stated on the record of the proceeding and shall advise the person disciplined of the right to appeal pursuant to paragraph (c)(3) of this section. A suspension which is ordered for a longer period shall be in writing, shall state the grounds on which it is based, and shall advise the person suspended of the right to appeal and to request a stay pursuant to paragraphs (c)(3) and (c)(4) of this section. A proceeding may be stayed for a reasonable time in order for an affected party to obtain other representation if this would be necessary to prevent injustice.

(3) Anyone disciplined pursuant to this section may within ten (10) days after issuance of the order file an appeal with the Atomic Safety and Licensing Appeal Board or the Commission, as appropriate. The appeal shall be in writing and state concisely, with supporting argument, why the appellant believes the order was erroneous, either as a matter of fact or law. The Appeal Board or Commission, as appropriate, shall consider each appeal on the merits, including appeals in cases in which the suspension period has already run. If necessary for a full and fair consideration of the facts, the Appeal Board or Commission, as appropriate, may conduct further evidentiary hearings, or may refer the matter to another presiding officer for development of a record. In the latter event, unless the Appeal Board or the Commission, as appropriate, provides specific directions to the presiding officer, that officer shall determine the procedure to be followed and who shall present evidence, subject to applicable provisions of law. Such hearing shall commence as soon as possible. In the case of an attorney, if no appeal is taken of a suspension, or, if the suspension is upheld at the conclusion of the appeal, the presiding officer, the Appeal Board, or the Commission, as appropriate, shall notify the state bar(s) to which the attorney is admitted. Such notification shall include copies of the order of suspension, and, if an appeal was taken, briefs of the parties, and the decision of the Appeal Board or Commission.

(4) A suspension exceeding 1 day shall not be effective for 72 hours from the date the suspension order is issued. Within this time a suspended individual may request a stay of the sanction from the appropriate reviewing tribunal pending appeal. No responses to the stay request from other parties will be entertained. If a timely stay request is filed, the suspension shall be stayed until the reviewing tribunal rules on the motion. The stay request shall be in writing and contain the information specified in §§ 2.788(b)(1), (2) and (4) of this part. The Appeal Board or Commission, as appropriate, shall rule on the stay request within 10 days after the filing of the motion. The Appeal Board or Commission shall consider the factors specified in §§ 2.788(e)(1) and (e)(2) of this part is determining whether to grant or deny a stay application.

(Sec. 161(p), Pub. L. 83–703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 201, as amended, Pub. L. 93–438, 88 Stat. 1243, Pub. L. 94–79, 89 Stat. 413 (42 U.S.C. 5841))

Dated at Washington, D.C. this 15th day of October, 1980.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-32818 Filed 10-21-80; 8:45]

BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Reg. D; Docket No. R-0328]

Reserve Requirements of Depository Institutions; Interpretation

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Interpretation.

SUMMARY: Under the Monetary Control Act of 1980, "bankers' banks" are exempt from Federal reserve requirements. The Board has determined that a depository institution will be regarded as a bankers' bank if it meets certain criteria with regard to its ownership and the extent to which it does business with entities other than depository institutions. The Board has also adopted criteria that will be applied in determining whether to grant requests from bankers' banks to act as a correspondent for the pass-through of required reserves of other depository institutions.

DATE: Effective November 13, 1980.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Assistant General Counsel (202/452–3625), Lee S. Adams, Senior Attorney (202/452–3623), Paul S. Pilecki, Attorney (202/452–3281), or Myron L. Kwast, Economist (202/452–2686), or Paul P. Burik, Economist (202/452–2556), Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Under section 19 of the Federal Reserve Act ("Act"), as amended by the Monetary Control Act of 1980 (Title I of Pub. L. 96–221), the Board has adopted the following intepretation, effective November 13, 1980, with regard to the characteristics a depository institution must possess in order to qualify for the "bankers' bank" exemption from reserve requirements contained in section 19(b)(9) of the Act. The Board also established criteria to be applied to determine whether a specific bankers' bank is qualified to act as a pass-through correspondent for nonmember depository institutions that are subject to the Act.

Effective November 13, 1980, pursuant to the Board's authority under section 19 of the Federal Reserve Act (12 U.S.C. 461 *et seq.*), Regulation D (12 CFR Part 204) is amended by adding a new § 204.121 as follows:

§ 204.121 Bankers' banks.

(a) (1) The Federal Reserve Act, as amended by the Monetary Control Act of 1980 (Title I of Pub. L. 96–221), imposes Federal reserve requirements on depository institutions that maintain transaction accounts or nonpersonal time deposits. Under section 19(b)(9), however, a depository institution is not required to maintain reserves if it:

(i) Is organized solely to do business with other financial institutions;

(ii) Is owned primarily by the financial institutions with which it does business; and

(iii) Does not do business with the general public.

Depository institutions that satisfy all of these requirements are regarded as "bankers' banks."

(2) In its application of these requirements to specific institutions, the Board will use the following standards:

(i) A depository institution may be regarded as organized solely to do business with other depository institutions even if, as an incidental part to its activities, it does business to a limited extent with entities other than depository institutions. The extent to which the institution may do business with other entities and continue to be regarded as a bankers' bank is specified in paragraph (a)(2)(iii) of this section.

(ii) A depository institution will be regarded as being owned primarily by the institutions with which it does business if 75 per cent or more of its capital is owned by other depository institutions. The 75 per cent or more ownership rule applies regardless of the type of depository institution.

(iii) A depository institution will not be regarded as doing business with the general public if it meets two conditions. First, the range of customers with which the institution does business must be limited to depository institutions, including subsidiaries or organizations owned by depository institutions; directors, officers or employees of the same or other depository institutions; individuals whose accounts are acquired at the request of the institution's supervisory authority due to the actual or impending failure of another depository institution; share insurance funds; and depository institution trade associations. Second, the extent to which the depository institution makes loans to, or investments in, the above entities (other than depository institutions) cannot exceed 10 per cent of total assets, and the extent to which it receives deposits (or shares if the institution does not receive deposits) from or issues other liabilities to the above entities (other than depository institutions) cannot exceed 10 per cent of total liabilities (or net worth if the institution does not receive deposits).

If a depository institution is unable to meet all of these requirements on a continuing basis, it will not be regarded as a bankers' bank and will be required to satisfy Federal reserve requirements on all of its transaction accounts and nonpersonal time deposits.

(b) (1) Section 19(c)(1) of the Federal Reserve Act, as amended by the Monetary Control Act of 1980 (Title I of Pub. L. 96-221) provides that Federal reserve requirements may be satisfied by the maintenance of vault cash or balances in a Federal Reserve Bank. Depository institutions that are not members of the Federal Reserve System may also satisfy reserve requirements by maintaining a balance in another depository institution that maintains required reserve balances at a Federal Reserve Bank, in a Federal Home Loan Bank, or in the National Credit Union Administration Central Liquidity Facility if the balances maintained by such institutions are subsequently passed through to the Federal Reserve Bank.

(2) On August 27, 1980, the Board announced the procedures that will apply to such pass-through arrangements (45 FR 58099). Section 204.3(i)(1) provides that the Board may permit, on a case-by-case basis, depository institutions that are not themselves required to maintain reserves ("bankers' banks") to act as pass-through correspondents if certain criteria are satisfied. The Board has determined that a bankers' bank may act as a pass-through correspondent if it enters into an agreement with the Federal Reserve to accept responsibility for the maintenance of pass-through reserve accounts in accordance with Regulation D (12 CFR 204.3(i)) and if the Federal Reserve is satisfied that the quality of management and financial resources of the institution are adequate in order to enable the institution to serve as a pass-through correspondent in accordance with Regulation D. Satisfaction of these criteria will assure that pass-through arrangements are maintained properly without additional financial risk to the Federal Reserve.

(3) In order to determine uniformly the adequacy of managerial and financial resources, the Board will consult with the Federal supervisor for the type of institution under consideration. Because the Board does not possess direct experience with supervising depository institutions other than commerical banks, and does not intend to involve itself in the direct supervision of such institutions, it will request the National Credit Union Administration to review requests from credit unions that qualify as bankers' banks and the Federal Home Loan Bank Board to review requests from savings and loan associations that qualify as bankers' banks, regardless of charter or insurance status. (The Board, itself, will consider requests from all commercial banks that qualify as bankers' banks.) If the Federal supervisor does not find the institution's managerial or financial resources to be adequate, the Board will not permit the institution to act as a pass-through correspondent. In order to assure the continued adequacy of managerial and financial resources, it is anticipated that the appropriate Federal supervisor will, on a periodic basis, review and evaluate the managerial and financial resources of the institution in order to determine whether it should continue to be permitted to act as a pass-through correspondent. It is anticipated that, with respect to state chartered institutions, the Federal supervisor may discuss the request with the institute State supervisor. The Board believes that this procedure will promote uniformity of treatment for all types of bankers' banks, and provide consistent advice concerning managerial ability and financial strength from supervisory authorities that are in a better position to evaluate these criteria for depository institutions that are not commerical banks.

(4) Requests for a determination as to whether a depository institution will be regarded as a bankers' bank for purposes of the Federal Reserve Act or for permission to act as a pass-through correspondent may be addressed to the Federal Reserve Bank in whose District the main office of the despository institution is located or to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The Board will act promptly on all requests received directly or through Federal Reserve Banks.

By order of the Board of Governors of the Federal Reserve System, October 14, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-32809 Filed 10-21-80; 8:45 am]

BILLING CODE 6210-01-M

FARM CREDIT ADMINISTRATION

12 CFR Part 611

Powers, Duties, and Responsibilities of District Farm Credit Boards

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration publishes an amendment to its regulation pertaining to the powers, duties and responsibilities of district Farm Credit boards. Under the new amendment, the personnel policies adopted by the boards for the Farm Credit institutions will include all elements of a modern human resources management program.

EFFECTIVE DATE: October 22, 1980.

FOR FURTHER INFORMATION CONTACT: Larry H. Bacon, Deputy Governor, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza, East, S.W., Washington, DC 20578 (202) 755–2181.

SUPPLEMENTARY INFORMATION: Proposed rulemaking was published on page 45595 of the **Federal Register** of July 7, 1980, and invited comments for 60 days ending September 8, 1980. No comments were received. Accordingly, Part 611, Chapter VI of Title 12 Code of Federal Regulations is amended by revising § 611.1010(f) as follows:

PART 611—ORGANIZATION

§ 611.1010 Powers, duties, and responsibilities.

* * * * *

(f) Adopt a policy to provide direction for the district and each Farm Credit entity in the district with regard to the management of human resources. Such policy shall include a statement of the board's philosophy toward recruiting and placement, employee development and training, compensation and benefits.

* * * * *

(Secs. 5.9, 5.12, 5.18, Pub. L. 92–181, 85 Stat. 619, 620, 621, (12 U.S.C. 2243, 2246 and 2252))

C. T. Fredrickson,
Acting Governor.

[FR Doc. 80-32911 Filed 10-21-80; 8:45 am]
BILLING CODE 6705-01-M

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12 CFR Part 612

Personnel Administration; Policies

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration publishes amendments to its regulations pertaining to district personnel policies. The amendments address the bank's human resources management program and define Agency, board, and management responsibility and accountability for human resources management.

EFFECTIVE DATE: October 22, 1980.

FOR FURTHER INFORMATION CONTACT: Larry H. Bacon, Deputy Governor, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, DC 20578, (202–755–2181).

SUPPLEMENTARY INFORMATION: Part 612 governs the personnel administration of the banks and associations of the Farm Credit System. The Farm Credit Administration is reissuing these regulations pursuant to 12 U.S.C. 2243 and 2252 in a manner which will provide greater flexibility to the institutions in the management of their human resources. Various requirements in the current regulations which are covered by other applicable laws and regulations are proposed to be eliminated.

The regulation will expand the concept of responsibility and accountability of district boards and management for all aspects of bank and association human resources management programs. It provides for the updating of personnel policy manuals and requires that supervisors and employees be provided with written policies and practices. As an aspect of total human resources management, salary administration programs will have to be established which are effective and consistent with the management system of the banks. In addition, the regulation will provide for clarification of compensation plans available to bank employees.

Proposed rulemaking was published on pages 45917–45924 of the **Federal Register** of July 8, 1980, and invited comments for 60 days ending September 8, 1980. Comments were received from the St. Paul Federal Land Bank. The St. Paul Federal Land Bank expressed reservations that the regulation would be difficult to administer and lead to many different approaches to human resources in the district. The statement of purpose and intent states that in many cases one set of human resources management policies will be appropriate for all banks and associations within the district. The regulation leaves it to the board and supervising banks to decide whether to have one or several sets of policies and programs.

The St. Paul Federal Land Bank expressed concern regarding the reemployment of annuitants under certain circumstances (§ 612.2050). The regulation leaves it up to the district to adopt a policy that restricts reemployment of annuitants.

The St. Paul Federal Land Bank questioned the authority of FCA to approve or disapprove salary ranges for senior bank officers on a specific position basis or only as to composite ranges for all positions and if FCA plans to review bank management on its salary administration by level of authority as it relates to the president, group vice president and division vice presidents (§ 612.2080). Section 5.18(4) of the Farm Credit Act of 1971 provides that FCA shall approve the salary scales for institutions of the System except for associations and the compensation of the chief officer of such institutions. FCA approval is of the salary scale itself; however, in order to grant such approval it is necessary to know what positions are assigned to the senior officer ranges. Review of salary administration programs will be on an "overall" basis.

Chapter VI of Title 12 Code of Federal Regulations is amended by revising and recodifying Part 612 as follows:

PART 612—PERSONNEL ADMINISTRATION

Subpart A—Human Resources Management

Sec.
612.2000 Policy statement.
612.2010 Responsibility.
612.2020 District human resources management policies.
612.2030 Associations.
612.2040 Human resources forecasting.
612.2050 Staffing, training, and development.
612.2060 Performance evaluation.
612.2070 Salary administration.
612.2080 Salary and range approvals.
612.2090 Other compensation plans.
612.2100 Benefits administration.
612.2110 District retirement plans.
612.2120 Summary of requirements for Farm Credit Administration review and approval.

Subpart B—Standards of Conduct for Directors, Officers and Employees

612.2130 Director, officer and employee responsibilities and conduct.
612.2140 District and association directors.
612.2150 Soliciting support in polls for association, district, or Federal Farm Credit Board membership.
612.2160 Reports and recommendations on proposed or pending Federal legislation.
612.2170 Political activity.
612.2180 Devotion of time to official duties.
612.2190 Nepotism.
612.2200 Reporting violations.
612.2210 Prohibited acts for salaried employees.
612.2220 Legal provision cited.
612.2230 Prohibited acts procedures.
612.2240 Gifts or favors from subordinates.
612.2250 Borrowing from subordinates.
612.2260 Improper use of official property.
612.2270 Evasions and circumventions of rules of conduct.
612.2280 Official loans.
612.2290 Report by personnel.
612.2300 Prohibited acts enforcement.
612.2310 Reports of transactions with directors, officers, or employees.
612.2320 Other reports to the Farm Credit Administration.
612.2330 Fidelity bonds required.

Authority: Sections 5.9, 5.12, 5.18, Pub. L. 92–181, 85 Stat. 619, 620, 621, (12 U.S.C. 2243, 2246 and 2252).

Subpart A—Human Resources Management

§ 612.2000 Policy statement—statement of purpose and intent of the human resources—management relations.

Human Resources Management is a vital element of total bank

responsibility. Every aspect of the business, from its public image to the quality of loan service received by an individual farmer, relates directly to the quality of employees selected and the adequacy of their individual training. In addition, the widely fluctuating economy, increasing costs of compensation and benefits, growing social awareness and a vast new body of legislation dealing with equal employment opportunity, manpower, safety and benefits have created unprecedented demands on the banks for effective and comprehensive human resources management systems. The intent of the revised personnel sections of the Regulations is to outline those areas that should be addressed by a bank's human resources management program in general terms, and to define Agency, board and management responsibility and accountability for human resources management. Most districts already have a district personnel policy manual and employee handbook. These will likely be adequate documentation to meet most of the requirements of these regulations. The banks are encouraged to build on this existing base by reviewing and updating the content of policy manuals and handbooks as appropriate and determining areas that will need additional emphasis under these regulations, and developing an appropriate implementation strategy. These regulations recognize that a district board also acts as a board of each of the three banks, and that the bank president, as chief executive officer, is ultimately accountable for the bank's performance. In many cases, one set of district human resources management policies will be appropriate for all three banks and associations. However, there may be valid reasons for each bank to develop its separate, but compatible, human resources management policies and programs. The selection of either approach by the district board is acceptable under these regulations. The philosophy of the regulations is to promote flexibility so that human resources management programs can be tailored to the operational requirements of the banks and associations. In addition to these regulations, each bank and association is subject to and required to comply with other Federal, State and local laws and regulations related to the employment process. This includes, but is not limited to civil rights laws, the Occupational Safety and Health Act, the Fair Labor Standards Act and regulations of the Equal Employment Opportunity Commission, Department of Labor and Internal Revenue Service. The Farm Credit Administration will not duplicate the regulatory requirements of these other agencies but may assist a bank in cases of non-compliance to attain compliance and retain its position of public trust. Because of the general nature and wording of the regulations, compliance takes on a new meaning. The Farm Credit Administration's supervision of district human resources management programs is meant to be consultative, constructive and based on professional evaluation of the effectiveness of bank and district human resources management programs in meeting management needs, rather than technical compliance of a specific program. In accordance with FCA's policy of coordinated supervision, the personnel staff will work closely with the regional supervisory staffs to ensure consistency of overall bank supervisory efforts and to avoid duplication and overlap. The Farm Credit Administration personnel staff will also work closely with examiners to assist them in determining areas to be reviewed and in collecting, analyzing and evaluating data. Such evaluations will emphasize program effectiveness and quality in meeting a bank's mission and goals and transactional review will be for the purpose of making those analyses. The Farm Credit Administration will utilize information gathered by examination and supervisory efforts to consult with and assist bank management in the effective discharge of its responsibility and in maintenance of accountability to the bank board of directors. Matters of a policy nature will be taken to the board only after proper communication with management.

§ 612.2010 Responsibility.

It is the responsibility of each bank, within the provisions of these regulations and policy direction adopted by the district board of directors under § 611–1010(f) of these regulations, to manage its human resources function, including the supervision of association human resources management, where applicable. Plans, actions, and activities shall be documented appropriately and provide adequate operational controls for routine audit and review. Each bank's human resources management system shall provide for regular reporting of information to the president and the board.

§ 612.2020 District human resources management policies.

In the interest of effective human resources management, each Farm Credit district shall issue a human resources policy manual(s), including board policies relating to the district, individual banks and the program applicable to Federal land bank and production credit associations. It shall include statements of district philosophy toward human resources management and the objectives envisioned for both employer and employee. Appropriate management and supervisory personnel shall be provided with a copy of the policy manual for guidance in managing human resources. The manual provisions shall be in accordance with applicable rules and regulations and a copy shall be submitted to the Farm Credit Administration for review. The policy manual(s) should address the followings:

(a) A general statement of human resources philosophy and objectives.

(b) Recruiting and employment practices.

(c) Employee training and development.

(d) Performance evaluation.

(e) Salary administration program.

(f) Employee benefits.

(g) Employee responsibilities and conduct.

Each employee shall be provided with a written summary such as a handbook that outlines the bank's employment practices and procedures.

§ 612.2030 Associations.

In accordance with the principle of decentralization, each Federal land bank and Federal intermediate credit bank shall develop human resources policies for associations within the district consistent with these regulations and policy direction provided by the bank board. Association human resource management programs developed within these policies shall be consistent with district policy and within parameters of required district compensation and benefits programs.

§ 612.2040 Human resources forecasting.

Plans should be made in advance by banks and associations to recruit and train qualified employees for prospective vacancies caused by turnover, business growth, approaching retirements, or other reasons that can be anticipated. Such plans should attempt to identify numbers and skill levels required by anticipated vacancies and assess the availability of the required skills in the existing work force.

§ 612.2050 Staffing, training, and development.

Under policies established by the bank boards, each bank and association shall be responsible for the design, implementation, communication, and

maintenance of programs for recruitment, selection, placement, training and development of employees. The purpose of such policies and programs shall be to recruit, train, develop, effectively utilize and retain a staff competent to carry out the functions of each bank and association.

§ 612.2060 Performance evaluation.

Under policies established by the bank boards, each bank and association shall be responsible for development, implementation, communication and maintenance of effective systems for evaluating employee performance.

§ 612.2070 Salary administration.

Salary administration policies shall assure development of effective salary administration programs consistent with established district philosophy. Such programs should be developed in accordance with sound principles and techniques of salary administration.

§ 612.2080 Salary and range approvals.

(a) All salary ranges for senior officers of the banks shall be submitted to the Farm Credit Administration for approval 15 days prior to the effective date of any changes.

(b) Upon initial appointment, the salary of the chief executive officer of a bank shall be referred to the Farm Credit Administration for approval 10 days prior to release of any announcements. Changes in salary levels of such chief executive officers shall be submitted to the Farm Credit Administration for approval 10 days prior to final confirmation of changes.

(c) A copy of all personnel actions at the bank senior officer level shall be submitted to the Farm Credit Administration for record purposes.

§ 612.2090 Other compensation plans.

All plans for bank officer and employee compensation (other than wages) and any amendments to such plans shall be submitted to the Farm Credit Administration for prior approval. This includes but is not limited to incentive, bonus and deferred compensation plans. For the purposes of this section, employee benefit programs, such as medical hospital plans, group life insurance plans and other similar benefits, are not considered compensation plans.

§ 612.2100 Benefits administration.

District boards shall adopt policies governing employee benefit programs and assure that such programs are developed and based on clearly defined objectives with full coordination of benefits to eliminate coverage gaps and duplication of benefits and costs. Employee benefits should be developed as a total program including leave, retirement, and insurance programs. A degree of consistency in benefit programs between districts is desirable and the inclusion of portability provisions between districts should be an objective in formulating employee benefit programs.

(a) All employee benefits programs should be periodically reviewed in light of appropriate and competitive standards, employee need and consistency with the management objectives of the bank.

(b) The pension formula will take into consideration, directly or indirectly, present and anticipated future levels of social security benefits.

§ 612.2110 District retirement plans.

The district boards and the bank boards shall provide retirement benefits for their employees who are not under the Civil Service Retirement Act. Any such retirements plans, including thrift or savings plans, and any amendments thereto, shall be submitted for the prior approval of the Farm Credit Administration. The banks shall secure approval of the plan by the Internal Revenue Service.

§ 612.2120 Summary of requirements for Farm Credit Administration review and approval.

(a) *Requirements for review.* The following shall be submitted to the Farm Credit Administration for review:

(1) District human resources management policies and amendments (§ 612.2020).

(2) Copies of all personnel actions on bank senior officers (§ 612.2080(c)).

(b) *Requirements for approval.* The following shall be submitted to the Farm Credit Administration for prior approval:

(1) Salary ranges for bank senior officers (§ 612.2080(a)).

(2) Establishment or change of salary of bank chief executive officer (§ 612.2080(b)).

(3) All compensation plans other than wages or benefits programs and amendments thereto (§ 612.2090).

(4) Retirement and thrift plans and amendments thereto (§ 612.2110).

(c) *Periodic reports.* The Farm Credit Administration may periodically require such reports as may be needed to discharge its supervisory responsibility.

Subpart B—Standards of Conduct for Directors, Officers, and Employees

§ 612.2130 Director, officer, and employee responsibilities and conduct.

The maintenance of high standards of industry, honesty, integrity, impartiality, and conduct by directors, officers, and employees of all institutions and organizations in the Farm Credit System is essential to insure the proper performance of System business and continued public confidence in the System and all its entities. The avoidance of misconduct and conflicts of interest, either real or apparent, by all personnel is indispensable to the maintenance of these standards. All personnel shall observe both the letter and the intent of the laws, regulations, instructions, and procedures applicable to them and to entities in the System, whether issued by the Farm Credit Administration or by the entities themselves. Such written criteria, however, cannot alone provide for maximum accomplishments of the aims of the Farm Credit law. Such accomplishment must rely, in addition, on positive effort and the exercise of ingenuity and good judgment by all who have a part in carrying out the authorized Farm Credit programs. District Boards shall adopt rules and guidelines of conduct for directors and employees, which shall implement these regulations and may include other guidelines, and secure compliance therewith. District Board guidelines and instructions shall be made available to each employee, each district and association director, and each nominating committee.

§ 612.2140 District and association directors.

The democratically controlled, borrower-owned structure of the Farm Credit System makes it essential that each member of the boards of directors of the institutions of the System, as well as the officers and employees, be aware of potential conflicts of interest. Each director shall:

(a) Refrain from divulging or using for his personal benefit information acquired as a director, except in the performance of his official duties.

(b) Abstain from participating directly or indirectly in the deliberations on any question affecting his personal interests or those of his family or of any corporation or other business organization in which he has an interest.

(c) Avoid any action toward or the appearance of obtaining special advantage or favoritism in dealing with borrowers from any of the institutions of the System, or with officers or employees thereof, particularly in relation to real or personal property which any such institution owns or in which it claims a lien or other interest, and

(d) Consider the potential conflict of interest arising from his employment by,

or directorship of, other lending institutions and his ability to impartially and objectively perfom his duties and responsibilities as a director of the Farm Credit institutions.

§ 612.2150 Soliciting support in polls for association, district, or Federal Farm Credit Board membership.

(a) No salaried officer or employee of a bank or association shall take any part, directly or indirectly, in the designation of nominees for the Federal Farm Credit Board, or in the nomination or election of members of a district Farm Credit Board, or association board, or make any statement, either orally or in writing, which may be construed as intending to influence any vote in such designations, nominations, or elections, except that a statement by such officer or employee of biographical and other data and matters relating to a candidate shall not be so construed if it is made at the request of and to the board of directors of the employing institution, or is made to the nominating committee as directed by the board of directors of an association in connection with the selection of nominees for an association election. Action shall immediately be taken, for suspension or dismissal in accordance with applicable procedures, against any such officer or employee who violates the provisions of this section.

(b) No bank or association property, transportation, communications and official stationery shall be used in the interest of any candidate, unless the same facilities and resources are simultaneously made known to and are available for use by all candidates.

(c) No director, officer, or employee shall, for the purpose of furthering the interests of any candidate, furnish or make use of Farm Credit System records which would not be available to all candidates.

§ 612.2160 Reports and recommendations on proposed or pending Federal legislation.

Any contacts on behalf of the bank or association or its board with the Office of Management and Budget with reference to proposed or pending legislation affecting the Farm Credit System shall be made through the Farm Credit Administration.

§ 612.2170 Political activity.

(a) No salaried officer, employee, or agent of a Farm Credit institution shall hold a public office or be a candidate for such office unless the bank by which he is employed or which supervises his employer has, after investigation and consideration of all facts involved, determined in writing that such candidacy or holding of public office would not bring justified criticism on the grounds of political activities or partialities or in any other manner adversely affect the best interests of the borrowers or the operations and public image of the System or any institutions thereof. All determinations made hereunder shall be reported to the board of directors of the bank concerned.

(b) No salaried employee shall take an active part or issue public statements relating to the nomination or candidacy of any person or participate in partisan political campaigns for national or statewide elective office, in any way that would implicate by support, endorsement or otherwise, his connection with the Farm Credit institution by which he is employed. This statement shall not be construed to prohibit an employee from expressing his personal opinion on political affairs or candidates or making voluntary campaign contributions.

§ 612.2180 Devotion of time to official duties.

Salaried officers, employees, and agents of Farm Credit institutions are required to devote the full business time for which they are employed to the effective accomplishment of the duties assigned them by the institutions in which they are employed. They are also expected to refrain from accepting employment or compensation for activities, even for services rendered outside the business hours for which they are employed, which might embarrass the Farm Credit institution or the Farm Credit Administration or reflect adversely upon their ability to take an unbiased and impartial view of its operations.

§ 612.2190 Nepotism.

(a) To emphasize and assist the merit system of appointments and promotions of salaried officers and employees of the institutions of the Farm Credit System, the following restrictions shall be observed:

(1) A relative of a director of a Farm Credit institution shall not serve as a salaried officer or employee of that institution.

(2) A relative of a director of a Farm Credit bank shall not serve as chief executive officer of an association supervised by that bank.

(3) A person shall not serve as a salaried officer or employee of a Farm Credit institution in any position which is directly or indirectly supervised by a relative except that this restriction shall not apply when the salaried officer or employee of an association is other than a chief executive officer and the relationship is with a director, an officer, or an employee of the supervising bank.

(4) Notwithstanding the other provisions of this paragraph (a), a person may serve as a salaried officer or employee in a position directly or indirectly supervised by a relative for a period in any calendar year not exceeding a total of 75 workdays provided that positive documented efforts have been made to recruit a qualified nonrelative for the position.

(b) The term "relative" as used in this section means parent, son, daughter, sibling, stepparent, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, uncle, aunt, first cousin, nephew, niece, spouse, parent-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandson, granddaughter, and any person having a similar relationship by marriage.

(c) Any person engaged by a Farm Credit institution to provide professional services for a fee or other compensation is considered to be within the term "salaried officer or employee" for the purpose of this section.

(d) The provisions of this section shall not preclude any persons involved in a nepotistic relationship allowable under previous regulations from continuing to serve in a position occupied by him or her on the effective date of this regulation.

(e) To prevent the creation of relationships prohibited under this regulation, the following actions shall be taken:

(1) Each bank shall establish the mechanism by which a nominee for a director position is informed of the provisions of this section. Specifically, a nominee whose election would create a prohibited relationship must be fully aware of the consequences of his or her election.

(2) Prior to the employment or promotion of a person, the institution shall determine whether a prohibited relationship would be created by the action.

(3) Stockholders shall be notified prior to any election of those nominees whose election would create a prohibited relationship.

§ 612.2200 Reporting violations.

In any instance of violation or prospective violation of § 612.2190, it is the responsibility of the related individuals to notify the employing entity's chief executive officer regarding the situation immediately upon becoming aware of it. It is the responsibility of any such officer or manager who becomes aware of such a situation, by this or any other means, to

take prompt corrective action, or, if it is beyond his power or ability to do so, to request instructions from the supervising bank or the Farm Credit Administration, as appropriate.

§ 612.2210 Prohibited acts for salaried employees.

A salaried officer, employee, or agent of any institution of the Farm Credit System:

(a) Shall not participate, directly or indirectly, in the deliberation upon, or the determination of, any question affecting his personal interests, those of any person related to him by blood, marriage, or adoption, or those of any partnership, association, or any business organization in which he is directly or indirectly interested. An act shall not be deemed enjoined by this paragraph (a) if the employing institution determines that the degree of interest or relationship in question is not substantial but so trivial as to create little probability that the officer's, employee's, or agent's impartiality or judgment and action has been affected, and such determination has been reported to the board of directors of the employing institution. Such report shall be reflected in the minutes of the board meeting;

(b) Shall not use for his own personal benefit or that of another or, except in the performance of his official duties, divulge to another person any fact or information acquired, directly or indirectly, by virtue of his employment which is not generally available to the public;

(c) (1) Shall not solicit or accept, directly or indirectly, any "benefit" (i.e., salary, fee, commission, honorarium, gift, or favor):

(i) From any "borrower" (i.e., a debtor, loan applicant, or representative) of the Farm Credit institution which is his employer;

(ii) From any borrower of a Farm Credit institution supervised by his employer;

(iii) From any borrower of a Farm Credit institution which supervises his employer;

(iv) From any person who purchases real or personal property from a borrower;

(v) From any person who sells real or personal property to a borrower; or

(vi) From any person transacting business with his employer.

(2) An officer, employee, or agent may enter into the following transactions for a benefit with a person (as identified in paragraph (c)(1) of this section) if such transactions are arranged in good faith as a result of arm's-length negotiations and the fair market value of services, supplies, or products involved in any single transaction, or any series of transactions with the same person, during one calendar year does not exceed a total of $1,000:

(i) For services to be performed on a farm owned or rented by him or on other property in which he has an interest;

(ii) For the purchase of farm supplies and products to be used on a farm owned or rented by him;

(iii) For the sale of farm supplies and products on a farm owned or rented by him; or

(iv) For the rental of real property by or to him;

Provided, That for any single transaction, or any series of transactions with the same person, during one calendar year the total of which exceeds $1,000, prior written authorization of the board of directors of his employer shall be obtained. When such authorization is given, the action of the board of directors shall be reported to the bank officer designated pursuant to § 612.2230.

(3) The board of directors of the supervising bank may, in lieu of the provisions of paragraph (c)(2) of this section, prescribe a policy addressed to the transactions identified therein and submit it for approval of the Farm Credit Administration, and establish guidelines applicable to officers, employees, and agents of the bank and of associations under its supervision, which shall assure that the types and values of permitted transactions do not have a reasonable potential for conflicts of interest.

(4) An officer, employee, or agent may:

(i) Accept food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting where such officer, employee, or agent is in attendance;

(ii) Accept unsolicited advertising or promotional material such as pens, pencils, note pads, calendars, and other items of nominal value; or

(iii) Accept any benefit otherwise enjoined by this paragraph (c) if the circumstances make clear that the motivating factor for the extension of such benefit is not based on the official responsibilities of such officer, employee, or agent or of the institution by which he is employed and, in any way, connected with any business activity he is engaged in, other than an activity referred to in paragraph (c)(1) of this section, and with any business of the other person or organization concerned, and that the offer of such benefit has been reported to and its acceptance has received the prior written authorization of the board of directors of the employing institution and, if an association officer, employee, or agent is involved, by the board of directors of the supervising bank. The action of the board shall be reflected in the minutes of the board meeting and brought to the attention of the bank officer designated pursuant to § 612.2230(c).

(d) Shall not acquire, directly or indirectly (including acquistion by membership in syndicates, but not by will or inheritance):

(1) Any lands or interests therein, including mineral interests, which are owned by any Farm Credit institution or which were thus owned at any time within the preceding 12 months,

(2) Any mineral interests in lands which are mortgaged to any Farm Credit institution or which were thus mortgaged at any time within the preceding 12 months, but this shall not prohibit the acquisition of mineral interests incidentally with surface interests, or which were servered prior to the preceding 12 months from lands currently mortgaged to the institution and are owned by a person who has no interest in such lands, or

(3) Any interests in lands (including mineral interests being acquired incidentally with surface interests) which are mortgaged to any Farm Credit institution or which were thus mortgaged at any time within the preceding 12 months, without obtaining the specific prior approval of such institution's board of directors, such action shall be reported in the minutes of the board meeting.

As used in this paragraph (d), "mineral interests" means any interest in minerals, oil, or gas, including but not limited to, any right derived, directly or indirectly, from a mineral, oil, or gas lease, deed, or royalty conveyance.

(e) Shall not participate, directly or indirectly, in any transaction concerning the purchase or sale of corporate stocks or bonds, commodities, or other property for speculative purposes if such action might tend to interfere with the proper and impartial performance of his duties or bring discredit upon any Farm Credit institution. Employees are not prohibited by this paragraph from making bona fide investments. When an employee is uncertain as to whether a contemplated transaction would constitute a violation of this paragraph, he should seek the advice, in accordance with procedures adopted by the district bank, of the officer designated pursuant to § 612.2230(c).

(f) Shall not have a business relation, directly or indirectly:

(1) With a "borrower" (i.e., a debtor, loan applicant, or representative) of the Farm Credit institution which is his employer;

(2) With a borrower of a Farm Credit institution supervised by his employer;

(3) With a borrower of a Farm Credit institution which supervises his employer;

(4) With a person who purchases real or personal property from any borrowers;

(5) With a person who sells real or personal property to any borrowers; or

(6) With a person transacting business with his employer; except in an official capacity as officer, employee, or agent of a Farm Credit institution, unless the board of directors of the employing institution, in carrying out the intention of this § 612.2210, has made a prior determination in writing that such business relation reasonably cannot be viewed as a means to influence a decision in which a Farm Credit institution has an interest. If the employing institution is an association, such determination shall be reported to and concurred in by the supervising bank. The action of the board shall be reflected in the minutes of the board meeting and brought to the attention to the bank officer designated pursuant to § 612.2230(c). Examples of such business relation include the purchase or sale of personal or real property, sale or placement of insurance, sales-barn activities, and auctioneering, appraisal, and other professional services but do not include the transactions described in paragraphs (c)(2) and (4)(iii) or transactions involving nonfarm goods purchased to meet family needs for food, clothing, and household furnishings and equipment from usual commercial sources at prices available to the public in general, or involving medical or dental services.

(g) Shall not purchase or acquire, directly or indirectly while he serves on a finance committee or subcommittee, except by will or inheritance, any interest in any obligations of the bank or banks for which he participated in establishing rates.

(h) Shall not also serve as an officer or director of an organization that transacts business with a Farm Credit institution, or of a financial institution unless the board of directors of the bank by which he is employed or which supervises his employer has determined that the involvement by such financial institution in the type of lending engaged in by the bank or his employer is so trivial as to create little probability of any significant impact upon the bank's or his employer's business, and he has agreed in writing not to participate on the financial institution's loan committee or in the deliberation upon, or determination of, any question coming before the financial institution's board which has more than nominal significance to the bank or his employer. Such action shall be reported in the minutes of the board meeting.

(i) The provisions of §§ 612.2130 and 612.2140, and not this § 612.2210, apply to directors of Farm Credit banks and associations.

§ 612.2220 Legal provision cited.

In the above connection, particular attention is directed to the following provisions of law containing the Federal penal provisions which relate particularly to officers and employees of the institutions under the supervision of the Farm Credit Administration: Sections 212, 213, 215, 216, 371, 493, 657, 658, 1006, 1011, 1013, 1014, 1907 and 1909 of title 18, United States Code.

§ 612.2230 Prohibited acts procedures.

Under a policy of its board applicable to the acts prohibited by § 612.2210 each district bank shall adopt procedures which will assure that:

(a) The provisions of § 612.2210 are brought to the attention from time to time of all officers, employees and agents of Farm Credit institutions and directors of associations in the district;

(b) All cases arising under § 612.2210 involving officers, employees, or agents of the bank, or of associations under its supervision, are brought to the attention of the bank's board;

(c) An officer of the bank is designated (1) to receive reports of all cases arising under § 612.2210 involving officers, employees, or agents of the bank and of associations under its supervision, (2) to report promptly in writing to the Deputy Governor, Office of Supervision, cases arising under paragraphs (a) through (g) thereof, (3) to record actions taken to resolve every case involving § 612.2210, and (4) to submit a semiannual report in writing of such actions to the Deputy Governor, Office of Supervision.

§ 612.2240 Gifts or favors from subordinates.

No salaried officer or employee of any Farm Credit institution shall at any time solicit contributions from other employees for a gift or present to anyone in a superior position, nor shall any such superior receive any gift or present offered or presented to him as a contribution from employees receiving a less salary than himself, nor shall any such officer or employee make any donation as a gift or present to any official superior; provided, however, that this section shall not apply to gifts of a nominal value traditionally exchanged among business associates as part of acceptable social amenities.

§ 612.2250 Borrowing from subordinates.

No salaried officer or employee shall borrow from or obtain endorsement of a note or other obligation from any subordinate employee.

§ 612.2260 Improper use of official property.

No director, officer, or employee shall use the space, personal property, communication, transportation, or other facility of a Farm Credit institution for activities or business in his personal interest or the personal interest of another, except under lease, contract, concession, or authorization in writing, pursuant to agreements and negotiations fairly arrived at and evidenced in writing, setting forth the terms and conditions of such use. Official stationery shall not be used for personal communication or for communications on controversial public matters expressing opinions which do not represent the official views of those having a responsibility for expression of official views of the institution.

§ 612.2270 Evasions and circumventions of rules of conduct.

No officer or employee shall use any scheme or device to avoid compliance with any of the rules or guidelines established under §§ 612.2130 through 612.2260 or avoid compliance with the intent of those rules through the use of subterfuge, evasions, or circumventions. Examples of acts of subterfuge or circumventions include (a) obtaining a loan or assisting another borrower to obtain a loan from a Farm Credit institution knowing that the proceeds thereof are planned to be used to provide financing for a person who is ineligible for such a loan, (b) inducing or assisting another person to obtain a loan from any institution of the System, the proceeds of which are planned to be used for the employee's benefit or for the benefit of any legal entity in which the employee has a direct or indirect personal interest.

§ 612.2280 Official loans.

Officers and employees as well as directors may receive bona fide loans to the extent that they are eligible for such loans and in strict compliance with policies and regulations governing such loans.

§ 612.2290 Report by personnel.

The director, officer, or employee involved or interested in any transaction to which §§ 612.2140 and 612.2210 are

applicable shall report in writing to the appropriate officer of the interested bank or association and disclose his interest and status in the matter unless, in the case of a loan application, the application itself discloses such information. The interested bank or association is the one that is a party to the transaction and not the employing bank or association or the one on whose board the director serves, unless they happen to be the same.

§ 612.2300 Prohibited acts enforcement.

(a) The Office of Examination shall investigate any case involving an act prohibited by paragraphs (a) through (g) of § 612.2210 if it determines that such action is necessary or advisable. A copy of the investigation report shall be submitted to the president of the district bank concerned and to the officer designated as provided in § 612.2230.

(b) The bank shall, with regard to any prohibited act evidenced by the investigation report, take prompt action in a manner that will assure the integrity of the Farm Credit institution concerned and the confidence of the public in it.

(c) The board of directors of the bank shall, with regard to a case arising under paragraph (h) of § 612.2210 take prompt action to assure compliance therewith.

§ 612.2310 Reports of transactions with directors, officers, or employees.

The associations shall report transactions to which §§ 612.2140, 612.2210, 612.2270, and 612.2290 apply fully in writing to the officer of the supervising bank designated pursuant to § 612.2230(c).

§ 612.2320 Other reports to the Farm Credit Administration.

A report of any violation or possible violation of a regulation in this Subpart B shall be included in the loan transaction submission of any loan requiring the prior approval, advice or counsel of the Deputy Governor, Office of Supervision. Such report shall be made even though the report required by § 612.2230 is filed. The bank shall assure that all directors, officers and employees shall be advised of the circumstances requiring reports under this section.

§ 612.2330 Fidelity bonds required.

Provision shall be made by the banks for insurance coverage against losses by all banks and association employees through the continuation of present coverage. Bankers Blanket Bond, Standard Form No. 10, or substitute, may be used. The Act does not require a faithful performance provision in the bond coverage. The district boards shall determine that bond coverage is in an amount that will adequately protect the banks and associations, taking into consideration the increased dollar amount of assets and lending activity of these institutions.

(Secs. 5.9, 5.12, 5.18, Pub. L. 92–181, 85 Stat. 619, 620, 621, (12 U.S.C. 2243, 2246 and 2252))

C. T. Fredrickson,

Acting Governor.

[FR Doc. 80-32912 Filed 10-21-80; 8:45 am]

BILLING CODE 6705-01-M

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12 CFR Part 618

Internal Controls for the Operations of Farm Credit Banks and Associations

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration publishes an amendment to its regulation pertaining to internal controls for the operations of the Farm Credit banks and associations. The existing regulation contains specific provisions as to how this function, including internal auditing, is to be performed by the institutions. By eliminating these specific requirements, the proposed will provide the district Farm Credit boards greater flexibility to establish policies for assuring the effective control over and accountability for the operations, programs and resources of these institutions.

EFFECTIVE DATE: October 22, 1980.

FOR FURTHER INFORMATION CONTACT: Larry H. Bacon, Deputy Governor, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza, S.W., Washington, DC 20578 (202) 755–2181.

SUPPLEMENTARY INFORMATION: Proposed rulemaking was published on page 39507 of the Federal Register of June 11, 1980, and invited comments for 60 days ending August 11, 1980. No comments were received. Accordingly, Part 618, Chapter VI of Title 12 Code of Federal Regulations is amended by revising § 618.8430 as follows:

PART 618—GENERAL PROVISIONS

Subpart I—Internal Controls

§ 618.8430 Internal Controls.

(a) General. The district board shall adopt an internal control policy designed to provide direction to banks and associations in establishing effective control over and accountability for operations, programs, and resources. Board policy should include:

(1) Direction to management which ensures the fixation of responsibility for the internal control function (financial and administrative) in an officer (or officers) of the bank.

(2) Requirements that the bank adopt internal audit and control procedures, evidencing responsibility in the review and maintenance of a comprehensive and effective internal control operation.

(b) The Farm Credit Administration shall include a review and analysis of the internal control function of each bank in its supervisory and examination effort, including the reporting of policy and management weaknesses.

(Secs. 5.9, 5.12, 5.18, Pub. L. 92–181, 85 Stat. 619, 620, 621 (12 U.S.C. 2243, 2246, 2252))

C. T. Fredrickson,

Acting Governor.

[FR Doc. 80-32913 Filed 10-21-80; 8:45 am]

BILLING CODE 6705-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Rev. 2, Amdt. 14]

Delegations of Authority To Conduct Program Activities in the Field Offices; Correction

AGENCY: Small Business Administration.

ACTION: Final rule, correction.

SUMMARY: This corrects a final rule published in the **Federal Register** on September 15, 1980 (45 FR 60895). This document corrects an error in paragraph lettering.

DATES: Effective September 15, 1980.

FOR FURTHER INFORMATION CONTACT: Lee Waugh, Paperwork Management Branch, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, (202) 653–6399.

In FR Doc. 80–28469 appearing at page 60895 in the issue for Monday, September 15, 1980, under § 101.3–2, change number "2" should read "In part X—Administrative, Section A, paragraphs 1 through 3 and paragraph 5 are amended by relettering subparagraphs h through j as l through n and adding new subparagraphs h through k as follows: * * *" in lieu of "* * * relettering subparagraphs h and i as l and m * * *."

Dated: October 15, 1980.

Oleta F. Waugh,

Federal Register Liaison Officer.

[FR Doc. 80-32915 Filed 10-21-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Government National Mortgage Association

24 CFR Part 300

[Docket No. R-80-882]

List of Attorneys-in-Fact

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This amendment updates the current list of attorneys-in-fact by amending paragraph (c) of 24 CFR 300.11. These attorneys-in-fact are authorized to act for the Association by executing documents in its name in conjunction with servicing GNMA's mortgage purchase programs, all as more fully described in paragraph (a) of 24 CFR 300.11.

EFFECTIVE DATE: December 13, 1980.

ADDRESSES: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410

FOR FURTHER INFORMATION CONTACT: Mr. William J. Linane, Office of General Counsel, on (202) 755-7186.

SUPPLEMENTARY INFORMATION: Notice and public procedure on this amendment are unnecessary and impracticable because of the large volume of legal documents that must be executed on behalf of the Association.

§ 300.11 [Amended]

1. Paragraph (c) of § 300.11 is amended by deleting the following name(s) from the current list of attorneys-in-fact:

Name and Region

Pam Andrus, Los Angeles, California
Elizabeth Brouwer-Ancher, Philadelphia, Pennsylvania

2. Paragraph (c) of § 300.11 is amended by adding the following name to the current list of attorneys-in-fact:

Name and Region

Joe E. Price, Dallas, Texas

(Sec. 309(d), National Housing Act, 12 U.S.C. 1723a(d), sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d)).

Issued at Washington, D.C., September 24, 1980.

Ronald P. Laurent,

President, Government National Mortgage Association.

[FR Doc. 80-32861 Filed 10-21-80; 8:45 am]

BILLING CODE 4210-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL 1636-7]

Ambient Air Quality Surveillance; Florida: Air Quality Surveillance Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is approving the air quality surveillance plan revision submitted by the State of Florida on December 11, 1979. The revision updates Florida's State Implementation Plan (SIP) to meet EPA requirements as set forth in 40 CFR Part 58, (44 FR 27558, May 10, 1979).

The revision includes a commitment to update their monitoring network and to utilize all required quality assurance methods to ensure data accuracy. The revision also includes provisions for Emergency Episode Monitoring. Since the revision meets all EPA requirements, EPA is approving the revision.

DATE: This action is effective November 21, 1980.

ADDRESSES: Copies of the material submitted by Florida may be examined during normal business hours at the following locations:

Library, EPA Region IV, 345 Courtland Street NE, Atlanta, Georgia 30365.
Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.
Florida Department of Environmental Regulation, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301.

FOR FURTHER INFORMATION CONTACT: Archie Lee, Environmental Protection Agency, Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30365, 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: On May 10, 1979 (44 FR 27558) EPA promulgated ambient air quality monitoring and data reporting regulations. These regulations satisfy the requirements of Section 110(a)(2)(C) of the Clean Air Act by requiring ambient air quality monitoring and data reporting for purposes of State Implementation Plans (SIP). At the same time, EPA published guidance to the States regarding the information which must be adopted and submitted to EPA as a SIP revision which provides for the establishment of an air quality surveillance system that consists of a network of monitoring stations designated as State and Local Air Monitoring Stations (SLAMS) to measure ambient concentrations of those pollutants for which standards have been established in 40 CFR Part 50.

The State of Florida has responded by submitting to EPA on December 11, 1979, a plan for air quality surveillance. Their plan provides for the establishment of a SLAMS network such that the monitors will be properly sited and the data quality assured. The network will be reviewed annually for needed modifications and descriptions containing information such as location, operating schedule, and sampling and analysis methods will be available for public inspection.

EPA is approving the air quality surveillance plan submitted by Florida.

Under Section 307(b)(1) of the Clean Air Act, judicial review of EPA's approval of Florida's air quality surveillance plan is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

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

(Sec. 110, Clean Air Act (42 U.S.C. 7410))

Dated: October 16, 1980.

Douglas M. Costle,

Administrator.

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

Subpart K—Florida

In § 52.520 paragraph (c) is amended by adding subparagraph (23) as follows:

§ 52.520 Identification of plan.

* * * * *

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

* * * * *

(23) The air quality surveillance plan revision was submitted by the Florida Department of Environmental Regulation on December 11, 1979 and updates Florida's SIP to meet EPA

requirements as set forth in 40 CFR Part 58 [44 FR 27558, May 10, 1979].

* * * * *

[FR Doc. 80-32907 Filed 10-21-80; 8:45 am]
BILLING CODE 6560-26-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below 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 either to 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).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426-1460 or toll free line (800) 424-8872 (in Alaska and Hawaii call toll free line (800) 424-9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determination of flood elevation for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection 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). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

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

Final Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	City of Anderson, Lauderdale County (FEMA-5818).	Anderson Creek	Just upstream of State Highway 207	*655
			Just upstream of Betty Highway (County Highway 52)	*669
		East Fork Anderson Creek	Just downstream of State Highway 49	*671
			Just upstream of State Highway 93	*679
	Maps available for inspection at Anderson Courthouse, Anderson, Albama 35610.			
Alabama	Daphne (City), Baldwin County (FEMA-5818).	Mobile Bay	At the Spring Branch crossing of Deer Avenue	*12
			Approximately 1,600 feet shoreward from the intersection of Belrose Avenue and Old County Road.	*12
			Approximatgely 1,800 feet shoreward from the intersection of College Avenue and Old County Road.	*14
			Approximately 1,300 feet shoreward along Van Avenue from its intersection with Second Street.	*14
	Maps available for inspection at City Hall, Daphne, Alabama.			
Alabama	Town of Owens Cross Roads, Madison County (FEMA-5818).	Flint River	Just downstream of the left abutment of Carpenter Bridge (Breached) on Wilson Manns Road.	*585
	Maps available for inspection at City Hall, 2965 Old 431 Highway, Owens Cross Roads, Alabama 35763.			
Arkansas	City of Rogers, Benton County (FEMA-5828).	Turtle Creek	Just upstream of Walnut Street (U.S. Highway 71)	*1,266
			Just upstream of Dixieland Road	*1,306
			Just upstream of North 12th Place	*1,322
		Blossomway Creek	Approximately 100 feet upstream of south 13th Street	*1,312
			Approximately 120 feet downstream of Arkansas State Highway 94	*1,332
		Turtle Creek Tributary	Just downstream of Dixieland Road	*1,312
		South Fork Prairie Creek	Just downstream of Arkansas State Highway 12	*1,140
			Just upstream of Arkansas State Highway 12	*1,146
			Just upstream of Lake Atlanta Road	*1,160
	Maps available for inspection at City Hall, 212 West Elm, Rogers, Arkansas 72756.			
Illinois	(V), Crete, Will County (Docket No. FEMA-5828).	Goose Creek	Approximately 2,250 feet downstream of Douglas Lane	*686
			Just downstream of Douglas Lane	*695
			Just upstream of Douglas Lane	*698
			Just upstream of Rohe Lane	*702
			Just upstream of Highway 1 (Main Street)	*707
			Just upstream of Benton Street	*712
			Just upstream of Missouri Pacific Railroad	*714
			Just upstream of Lumber Street	*716
			Just upstream of Exchange Street	*718
			Just downstream from footbridge near Sangamon Street	*721
			Just upstream from footbridge near Sangamon Street	*726
			Approximately 1350 feet upstream from Sangamon Street at the western corporate limit.	*727
	Maps available for inspection at the Village President's Office, Village Hall, 524 Exchange Street, Crete, Illinois 60417.			
Illinois	(V), East Carondelet St. Clair County, (Docket No. FEMA-5828).	Mississippi River	About 2,400 feet downstream Davis Steet	*421
			About 840 feet upstream State Street	*422
		Shallow Flooding (Local Ponding).	Areas south of Illinois Central and Gulf Railroad	*403
			Areas north of Illinois Central and Gulf Railroad	*406
	Maps available for inspection at Village Clerk's Office, Village Hall, P.O. Box 121, East Carondelet, Illinois 62240.			

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	(V), Green Oaks, Lake County (Docket No. FEMA-5828).	Irondale Creek (Tributary No. 1)	About 2,400 feet downstream of Guerin Road	*663
			About 200 feet downstream Guerin Road	*677
			Just upstream of Guerin Road	*680
			Just upstream of Heathercliff Road	*683
			At the upstream corporate limit	*685
		Meadow Haven Creek (Tributary No. 2).	Just upstream of Guerin Road	*664
			About 1,700 feet upstream of Guerin Road	*670
			At the upstream corporate limit	*678
	Maps available for inspection at Oak Grove Junior High School, Green Oaks, Illinois 60048.			
Illinois	(V), Hampshire, Kane County (Docket No. FEMA-5841).	Hampshire Creek Tributary	Mouth at Hampshire Creek	*868
			Just upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad	*876
			Just upstream of Terwilliger Avenue	*881
			Just upstream of Dutchess Lane	*895
			About 1500 feet upstream of Getzelman Road	*904
	Maps available for inspection at the Village President's Office, Village Hall, 234 South State Street, Hampshire, Illinois 60140.			
Illinois	(V), Kildeer, Lake County (Docket No. FEMA-5828).	South Branch Indian Creek	At the downstream corporate limits	*749
			Just upstream of private road	*753
			Just downstream of State Route 22, east of Krueger Road	*755
		Buffalo Creek	At the downstream corporate limit	*735
			Just upstream of Andover Road	*749
			Just downstream of Cuba Road	*763
			At the corporate limits, just downstream of Quentin Road	*780
		Tributary to Buffalo Creek	About 1500 feet downstream of Middleton Drive	*740
			Just upstream of Valley Road	*748
			Just upstream of Buffalo Run	*753
			About 650 feet upstream of Buffalo Run	*755
			At the corporate limits, just downstream of Cuba Road	*787
		South Fork Tributary to Buffalo Creek.	About 300 feet downstream of Quentin Road	*772
			Just upstream of Quentin road	*777
	Maps available for inspection at Village President's Office, 22049 Chestnut Ridge Road, (P. O. Box Lake Zurich, Illinois) Kildeer, Illinois 60047.			
Illinois	(V), Tower Lakes, Lake County (Docket No. FEMA-5828).	Tower Lake Creek	At the downstream corporate limits	*737
			Just downstream of Tower Lake Dam	*740
			Just upstream of Tower Lake Dam	*749
			Just downstream of Tower Lake Inlet	*749
			Just downstream of Kelsey Road	*755
		Lake Barrington Drain	At the confluence with Tower Lake Creek	*738
			About 150 feet downstream of Kelsey Road	*753
			Just downstream of Kelsey Road	*760
		Timber Lake Drain	At the confluence with Tower Lake Creek	*749
			Just downstream of State Route 59	*750
	Maps available for inspection at Village President's Office, Village Hall, 105 South Drive, Tower Lakes, Illinois 60010.			
Indiana	(C), Noblesville, Hamilton County (Docket No. FEMA-5828).	White River	Southern extraterritorial jurisdiction	*740
			Just upstream from State Highway 234	*755
			Just upstream from Norfolk & Western Railway	*763
			At upstream extraterritorial jurisdiction	*776
		Circero Creek	At confluence with White River	*757
			Just upstream from State Highway 32	*762
			Just upstream from State Highway 38	*766
			At spillway outlet	*772
		Sand Creek	Just upstream from confluence with Mud Creek	*784
			Just upstream from upstream crossing of Cumberland Road	*791
			Just upstream from East 121st Street	*800
			Just upstream from East 131st Street	*809
			Just upstream from East 136th Street	*813
			Just upstream from Brooks School Avenue	*815
			Approximately 0.45 mile upstream from Brooks School Avenue	*818
		Mud Creek	Just upstream from East 96th Street	*780
			Just upstream from East 106th Street	*784
			Just upstream from Klepper School Road	*792
			Just upstream from East 116th Street	*801
			Approximately 1.40 miles upstream from Brooks School Avenue	*812
		Stony Creek	Just upstream from confluence with White River	*756
			Just upstream from Cumberland Road	*759
			Just upstream from State Highway 38	*774
			Just downstream from East 186th Street	*781
		Fall Creek	Just upstream from Geist Reservoir	*789
			Just upstream from Florida Road	*790
			Approximately 0.55 mile upstream from Florida Road	*795
			Just downstream from State Highway 238	*798
		Hinkle Creek	Just upstream from Morse Reservoir	*813
			Just downstream from East 216th Street	*830
	Maps available for inspection at Department of Planning, City Hall, Noblesville, Indiana. 46060.			
Iowa	(C), Vinton, Benton County (Docket No. FEMA-5828).	Cedar River	At confluence of Mud Creek	*779
			Just downstream of State Route 101	*783
			About 4,500 feet upstream of State Route 101	*785
		Hinkle Creek	Just upstream of Chicago, Rock Island and Pacific Railroad	*784
			Just upstream of U.S. Route 218	*787
			At upstream corporate limits	*789

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Mud Creek	Mouth at Cedar River	*779
			About 2,450 feet upstream of 13th Street	*779
		Tributary to Mud Creek	Mouth at Mud Creek	*779
			Just downstream of Old Shellsburg Road	*785
			Just upstream of Old Shellsburg Road	*787
			Just upstream of 2nd Avenue	*799
			Just downstream of C Avenue	*805
			Just upstream of C Avenue	*810
			Just downstream of U.S. Route 218	*811
	Maps available for inspection at City Hall, 501 First Avenue, Vinton, Iowa 52349.			
Iowa	(C), Waverly, Bremer County (Docket No. FEMA-5828).	Cedar River	About 2.5 miles downstream of Third Street Southeast	*905
			Just upstream of Third Street Southeast	*910
			Upstream side of dam, 265 feet upstream of Bremer Avenue	*915
			Just upstream of Horton Road	*918
			Northern corporate limits	*920
		Dry Run Creek	At mouth	*910
			Just downstream of Fourth Avenue Southwest	*911
			Just upstream of Second Avenue Southwest	*913
			Just upstream of West Bremer Avenue	*914
			1300 feet upstream of Second Avenue Northwest	*916
			Just upstream of Twelfth Street Northwest	*920
		Unnamed Creek	At mouth	*910
			Eastern corporate limits	*910
	Maps available for inspection at City Hall, Waverly, Iowa 50677.			
Kansas	(Uninc.), Butler County (Docket No. FEMA-5828).	Walnut River	Downstream county boundary	*1,174
			About 900 feet upstream of Douglass Road West	*1,190
			Confluence of Whitewater River	*1,222
			Just downstream of County Road 616	*1,240
			Just downstream of Haverhill Road North	*1,254
			At confluence with West Branch Walnut River	*1,282
			About 1,500 feet downstream of El Dorado Lake Dam	*1,290
		Four Mile Creek	Confluence with Walnut River	*1,207
			Just downstream of Santa Fe Lake Road	*1,225
			Just downstream of County Road 624	*1,252
			Just downstream of Rose Hill Road	*1,283
			Confluence of Brookhaven Creek	*1,290
		Brookhaven Creek	Downstream county boundary	*1,290
			580 feet upstream of upstream county boundary	*1,295
		Eight Mile Creek	Just downstream of County Road 646	*1,178
			Just upstream of Douglass Road West	*1,199
			Just upstream of County Road 638	*1,229
			Just upstream of County Road 634	*1,261
			Just upstream of Rose Hill Road	*1,294
			Just downstream of 159th Street East	*1,319
		Republican Creek	Confluence with Four Mile Creek	*1,261
			Just upstream of County Road 622	*1,272
			Just upstream of County Road 618	*1,307
			About 300 feet downstream of Interstate 35	*1,331
		Whitewater River	Just upstream of Pleasant Road	*1,226
			Just upstream of County Road 612	*1,243
			Just upstream of Missouri Pacific Railroad	*1,262
			About 1.0 mile upstream of State Highway 254	*1,264
		Dry Creek	Confluence with Whitewater River	*1,228
			Just upstream of U.S. Highway 54	*1,231
			Just downstream of Santa Fe Lake Road	*1,260
			About 2,100 feet upstream of Santa Fe Lake Road	*1,274
		West Branch Walnut River	About 3,300 feet downstream of Atchison, Topeka and Santa Fe Railway.	*1,289
			Just upstream of Interstate 35	*1,313
			Just upstream of County Road 588	*1,345
			Just downstream of County Road 585	*1,358
		Bird Creek	Confluence with Walnut River	*1,286
			Just upstream of Missouri Pacific Railroad	*1,300
			Just upstream of U.S. Highway 54	*1,358
			Just downstream of County Road 604	*1,383
		Elm Creek	Mouth at Whitewater River	*1,231
			Just downstream of Augusta Street	*1,233
	Maps available for inspection at Butler County Courthouse, County Engineer's Office, El Dorado, Kansas 67042.			
Kansas	(Uninc.), Douglas County (Docket No. FEMA-5835).	Kansas River	About 2,500 feet downstream of Township Road 25	*797
			At eastern corporate limit of City of Lawrence	*820
			About 4,000 feet downstream of Kansas Turnpike	*829
			At confluence of Oakley Creek	*845
			At Douglas and Shawnee county boundary	*862
		Wakarusa River	Mouth at Kansas River	*805
			At Atchison, Topeka and Santa Fe Railway	*807
			Just upstream of Township Road 5	*818
			Just upstream of Haskell Avenue	*825
			At U.S. Highway 59	*829
			About 2,000 feet upstream of confluence of Washington Creek	*834
		Little Wakarusa Creek	At mouth	*810
			About 0.8 mile upstream of Township Road 359	*810
			About 2.4 miles upstream of Township Road 359	*817

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Coon Creek	Mouth at Kansas River	*850
			About 100 feet upstream of County Road 432	*858
			About 1,200 feet upstream of confluence of Coon Creek Tributary	*861
			About 7,000 feet upstream of confluence of Coon Creek Tributary	*900
			About 3.1 miles upstream of confluence of Coon Creek Tributary	*941
		Baldwin Creek	At mouth at Kansas River	*835
			About 2100 feet upstream of County Road 1041	*836
			About 100 feet downstream of County Road 438	*839
			Just upstream of County Road 438	*842
			About 100 feet upstream of Township Road 364	*850
			Just upstream of Township Road 82	*869
			About 5725 feet upstream of confluence of Baldwin Creek Tributary	*885
			About 2.2 miles upstream of confluence of Badiwin Creek Tributary	*921
		Baldwin Creek Tributary	At confluence with Baldwin Creek	*870
			About 900 feet upstream of confluence with Baldwin Creek	*871
			About 3400 feet upstream of confluence with Baldwin Creek	*887
			About 7300 feet upstream of confluence with Baldwin Creek	*930
		Quail Creek	Mouth at Yankee Tank	*832
			About 2600 feet upstream of mouth	*836
		Coal Creek	At mouth	*819
			About 575 feet upstream of County Road 458	*824
			About 150 feet downstream of County Road 460	*859
			Just upstream of County Road 460	*862
			About 1600 feet upstream of County Road 460	*863
			Just upstream of Township Road 56	*880
			Just downstream of Township Road 43	*905
		Vinland Creek	Confluence with Coal Creek	*833
			Just upstream of Township Road 97	*846
			At confluence of West Fork Vinland Creek and East Fork Vinland Creek.	*854
		East Fork Vinland Creek	Just downstream of County Road 1055	*859
			Just upstream of County Road 1055	*862
			About 4000 feet upstream of County Road 1055	*882
		West Fork Vinland Creek	Just downstream of County Road 1055	*858
			About 75 feet upstream of County Road 1055	*865
			About 1100 feet downstream of Township Road 3	*875
			About 1050 feet upstream of Township Road 3	*894
		Pleasant Grove West	At mouth at Pleasant Valley Tributary	*829
			About 0.6 mile upstream of Township Road 12-A	*839
			About 25 feet downstream of County Road 458	*851
			Just downstream of Township Road 216	*886
			Just downstream of Township Road 50	*903
			Just upstream of Township Road 50	*908
			About 50 feet downstream of Township Road 51	*920
			About 1800 feet upstream of Township Road 51	*930
		Pleasant Grove East	At mouth at Pleasant Valley Tributary	*829
			About 1050 feet upstream of Township Road 12-A	*835
			About 50 feet upstream of Township Road 1-A	*848
			About 1400 feet upstream of Township Road 1-A	*858
			Just downstream of County Road 458	*880
		Pleasant Valley Tributary	At mouth at Wakarusa River	*829
			About 2850 feet downstream of Township Road 12-A	*831
			Just upstream of Township Road 12-A	*845
			About 950 feet upstream of Township Road 12-A	*846
			About 1550 feet downstream of Township Road 216	*870
			Just downstream of Township Road 216	*884
		Nalsmith Creek	Mouth at Wakarusa River	*828
			At City of Lawrence corporate limits	*828
		Washington Creek	At County Road 458	*834
			About 9300 feet upstream of Township Road 239	*860
			About 800 feet upstream of confluence of Chicken Creek	*869
			About 1200 feet upstream of County Road 1039	*880
			About 100 feet upstream of County Road 1031	*905
		Washington Creek Tributary	Confluence with Washington Creek	*837
			About 650 feet upstream of Township Road 427	*843
			About 3200 feet downstream of Township Road 153	*855
			About 0.5 mile upstream of Township Road 153	*880
		Yankee Tank	Mouth at Wakarusa River	*831
			At confluence of West Branch Yankee Tank and Hidden Valley Tributary.	*833
		Hidden Valley Tributary	At southern corporate limit of City of Lawrence	*833
			Just upstream of Township Road 29-A	*834
			About 100 feet upstream of 23rd Street	*850
			About 3000 feet upstream of 23rd Street	*877
		East Branch Yankee Tank	At confluence with Yankee Tank	*832
			At Township Road 21	*834
			About 1000 feet upstream of Township Road 21	*836
		West Branch Yankee Tank	About 3100 feet upstream of confluence with Yankee Tank	*835
			About 6100 feet upstream of confluence with Yankee Tank	*841
		East Fork Tauy Creek	About 4500 feet downstream of Township Road 225	*978
			Just upstream of Township Road 51-E	*998
			At Baldwin City southern corporate limits	*1,005
			At Baldwin City northern corporate limits	*1,025
			About 3,500 feet downstream of Township Road 302	*1,029
			Just downstream of Township Road 302	*1,048
			Just upstream of Township Road 302	*1,051
			Just upstream of County Road 1,055	*1,054
			About 1,975 feet upstream of County Road 1,055	*1,069

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		East Fork Tauy Creek Tributary	At confluence with East Fork Tauy Creek	*987
			About 1,300 feet upstream of confluence with East Fork Tauy Creek	*988
			At Baldwin City southern corporate limit	*994
		Kanwaka Tributary	About 7,400 feet upstream of mouth at Clinton Lake	*923
			About 8,750 feet upstream of mouth at Clinton Lake	*950
			About 11,125 feet upstream of mouth at Clinton Lake	*975
			About 13,360 feet upstream of mouth at Clinton Lake	*1,004
		Deerfield Tributary	At Kasold Road	*859
			At confluence of West Fork Deerfield Tributary	*860
			About 200 feet downstream of Peterson Road	*874
			At Peterson Road	*878
		Atchison, Topeka and Santa Fe Tributary.	At mouth	*817
			Just downstream of Atchison, Topeka and Santa Fe Railway	*819
			Just upstream pf Atchison, Topeka and Santa Fe Railway	*826
			At City of Lawrence corporate limit	*826
		Maple Grove Drainage	At northeastern county boundary	*814
			Just upstream of Union Pacific Railroad	*817
			About 100 feet upstream of second crossing of Kansas Turnpike, north of Ninth Street.	*819
			About 160 feet upstream of Township Road 88 (Fifth Street)	*822
			About 650 feet upstream of Kansas Turnpike East Lawrence Interchange.	*823
		Maple Grove Drainage West Fork..	About 800 feet downstream of U.S. Highway 59	*823
			At Township Road 23	*826
		Maple Grove Drainage East Fork	About 950 feet downstream of U.S. Highway 24–40	*823
			About 50 feet upstream of Township Road 88	*824
		Eudora East Tributary	At mouth	*805
			Just upstream of Atchison, Topeka and Santa Fe Railway	*807
			About 80 feet downstream of Township Road 86	*810
			Just upstream Township Road 86	*820
			Just downstream of Old State Highway 10	*820
			About 75 feet upstream of Old State Highway 10	*837
			About 1,000 feet upstream of southeastern corporate limit of the City of Eudora.	*840
			About 3,800 feet upstream of southeastern corporate limit of the City of Eudora.	*864
Maps available for inspection at the Douglas County Courthouse, Zoning Administrator's Office, Lawrence, Kansas 66044.				
Kansas	(C), Lawrence, Douglas County (Docket No. FEMA-5828).	Kansas River	Downstream corporate limits	*820
			Just upstream of Second Street	*826
			Just downstream of Kansas Turnpike	*831
			Upstream corporate limits	*837
		Wakarusa River	Just upstream of Haskell Avenue	*825
			Just upstream of Louisiana Street	*829
			Just upstream of U.S. Highway 59	*830
			About 1.2 miles upstream of confluence of Yankee Tank Creek	*833
		Hidden Valley Tributary	Downstream corporate limits	*833
			Just downstream of limits at County Road	*834
			Just upstream of 23rd Street	*849
			About 3,000 feet upstream of 23rd Street	*877
		Quail Creek	Downstream corporate limits	*833
			Just upstream of Brush Creek Drive	*840
			Just upstream of 23rd Street	*849
			Just upstream of Quail Creek Drive	*871
			Just upstream of Alvamar Golf Course Bridge	*878
			About 1,250 feet upstream of Alvamar Golf Course Bridge	*886
		East Branch Yankee Tank Creek..	Downstream corporate limits at Kasold Drive	*834
			About 3,350 feet upstream of Kasold Drive	*845
			Just upstream of 23rd Street	*851
			About 3,500 feet upstream of 23rd Street	*870
			Just upstream of 15th Street	*886
		KLWN Tributary	Downstream corporate limits	*831
			About 900 feet downstream of 31st Street	*835
			Just upstream of 31st Street	*843
			About 2,300 feet upstream of 31st Street	*863
		Naismith Creek	Downstream corporate limits	*828
			Just upstream of 27th Street	*836
			Just downstream of 23rd Street	*849
			About 240 feet upstream of 23rd Street	*855
			About 50 feet upstream of 21st Street	*864
		Belle Haven Tributary	Downstream corporate limits	*829
			Just upstream of 29th Terrace	*829
			Just upstream of 27th Terrace	*836
			About 400 feet upstream of 27th Terrace	*838
		Broken Arrow Tributary	About 2,900 feet downstream of 27th Street	*827
			Just upstream of 27th Street	*838
			About 1,350 feet upstream of 27th Street	*846
		Haskell Tributary	Downstream corporate limits	*826
			About 2,000 feet upstream of corporate limits	*828
			About 2,950 feet upstream of corporate limits	*838
		ATSF Tributary	Downstream corporate limits	*826
			Just upstream of Haskell Avenue	*827
			Just upstream of 15th Street	*834
			About 600 feet upstream of Learnard Avenue	*861
		Deerfield Tributary	Downstream corporate limits at Peterson Road	*876
			Just upstream of Princeton Boulevard	*882

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 250 feet upstream of Princeton Boulevard	*886
		Country Club-Hope Plaza Tributary.	Mouth at Kansas River	*830
			About 1.0 mile upstream of mouth at Kansas River	*834
		Maple Grove Drainage	About 350 feet downstream of 9th Street	*819
			Just upstream of Kansas Turnpike	*822
			2,600 feet upstream of Kansas Turnpike	*823
		Brook Street Tributary	At confluence with ATSF Tributary	*827
			Just upstream of 13th Street	*830
			Just upstream of Brook Street	*833
			Just upstream of 15th Street	*841
			About 940 feet upstream of 15th Street	*845
	Maps available for inspection at City Hall, Planning Department, 910 Massachusetts Street, Lawrence, Kansas 66044.			
Kansas	(C), Perry, Jefferson County (Docket No. FEMA-5825).	Delaware River	Within corporate limits	*850
		Kansas River	Just southeast of Cedar Street and Union Pacific Railroad	*849
			Just south of Union Pacific Railroad, about 1300 feet east of Delaware River.	*850
	Maps available for inspection at City Hall, Perry, Kansas 66073.			
Kentucky	City of Stamping Ground, Scott County (FEMA-5825).	Locust Fork	Just upstream of Main Street	*761
	Maps available for inspection at City Hall, Stamping Ground, Kentucky 40379.			
Louisiana	Town of Cheneyville, Rapides Parish (FEMA-5818).	Shallow Flooding	Southwest of Intersection of U.S. Highway 71 and State Highway 181.	*62
	Maps available for inspection at City Hall, Highway 71 and Klock Street, Cheneyville, Louisiana 71325.			
Louisiana	City of LeCompte, Rapides Parish (FEMA-5818).	Weems Canal	Just upstream of U.S. Highway 71 Northbound	*70
			Just upstream of St. Charles Street	*71
			Just upstream of Chicago Rock Island & Pacific Railroad	*73
	Maps available for inspection at City Hall, 1302 Weems Street, LeCompte, Louisiana 71346.			
Louisiana	Village of Mermentau, Acadia Parish (FEMA-5828).	Mermentau River	Just downstream of U.S. Highway 90	*14
		Unnamed Tributary to Mermentau River (Backwater from Mermentau River).	Just upstream of 13th Street	*14
	Maps available for inspection at Mermentau Post Office, First Street, P.O. Box 213, Mermentau, Louisiana 70556.			
Louisiana	City of Rayne, Acadia Parish (FEMA-5828).	Bella Avenue Canal (Shallow Flooding).	Just upstream of Jefferson Davis Avenue	*30
			Just upstream of Southern Pacific Railroad	*30
	Maps available for inspection at City Hall, 301 East Louisiana Avenue, P.O. Box 69, Rayne, Louisiana 70578.			
Louisiana	Town of Walker, Livingston Parish, (FEMA-5828).	Dumplin Creek	Just upstream of Aydell Street	*42
			Just upstream of Brannon Street	*47
			Approximately 500 feet upstream of Field Road	*49
		Dumplin Creek Tributary	Just upstream of Travis Street	*45
			Just upstream of East Railroad Avenue	*47
			Just downstream of Northern Corporate Limits	*49
		Middle Colyell Creek	Just upstream of U.S. Highway 190	*46
			Approximately 950 feet upstream of Old Corbin Road	*48
		Middle Colyell Tributary (Backwater from West Colyell Creek).	Just upstream of Interstate Highway 12	*36
			Approximately 500 feet upstream of Pleasant Ridge Drive	*38
		West Colyell Creek	Approximately 200 feet upstream of Interstate Highway 12	*36
			Approximately 200 feet upstream of U.S. Highway 190	*43
			Approximately 200 feet downstream of Illinois Central Gulf Railroad	*45
		West Colyell Tributary	Just upstream of Oak Drive	*39
			Just downstream of U.S. Highway 190	*45
	Maps available for inspection at Town Hall, Highway 190, Walker, Louisiana 70785.			
Maryland	Baltimore County (Docket No. FEMA-5768).	Beaverdam Run	Confluence with Loch Raven Reservoir	*257
			Beaver Run Lane (Upstream)	*258
			York Road (Upstream)	*259
			Beaver Dam Road (Upstream)	*269
		Roland Run	L'Hirondelle Club Road (Upstream)	*235
			Circle Road (Upstream)	*238
			Ruxton Road (Upstream)	*241
			Roland Run Avenue (Upstream)	*247
			Joppa Road (Upstream)	*257
			Thornton Ridge Road (Upstream)	*265
			Essex Farm Road (110' Downstream)	*267
			Essex Farm Road (80' Upstream)	*273
			Conrail (Downstream)	*283
			Conrail (Upstream)	*289
			Interstate Route 695 (Downstream)	*292
			Interstate Route 695 (Upstream)	*296
			Conrail (Upstream)	*303
		Tributary of Roland Run	Confluence with Roland Run	*303
			Seminary Drive (Upstream)	*309
			Morris Avenue (Upstream)	*316
			Conrail (Upstream)	*362

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Conrail Spur (Upstream)	*378
		Dead Run	County Boundary	*287
			Old Ingleside Avenue (Upstream)	*299
			Colonial Road (Upstream)	*318
			Little Creek Drive (125' Upstream)	*331
			Gwynn Oak Avenue (175' Upstream)	*337
			Woodlawn Drive (Upstream)	*348
			Whitestone Road (175' Upstream)	*361
			Interstate Route 695 (Downstream)	*362
			Belmont Avenue (Upstream)	*370
			Gordon Avenue (Upstream)	*374
			Lord Baltimore Road (Upstream)	*388
			Confluence with Dead Run	*377
		Tributary of Dead Run	1,975' upstream of confluence with Dead Run	*417
		Gwynns Falls	County Boundary	*286
			Gwynn Oak Avenue (Upstream)	*306
			Gwynn Oak Park Bridge Ruins (Upstream)	*309
			Liberty Road (Downstream)	*360
			Liberty Road (Upstream)	*368
			Essex Road (Upstream)	*378
			Buckingham Road (Upstream)	*381
			Burley Lane (Upstream)	*383
			Milford Mill Road (Upstream)	*392
			Old Court Road (Upstream)	*404
			Interstate Route 695 (Upstream)	*408
			Mt. Wilson Road (Upstream)	*416
			McDonogh Road (Upstream)	*428
			Painters Mill Road (150' Upstream)	*455
			South Dolfield Road (Upstream)	*463
			U.S. Highway 140 (Upstream)	*477
			Bonita Avenue (Upstream)	*516
			Gwynnbrook Avenue (Upstream)	*543
			Kendigs Mill Road (Upstream)	*563
			Timber Grove Road (Upstream)	*584
		Herbert Run	Harbor Tunnel Thruway (Upstream)	*18
			Chessie System (Downstream)	*27
			Chessie System (Upstream)	*44
			Washington Boulevard (Upstream)	*46
		East Branch Herbert Run	Confluence with Herbert Run	*46
			Tomday Boulevard (Upstream)	*50
			Interstate Route 25 (Upstream)	*55
			Sulphur Spring Road (Upstream)	*69
			Stephens Avenue Footbridge (Upstream)	*75
			Linden Avenue (Upstream)	*78
			Circle Drive (Upstream)	*90
			Leeds Avenue (Upstream)	*92
			Ten Oaks Road (Upstream)	*100
			Leeds Terrace (Upstream)	*101
			Maiden Choice Lane (Upstream)	*104
			Elm Ridge Avenue (Upstream)	*115
			Hooper Avenue (Upstream)	*127
			Ridge Avenue (Upstream)	*132
			Wilkens Avenue,	*156
		West Branch Herbert Run	Confluence with Herbert Run	*46
			Francis Avenue (Upstream)	*51
			Interstate Route 95 (200' Upstream)	*64
			Elm Road (Upstream)	*64
			Kime Road Footbridge (Upstream)	*71
			Sulphur Spring Road (Upstream)	*84
			Shelbourne Road (75' Upstream)	*111
			Poplar Avenue (Upstream)	*122
		Redhouse Creek	Confluence with Back River	*9
			Chessie System (Downstream)	*14
			Chessie System (Upstream)	*37
			Weyburn Road (100' Upstream)	*44
			Interstate Route 95 (150' Upstream)	*55
			Hazelwood Avenue (Upstream)	*60
		Stemmers Run	Confluence with Back River	*9
			Interstate Route 695—Interchange 36 Ramps (Upstream)	*17
			Conrail (Upstream)	*20
			Chessie System (Upstream)	*26
			Golden Ring Mall Road (Upstream)	*31
			State Route 7 (175' Upstream)	*34
			Interstate Route 695—Interchange 33 Ramps (Downstream)	*49
			Interstate Route 695—Interchange 33 Ramps (Upstream)	*74
		Tributary of Stemmers Run	Confluence with Stemmers Run Interstate Route 695	*68
			Interchange 33 Ramps (Upstream)	*69
			Rossville Boulevard (Upstream)	*102
			1,600' upstream of Rossville Boulevard	*178
		Whitemarsh Run	Confluence with Bird River	*10
			Cowenton Avenue (Upstream)	*14
			U.S. Highway 40 (Upstream)	*38
			Conrail (Downstream)	*40
			Conrail (Upstream)	*52
			State Route 7 (Upstream)	*54
			Interstate Route 95 (Upstream)	*63
			Private Road 4,000' downstream of U.S. Highway 1 (Upstream)	*116
			U.S. Highway 1 (100' Downstream)	*143

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			U.S. Highway 1 (Upstream)	*156
			Grove road (bridge destroyed)	*224
			Avondale Road (Upstream)	*258
			Interstate Route 695 (Downstream)	*278
		Honeygo Run	Confluence with Whitemarsh Road	*14
			U.S. Highway 40 (Upstream)	*16
			Conrail (Downstream)	*18
			Conrail (Upstream)	*28
			State Route 7 (Upstream)	*32
			Interstate Route 95 (Downstream)	*46
			Interstate Route 95 (Upstream)	*51
			Joppa Road (Downstream)	*151
			Joppa Road (Upstream)	*159
			Cross Road (Upstream)	*173
			Chapel Road (Upstream)	*188
Maps available at the Baltimore County Office Building in the Planning Department.				
Michigan	(Chtr Twp.), Delta, Eaton County (Docket No. FEMA-5828).	Grand River	At the western corporate limit	*803
			At the eastern corporate Limit (north of Saginaw Highway)	*817
			At the eastern corporate limit (south of Saginaw Highway)	*838
			At the southern corporate limit	*840
		Miller Creek	At the mouth at Grand River	*808
			Just downstream of Philwood Drive	*824
			Just upstream of West Saginaw Highway	*835
			Just downstream of Saint Joe Highway	*844
		Moon and Hamilton County Drain.	At the mouth at Grand River	*812
			About 3100 feet upstream of Willow Street	*819
			Just upstream of Saint Joe Highway	*838
			Just upstream of Mount Hope Highway	*855
			Just upstream of Interstate 96 (about 1300 feet downstream of Millet Highway).	*868
			About 3800 feet upstream of Millet Highway	*872
		Proposed Branch 2	At the confluence with Moon and Hamilton Drain	*841
			Just upstream of Mount Hope Highway	*860
			Just downstream of Millet Highway	*864
Maps available for inspection at the Delta Township Hall—Planning Department, 7710 W Saginaw Street, Lansing, Michigan 48917.				
Michigan	(C), Lansing, Ingham, Clinton, and Eaton Counties (Docket No. FEMA-5835).	Grand River	Just upstream of Waverly Road (at downstream corporate limits)	*818
			Just upstream of East Michigan Avenue	*830
			Just upstream Moores Park Dam	*835
			Upstream corporate limits	*839
		Red Cedar River	Mouth at Grand River	*832
			Just upstream Aurelius Road	*836
			Upstream corporate limits	*837
		Sycamore Creek	Mouth at Red Cedar River	*836
			Just upstream Cavanaugh Road	*836
			Just downstream Jolly Road	*838
			Just upstream Interstate 96	*841
		Mud Lake Drain	Mouth at Sycamore Creek	*837
			Just upstream of Enterprise Drive	*850
			Just downstream of Willoughby Road (at upstream corporate limits)	*865
Maps available for inspection at the Planning Department, City of Lansing, City Hall, 124 W. Michigan Avenue, Lansing, Michigan 48933.				
Michigan	(Twp.), Plymouth, Wayne County (Docket No. FEMA-5828).	Tonquish Creek	Just upstream of Joy Road	*693
			Just downstream of Ann Arbor Road	*698
			Just upstream of Sheldon Road	*737
			Just upstream of Beacon Hill Drive	*766
			About 50 feet upstream of North Territorial Road	*775
		South Branch Tonquish Creek	Just upstream of Sheldon Road	*717
			Just upstream of Jo Ann Lane	*723
			Just upstream of Canton Center Road	*739
			About 40 feet upstream of Ann Arbor Trail	*761
		Johnson Drain	Just upstream of Five Mile Road	*835
			Upstream corporate limits	*844
Maps available for inspection at Township Hall, 42350 Ann Arbor, Plymouth, Michigan 48170.				
Minnesota	(C), Barnesville, Clay County (Docket No. FEMA-5835).	Whiskey Creek	At downstream corporate limit	*988
			About 100 feet upstream of 5th Street Northwest	*996
			About 100 feet downstream of Burlington Northern Railroad	*997
			Just upstream of Burlington Northern Railroad	*1,003
			About 100 feet downstream of Front Street North	*1,005
			Just upstream of Front Street North	*1,011
			Just downstream of Barnesville Lake Dam	*1,018
			Just upstream of Barnesville Lake Dam	*1,025
		Unnamed Creek	At downstream corporate limit	*992
			About 100 feet downstream of Oxidation Pond Driveway	*997
			Just upstream of Oxidation Pond Driveway	*1,002
			About 2100 feet downstream of Third Street Southwest	*1,003
			About 1100 feet downstream of Third Street Southwest	*1,014
			Just upstream of Burlington Northern Railroad	*1,023
			At upstream corporate limit	*1,030
Maps available for inspection at City Hall, P.O. Box 295, Barnesville, Minnesota 56514.				
Minnesota	(C), Fridley, Anoka County (Docket No. FEMA-5828).	Mississippi River	At the downstream corporate limit	*813
			At the upstream corporate limit	*824

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Rice Creek	Mouth at Mississippi River	*820
			Just downstream of East River Road	*820
			Just upstream of Locke Lake Dam and service road	*825
			Just downstream of Burlington Northern Railroad	*825
			About 170 feet upstream of Burlington Northern Railroad	*828
			About 80 feet downstream of University Avenue	*828
			About 80 feet upstream of University Avenue	*833
			About 4600 feet upstream of University Avenue	*835
	Maps available for inspection at City Hall, 6431 University Avenue, Fridley, Minnesota 55432.			
Minnesota	(C); Glyndon, Clay County (Docket No. FEMA-5828).	Unnamed Creek	Just upstream of U.S. Highway 10	*916
			Just downstream of County Highway 72	*921
	Maps available for inspection at City Hall, Glyndon, Minnesota 56547.			
Minnesota	(C); Mabel, Fillmore County (Docket No. FEMA-5835).	Riceford Creek	About 950 feet downstream of State Highway 44	*1,107
			About 60 feet downstream of State Highway 44	*1,109
			About 120 feet upstream of State Highway 44	*1,110
			About 80 feet upstream of East Prairie Avenue	*1,113
			About 500 feet downstream of County Road 28	*1,115
			Just upstream of County Road 28	*1,116
			About 60 feet upstream of County Road 28	*1,118
			About 290 feet upstream of County Road 28	*1,119
			About 150 feet downstream of western corporate limit	*1,122
			About 60 feet upstream of western corporate limit	*1,123
	Maps available for inspection at City Hall, P.O. Box 425, Mabel, Minnesota 55954.			
Minnesota	(C); Pine Island, Goodhue County (Docket No. FEMA-5799).	Middle Fork Zumbro River	Eastern corporate limit	*993
			Just downstream from Douglas Trail	*994
			Just upstream from Douglas Trail	*995
			Just downstream from 8th Street	*997
		North Branch Middle Fork Zumbro River.	At confluence with Middle Fork Zumbro River	*994
			Just upstream from Douglas Trail	*995
			Just upstream from First Avenue	*997
			Just upstream from Main Street	*998
			Approximately 200 feet upstream from Main Street	*1,000
			Just downstream from Township Road	*1,004
	Maps available at City Hall, P.O. Box 1000, Pine Island, Minnesota 59963.			
Minnesota	(C); Proctor, St. Louis County (Docket No. FEMA-5835).	Little Elk River	Just downstream Boundary Avenue at corporate limits	*1,190
			Just upstream of pedestrian walkway located upstream of Boundary Avenue.	*1,213
			About 30 feet upstream of pedestrian walkway located downstream of 1st Street East.	*1,221
			Downstream of 1st Street	*1,227
			Just downstream of first crossing of Duluth-Missabe and Iron Range Railway.	*1,229
			Just upstream of second crossing of Duluth-Missabe and Iron Range Railway.	*1,231
			Just downstream of 2nd Street	*1,231
			Just upstream of 2nd Street	*1,235
			About 1200 feet downstream of Ugstad Road	*1,236
			About 70 feet downstream of Ugstad Road	*1,242
		Knowlton Creek	At eastern corporate limit	*1,055
			About 450 feet upstream of eastern corporate limit	*1,090
			About 1100 feet upstream of eastern corporate limit	*1,130
			About 130 feet downstream of Skyline Parkway	*1,137
			About 100 feet upstream of Skyline Parkway	*1,164
			Just upstream of Interstate 35	*1,171
			About 1020 feet upstream of Interstate 35	*1,187
			About 3190 feet upstream of Interstate 35	*1,200
			Just upstream of private drive	*1,224
			About 200 feet downstream of Frontage Drive	*1,229
			About 50 feet downstream Frontage Drive	*1,236
			Just upstream of Frontage Drive	*1,243
			At corporate limits on Ugstad Road	*1,243
			About 50 feet upstream of Ugstad Road	*1,244
	Maps available for inspection at the Office of the City Clerk, City Hall, 200 Second Street, Proctor, Minnesota 55810.			
Minnesota	(C); Randall, Morrison County (Docket No. FEMA-5828).	Downstream corporate limits	Downstream corporate limits	*1,165
			Just downstream of Minnesota Avenue	*1,168
			Just upstream of State Highway 115	*1,174
			Just upstream of Third Street	*1,175
			Just upstream of Route 6	*1,177
			Northern corporate limits	*1,178
		South Branch Little Elk River	Downstream of Burlington Northern Railroad	*1,170
			Approximately 100 feet downstream of U.S. Highway 10	*1,171
			Just downstream of State Route 6 at the western corporate limits	*1,174
	Maps available for inspection at City Hall, Main Street, Randall, Minnesota 56475.			
Minnesota	(C); St. Francis, Anoka County (Docket No. FEMA-5828).	Rum River	About 2,000 feet upstream of downstream corporate limits	*891
			At upstream corporate limits	*906
		Seelye Brook	About 700 feet upstream of downstream corporate limits	*891
			About 700 feet downstream of Bridgestone Road	*895
			About 800 feet upstream of Bridgestone Road	*899
			At upstream corporate limits	*905

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		East Seelye Brook	At confluence with Seelye Brook	*894
			Just upstream Ambassador Boulevard N.W.	*899
			Just upstream private drive	*902
	Maps available for inspection at the Office of the Planning Director, City Hall, St. Francis, Minnesota 55070.			
Minnesota	(C), Whalan, Fillmore County (Docket No. FEMA-5835).	Root River	Downstream corporate limit	*786
			About 200 feet downstream of the confluence with Gribben Creek	*787
			Just upstream of Main Street	*792
			Upsteam corporate limit	*793
	Maps available for inspection at City Hall, P.O. Box 46, Whalan, Minnesota 55986.			
Missouri	Festus City, Jefferson County (Docket No. FEMA-5780).	South Tributary	Missouri Pacific Railroad	*413
			South Mill Street	*414
		North Tributary	Brierton Lane	*413
			Main Street (Upstream)	*414
			Jefferson Avenue	*432
			Central Avenue	*450
			Interstate Route 55 (Upstream)	*455
			Horine Road (Upstream)	*458
	Maps available at the City Hall, 222B Mill Street, Festus, Missouri.			
Nebraska	(V), Bennet, Lancaster County (Docket No. FEMA-5835).	Little Nemaha River	About 4,400 feet downstream of State Highway 43	*1,230
			Just downstream of State Highway 43	*1,239
			About 80 feet upstream of State Highway 43	*1,240
			About 1600 feet upstream of State Highway 43	*1,245
			About 3200 feet upstream of State Highway 43	*1,247
		Unnamed Tributary To Little Nemaha River.	At confluence with Little Nemaha River	*1,235
			About 1280 feet downstream of State Highway 43	*1,236
			About 60 feet downstream of State Highway 43	*1,240
			Just upstream of State Highway 43	*1,243
			Just downstream of Garden Street	*1,252
			About 1460 feet upstream of Garden Street	*1,257
	Maps available for inspection at the City Clerk's Residence, Bennet, Nebraska 68508.			
New Jersey	Hillsborough, Township, Somerset County (Docket No. FEMA-5813).	Raritan River	Downstream Corporate Limits	*46
			U.S. Highway 206	*48
			Raritan Dam	*52
			Beekman Lane (Extended)	*57
			Confluence with North and South Branch Raritan River	*62
		South Branch Raritan River	Confluence with Raritan River	*62
			River Road (Downstream crossing)	*69
			River Road (Upstream crossing)	*73
			Elm Street	*77
			Confluence of Neshanic River	*82
			Woodfern Road	*86
			Upstream Higginsville Road	*93
			Upstream Corporate Limits	*97
		Neshanic River	Confluence with South Branch Raritan River	*82
			Amwell Road	*87
			Upstream Montgomery Road	*92
			Private Road Bridge	*97
			Upstream Corporate Limits	*104
		Millstone River	Corporate Limits (with Borough of Manville)	*42
			Downstream Corporate Limits (with Borough of Millstone)	*43
			Upstream Corporate Limits (with Borough of Millstone)	*45
			Blackwell Mills Causeway	*46
			Corporate Limits (with Township of Montgomery)	*47
			Township Line Road (Extended)	
		Pike Run	Township Line Road	*72
			Downstream U.S. Highway 206	*81
			Upsteam U.S. Highway 206	*83
			Confuence of Pike Run Tributary	*86
			Pleasant View Road	*91
		Pike Run Tributary	Confluence with Pike Run	*86
			Upstream Pleasant View Road	*92
			3,100' upstream Pleasant View Road	*97
		Royce Brook	Downstream Corporate Limits	*42
			Confluence of Royce Brook Tributary C	*43
			Upstream Sunnymeade Road	*45
			Upstream Falcon Road	*47
			Confluence of Royce Brook Tributary B	*51
			Hamilton Road	*55
			Upstream Amwell Road	*59
			Upstream Conrail Bridge (Upstream crossing)	*64
			Confluence of Royce Brook Tributary A	*72
			Upstream Homestead Road	*78
			Pleasant View Road	*86
		Royce Brook Tributary A	Confluence with Royce Brook	*72
			Amwell Road	*75
			Auten Road	*86
			Aquarius Court	*98
			Beekman Lane	*101
		Royce Brook Tributary C	Confluence with Royce Brook	*51
			Upstream Private Bridge	*53
			Upstream U. S. Highway 206	*59
			Upstream Andria Drive	*61

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Triangle Road	*76
		Royce Brook Tributary B	Confluence with Royce Brook	*43
			Dam	*51
			Upstream U.S. Highway 26	*56
			Valley Road	*62
			Upstream Roycefield Road	*65
			Conrail	*69
	Maps available at the City Clerk's Office, Amwell Road, Neshanic, New Jersey 08853.			
New Jersey	Mount Laurel (Township), Burlington County REMA-5828.	South Branch Pennsauken Creek	100 feet upstream from center of New Jersey Turnpike	*45
		North Branch Pennsauken Creek	100 feet upstream from center of Interstate 295	*22
			100 feet upstream from center of Church Street	*28
			100 feet upstream from center of Union Mills Road	*36
		Evesboro Tributary	100 feet upstream from center of Church Street	*29
			100 feet upstream from center of Academy Drive	*62
		Ramblewood Tributary	Intersection of tributary and center of golf course bridge	*25
		Strawbridge Lake Tributary	100 feet upstream from center of Hooten Road	*27
		Hooten Road Tributary	100 feet upstream from center of Hooten Road	*26
		Parkers Creek	Intersection of creek and center of Creek Road	*11
			100 feet upstream from center of New Jersey Turnpike	*14
			100 feet upstream from center of New Jersey Highway 38	*19
			Intersection of creek and center of Union Mills Road	*19
		Hartford Road Tributary	At upstream opening of culvert under Larchmont Boulevard	*38
		Delaware River	Intersection of Rancocas Creek and center of New Jersey Turnpike	*11
			At confluence of Masons Creek with South Branch Rancocas Creek	*11
		Masons Creek	Intersection of Creek and New Jersey Highway 38	*12
	Maps available for inspection at 100 North Mount Laurel Road, Mount Laurel, New Jersey.			
New Mexico	City of Santa Rosa, Cuadalupe County (FEMA-5824.	Pecos River	Just upstream of Parker Avenue (HWY 66 and 84)	*4,556
			Just upstream of Southern Avenue Railroad Crossing	*4,557
		El Rito Creek	Just downstream of La Aradira	*4,575
			Just upstream of Will Rodgers Drive	*4,582
	Maps available for inspection at City Hall, 141 South 5th Street, Santa Rosa, New Mexico 84435.			
New York	Auburn, City, Cayuga County (Docket No. FI-3453).	Hunter Brook	Corporate Limits (Downstream)	*648
			Approximately 100' upstream of Conrail	*656
			Footbridge (Upstream)	*662
			McIntosh Drive (Downstream)	*667
			McIntosh Drive (Upstream)	*672
			Schwartz Road (Upstream)	*674
			Approximately 130' upstream of Grant Avenue	*682
			Franklin Street (Downstream)	*711
			Franklin Street (Upstream)	*720
			Approximately 500' upstream of North Herman Avenue	*722
			Marvin Avenue (Downstream)	*728
			Marvin Avenue (Upstream)	*733
			Driveway (Downstream)	*760
			Corporate Limits (Upstream)	*762
		Hunter Brook Tributary No. 1	Corporate Limits (Downstream)	*667
			Approximately 910' upstream of Downstream Corporate Limits	*677
			Grant Avenue (Downstream)	*695
			Approximately 140' upstream of Grant Avenue	*705
			Prospect Street (Downstream)	*719
			Prospect Street (Upstream)	*724
			Corporate Limits (Upstream)	*760
		Hunter Brook Tributary No. 2	Confluence w/Hunter Brook	*720
			Approximately 1,150' upstream of confluence w/Hunter Brook	*724
		Cold Springs Brook	Corporate Limits (Downstream)	*557
			York Street (Upstream)	*569
			Old Railroad Grade (Downstream)	*573
			Old Railroad Grade (Upstream)	*588
			Approximately 1,025' upstream of Old Railroad Grade	*590
		Owasco Outlet	Canoga Street	*559
			Aurelius Street	*585
			Division Street	*626
			Washington Street	*649
			State Street	*661
			Route 5 & 20 Arterial	*666
			North Street	*667
			Lake Avenue	*690
			State Dam (Downstream)	*704
			State Dam (Upstream)	*716
	Maps available at the City Clerk's office, 24 South Street, Memorial City Hall, Auburn, New York.			
Oklahoma	Town of Glenpool, Tulsa County (FEMA-5828).	Coal Creek	Just upstream of 126th Street	*654
			Just upstream of 141st Street	*689
			Just downstream of 151st Street	*705
		Coal Creek Tributary "A"	Approximately 150 feet upstream of 121st Street	*644
			Just downstream of Elwood Avenue	*673
		Coal Creek Tributary "B"	Just upstream of 126th Street	*664
			Approximately 100 feet downstream of South Elwood Avenue	*679
		Posey Creek	Just upstream of South Peoria Avenue	*690
			Just upstream of South 15th Street	*702
	Maps available for inspection at Town Hall, 14522 South Broadway, Glenpool, Oklahoma 74033.			

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Carroll, Township, York County (Docket No. FI-5621).	Yellow Breeches Creek	Downstream Corporate Limits	*414
			U.S. Route 15	*421
			Old U.S. Route 15	*421
			Legislative Route 66026	*425
		Fishers Run	Upstream Corporate Limits	*496
			Confluence with Stony Run	*482
		West Branch of Fishers Run	Confluence with Stony Run	*498
			Upstream side of Ore Bank Road	*525
			Downstream side of Mumper Lane	*555
		Stony Run	Downstream Corporate Limits	*470
			Upstream side of Chestnut Grove Road	*485
			Confluence of West Branch of Fishers Run	*496
			Confluence of Tributary A to Stony Run	*565
			Approximately 1,500 feet upstream of confluence of Tributary A to Stony Run.	*569
		Tributary A to Stony Run	Confluence with Stony Run	*565
			2,250 feet upstream of confluence	*571
		Dogwood Run	Confluence with Yellow Breeches Creek	*425
			Upstream side of southernmost Conrail Track	*436
			Upstream side of Junction Road	*442
			Upstream side of Spring Lane Road	*461
			Upstream side of State Route 74 (Carlisle Road)	*469
			2,000 feet upstream of State Route 74	*484
			Upstream side of Old Mill Road	*522
			Upstream side of Dogwood Lane	*553
			Upstream side of Camp Ground Road	*578
			3,000 feet upstream of Camp Ground Road	*615
			Upstream Corporate Limits	*637
Maps available at the Carroll Township Building, Carroll, Pennsylvania.				
Pennsylvania	Dover, Township, York County (Docket No. FEMA-5785).	Fox Run	Old Fox Run Road	*383
			Cardinal Lane	*372
			Bull Road	*364
		Tributary A to Fox Run	Upstream Corporate Limits	*401
			Park Street Upstream	*389
			Fox Run Road	*384
			Confluence with Fox Run	*383
		Tributary B to Fox Run	Butter Road (Downstream)	*407
			East Canal Road (Upstream)	*389
			Old Fox Run Road (Upstream)	*385
		Tributary C to Fox Run	Mohawk Avenue (Extended) Upstream	*404
			Thunderbird Road (Extended)	*394
			Confluence with Fox Run	*383
		Little Conewago Creek	Confluence with Honey Run	*398
			Carlisle Road	*383
		Honey Run	Taxville Road	*404
			Private Drive approximately 750 feet downstream from Taxville Road (Upstream Side).	*403
			Confluence with Little Conewago Creek	*396
		Conewago Creek	Approximately 975 feet upstream of Orts Mill Dam A	*389
			Orts Mill Dam A (Downstream)	*388
			Approximately 3,500 feet downstream of Orts Mill Dam A	*385
			Harlacher Bridge (Downstream)	*378
			Detters Mill Dam (Downstream)	*371
			Fish and Game Road (Extended) (Downstream)	*361
Maps available at the Dover Township Building, Dover, Pennsylvania.				
Pennsylvania	Lower Southampton, Township, Bucks County (Docket No. FEMA-5798).	Neshaminy Creek	Downstream Corporate Limits	*51
			Dam No. 1 (Upstream)	*54
			Intersection of Riverview Lane w/Summit Avenue (Extended)	*55
Maps available at the Office of the Township Manager, 1500 Desire Avenue, Feasterville, Pennsylvania.				
Pennsylvania	Moreland, Township, Lycoming County (Docket No. FEMA-5824).	Little Muncy Creek	Corporate Limits of Muncy Creek/Moreland Townships	*593
			Upstream of Glen Davis Road Bridge	*597
			Upstream of State Route 442 Bridge	*614
			Laurel Run confluence	*619
			Approximately 7,000' downstream of Legislative Route 41075 Bridge	*629
			Upstream of Legislative Route 41075 Bridge	*642
			German Run confluence	*656
			Approximately 2,000' downstream of East Arch Rider Road Bridge	*669
			Upstream of East Arch Rider Road Bridge	*679
			Approximately 3,000' upstream of East Arch Rider Road Bridge	*691
			Approximately 4,500' upstream of East Arch Rider Road Bridge	*702
			Corporate Limits of Franklin/Moreland Townships	*712
		Laurel Run	Confluence with Little Muncy Creek	*619
			Upstream of Legislative Route 453 Bridge	*623
			Approximately 1,400' upstream of Legislative Route 453 Bridge	*631
			Upstream of Hollywood Road Bridge Downstream Crossing	*644
			Upstream of Hollywood Road Bridge Upstream Crossing	*655
			Approximately 1,200' downstream of Bill Sones Road Bridge	*668
			Upstream of Bill Sones Road Bridge	*678
			Approximately 2,000' upstream of Bill Sones Road Bridge	*696
			Approximately 1,400' downstream of Baylor Road Bridge	*713
			Upstream of Baylor Road Bridge	*723
			Upstream of Houseknecht Road Bridge	*740
			Approximately 1,000' upstream of Houseknecht Road Bridge	*753

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 2,400' upstream of Houseknecht Road Bridge	*769
			Corporate Limits of Franklin/Moreland Townships	*783
		German Run	Confluence with Little Muncy Creek	*656
			1,000' downstream of East Arch Rider Road Bridge	*672
			Upstream of East Arch Rider Road Bridge	*684
			Approximately 400' downstream of Legislative Route 41076 Bridge	*697
			Upstream of Legislative Route 41076 Bridge	*707
		Tributary No. 1	Confluence with German Run	*686
			Upstream of Legislative Route 41076 Bridge	*701
			1,200' upstream of Legislative Route 41076 Bridge	*719
			Approximately 1,900' upstream of Legislative Route 41076 Bridge	*730
	Maps available at the residence of Mr. Snyder, Chairman, R. D. 1, Muncy, Pennsylvania.			
Pennsylvania	Wayne, Township, Mifflin County (Docket No. FEMA-5785).	Juniata River	Corporate Limits (Downstream)	*512
			State Route 103 Extended at Intersection with Private road	*525
			State Route 496 Extended at Intersection with Township Route 302	*533
			Pennsylvania Avenue (Upstream)	*559
			Conrail (Upstream)	*559
			Corporate Limits (Upstream)	*569
	Maps available at the residence of Mr. Cloyd Enyeart, Wayne Township Secretary, Front Street, Newton Hamilton, Pennsylvania.			
Texas	City of Commerce, Hunt County (FEMA-5824).	South Sulfur River Tributary	At the south corporate limits	*499
			Approximately 40 feet upstream of FM Highway 513	*503
	Maps available for inspection at City Hall, 1119 Alamo, Commerce, Texas 75428.			
Vermont	Williston, Town, Chittenden County (Docket No. FEMA-5824).	Winooski River	Downstream Corporate Limits	*220
			Downstream of State Route 2A	*225
			Upstream of State Route 2A	*231
			Upstream of Green Mountain Power Dam	*285
			Upstream of downstream crossing of Central Vermont Railroad	*290
			Upstream of North Williston Road	*295
			Upstream of upstream crossing of Central Vermont Railroad	*299
			Upstream Corporate Limits	*300
	Maps available at the Town Hall, Williston, Vermont.			
Washington	Washougal (City), Clark County (FEMA-5798).	Columbia River	400 Feet south intersection of A Street and 1st Street	*32
		Washougal River	300 feet northwest of intersection of J Street and 4th Street	*31
			500 feet north from intersection of G Street and 24th Street	*49
	Maps available for inspection at City Hall, 1701 C Street, Washougal, Washington.			
Wisconsin	(V), Black Creek, Outagamie County (Docket No. FEMA-5841).	Black Creek	Northwestern corporate limit	*769
			Just upstream of Soo Line Railroad	*770
			Northeastern corporate limit	770
	Maps available for inspection at the Office of the Village Clerk, Village Hall, Black Creek, Wisconsin 54106.			
Wisconsin	(V), Melvina, Monroe County (Docket No. FEMA-5835).	Little La Crosse River	About 600 feet downstream of Coles Valley Road	*871
			At upstream corporate limits	*885
	Maps available for inspection at the Village President's Home, Route #1, Cashton, Wisconsin 54619.			

(National Flood Insurance Act 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 Federal Insurance Administrator)

Issued: September 18, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-32550 Filed 10-21-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below 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 either to 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).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free line (800) 424–9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determination of flood elevation for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection 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). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

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

Final Base (100-Year) Flood Elevation

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
California	Burbank (City), Los Angeles County, FEMA-5765.	Shallow Flooding Areas	Intersection of Lake Street and Chestnut Street	*573
			Area between Riverside Drive and Alameda Avenue and west of Main Street.	#1
			Area north of Alameda Avenue and west of Main Street	#2
			Area along Country Club Drive 650 feet north of Via Montana	#3
	Maps available for inspection at City Hall, 275 East Olive Street, Burbank, California.			
Texas	Bunker Hill Village, City, Harris County (Docket No. FEMA-5737).	Buffalo Bayou	Vanderpool Lane	*72
	Maps available at the Bunker Hill Village City Hall, 11977 Memorial Drive, Houston, Texas.			
Virginia	Danville, City, (Docket No. FI-5190).	Dan River	Downstream Corporate Limits	*401
			Confluence of Fall Creek	*403
			First Southern Railway Bridge	*404
			Second Southern Railway Bridge	*405
			Main Street	*406
			Dam upstream from Union Street (Downstream)	*408
			Dam upstream from Union Street (Upstream)	*414
			Confluence of Sandy Creek	*421
			Confluence of Sandy River	*424
			Dam upstream from Robertson Street (Downstream)	*431
			Dam upstream from Robertson Street (Upstream)	*445
			Upstream Corporate Limit	*451
		Sandy River	Confluence with Dan River	*424
			U.S. Route 58	*425
			Old U.S. Route 58	*427
			Upstream Corporate Limit	*438
		Sandy Creek	Confluence with Dan River	*421
			U.S. Route 58	*427
			Central Boulevard	*430
			Upstream Corporate Limit	*433
		Fall Creek	Confluence with Dan River	*403
			East Thomas Street	*404
			Upstream Corporate Limit	*407
		Rutledge Creek	Confluence with Pumpkin Creek	*431
			Edmonds Street	*438
			Holland Road	*460
			Stokesland Avenue	*466
			Elizabeth Street	*489
			Upstream Corporate Limit	*567
		Jackson Branch	Confluence with Dan River	*401
			Grant Avenue	*446
			Limit of Detailed Study	*447
		Pumpkin Creek	Downstream Corporate Limit	*400
			Oakwood Road	*422
			Old Yanceyville Road	*428
			Upstream Corporate Limit	*431
	Maps available at the Municipal Building, Danville, Virginia.			
Virginia	City of Petersburg (Docket No. FEMA-5726).	Appomattox River	330 feet downstream of Northbound Interstate 95	*16
			Vepco Harvell Dam (upstream side)	*23
			State Route 36 (upstream side)	*28
			Vepco Dam (upstream side)	*38
			Upstream Crossing of Seaboard Coast Line Railroad (upstream side)	*41
		Appomattox River Navigation Channel.	Confluence of Harrison Creek	*12
			U.S. Route 301 (downstream side)	*16
		Blackwater Swamp	Downstream Corporate Limits	*123
			Upstream Route 460 (upstream side)	*126
			Norfolk and Western Railway (upstream side)	*135
			U.S. Route 301 (upstream side)	*143
			Retnag Road (downstream side)	*148
		Blackwater Swamp Tributary	Confluence with Blackwater Swamp	*138
			U.S. Route 301 (downstream side)	*144
		Harrison Creek	Confluence with Appomattox River Navigation Channel	*12
			Upstream Side Access Road (1,505 feet downstream of State Route 645).	*20
			State Route 645 (upstream side)	*30
			Norfolk and Western Railway (upstream side)	*39
			1,790 feet upstream of East Washington Street at Limit of Detailed Study.	*39
		Poor Creek	Confluence with Appomattox River Navigation Channel	*12
			First Downstream Crossing of the Norfolk and Western Railway (upstream side).	
			Upstream side of Dam	*28
			Pin Oak Avenue (upstream side)	*45
			825 feet upstream of Pin Oak Avenue (Limit of Detailed Study)	*45

Final Base (100-Year) Flood Elevation—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Lieutenant Run	Confluence with Appomattox River Navigation Channel	*15
			Upstream Side of Washington Street Culvert	*30
			Graham Road (downstream side)	*52
			Upstream Side of South Sycamore Street Culvert	*76
			Northbound Interstate 85 (upstream side)	*85
			Baylor's Lane (upstream side)	*98
			240 feet upstream of confluence of Tributary 3 (Limit of Detailed Study).	*102
		Brickhouse Run	Confluence with Appomattox River	*20
			West Bank Street (upstream side)	*27
			North Market Street (upstream side)	*43
			West Washington Street (upstream side)	*57
			South Jones Street (upstream side)	*66
			South West Street (upstream side)	*80
			West Fairground Road (upstream side)	*91
			Pleasant Lane (upstream side)	*102
			Elm Street (upstream side)	*108
			2,095 feet upstream of Elm Street	*128
		Rohoic Creek	Confluence with Appomattox River	*51
			Norfolk and Western Railway (upstream side)	*76
			Cox Road (upstream side)	*87
			Seaboard Coast Line Railroad (upstream side)	*98
			Eastbound Interstate 85 (upstream side)	*109
			State Route 142 (upstream side)	*110

Maps available at the Office of the City Manager, Petersburg.

(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 Federal Insurance Administrator, 44 FR 20963)

Issued: October 3, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-32549 Filed 10-21-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5800]

National Flood Insurance Program; Final Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule; correction.

SUMMARY: This document corrects a Notice of Final Determinations of base (100-year) flood elevations for selected locations in the City of Westbrook, Cumberland County, Maine, previously published at 45 FR 51801 on August 5, 1980.

EFFECTIVE DATE: October 22, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (in Alaska and Hawaii call Toll Free Line (800) 424–9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the correction to the Notice of Final Determinations of base (100-year) flood elevations for selected locations in the City of Westbrook, Cumberland County, Maine, previously published at 45 FR 51801 on August 5, 1980, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added 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 67).

Under the Source of Flooding of Presumpscot River, the elevation 35 feet which corresponds to the location described as, "At northern corporate limits," has been changed. The elevation should be 32 feet.

Under the Source of Flooding of Minnow Brook, the location described as "Approximately 2,600 feet upstream of mouth," and its corresponding elevation of 35 feet have been changed. The location should read, "Approximately 2,500 feet upstream of mouth," and the corresponding elevation should be 33 feet.

Under the Source of Flooding of Mill Brook, the elevation 35 feet which corresponds to the location described as, "Mouth at Presumpscot River," and the location described as "Just downstream of Austin Street," has been changed for both. The elevation should be 33 feet.

These changes have been made to reflect revisions made to the Final Flood Insurance Study (profile) and Flood Insurance Rate Map. The listing appears correctly as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maine	(C), Westbrook, Cumberland County.	Presumpscot River	At northern corporate limits	*32
		Minnow Brook	Approximately 2,500 feet upstream of mouth	*33
		Mill Brook	Mouth at Presumpscot River	*33
			Just downstream of Austin Street	*33

(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 Federal Insurance Administrator)

Issued: October 3, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-32547 Filed 10-21-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-5778]

National Flood Insurance Program; Final Flood Elevation Determination

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Deletion of final rule for the Township of Gloucester, Camden County, N.J.

SUMMARY: The Federal Insurance Administration has erroneously published the final flood elevation determination for the Township of Gloucester, Camden County, New Jersey. This notice will serve to delete that publication. Following an engineering analysis and review, a revised notice of proposed flood elevation determination will be issued.

EFFECTIVE DATE: October 22, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Federal Emergency Management Agency, Federal Insurance Administration, National Flood Insurance Program, (202) 426–1460 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free line (800) 424–9080), Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: As a result of a recent engineering analysis, the Federal Insurance Administration has determined that the notice of final flood elevation determination for the Township of Gloucester, Camden County, New Jersey, published at 45 FR 43193, on June 26, 1980, should be deleted. After a technical evaluation, a revised notice of proposed flood elevations will be issued, with a ninety-day period specified for comments and appeals.

(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 Federal Insurance Administrator)

Issued: October 3, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-32548 Filed 10-21-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 351

[Docket FEMA-IAR-351]

Radiological Emergency Response Planning and Preparedness

AGENCY: Federal Emergency Management Agency.

ACTION: Interim regulation and request for comment.

SUMMARY: In accordance with a Presidential Directive, this regulation assigns Federal agency responsibilities for assisting State and local governments in emergency planning and preparedness for peacetime nuclear emergencies. Such emergencies include radiological accidents at fixed nuclear facilities and transportation accidents involving radioactive materials. This regulation establishes the Federal Radiological Preparedness Coordinating Committee which will coordinate these efforts. The Committee will be chaired by the Federal Emergency Management Agency. While public participation procedures are not necessary, FEMA is requesting comment on this rule.

DATES: This rule is effective on October 22, 1980. Written comments on this interim rule should be submitted by December 22, 1980.

ADDRESS: Send comments to: Rules Docket Clerk, Federal Emergency Management Agency, Room 801, 1725 I Street, NW., Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: Marshall E. Sanders, Assistant Director, Policy Planning, Radiological Emergency Preparedness Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 523–1781.

SUPPLEMENTARY INFORMATION: On December 24, 1975, a notice was published in the **Federal Register** by the Federal Preparedness Agency, General Services Administration, entitled, "Radiological Incident Emergency Response Planning; Fixed Facilities and Transportation" (40 FR 59494). The notice outlined Federal agency responsibilities in providing Federal assistance to State and local governments in their radiological emergency response planning activities.

Since December 1975, there have been organizational changes within the Federal executive branch. For example, Reorganization Plan Number 3 of 1978 established the Federal Emergency Management Agency (FEMA) and Executive Orders 12127 and 12148 implemented that plan. The Federal Preparedness Agency, Defense Civil Preparedness Agency, and Federal Disaster Assistance Administration, which were among the agencies that were given assignments under the December 24, 1975, notice are now part of FEMA. In addition, on December 7, 1979, the President directed FEMA to: Assume responsibility for all offsite nuclear emergency planning and response; develop and issue a series of interagency assignments which delineate respective agency capabilities and responsibilities, define procedures for coordination and direction for both emergency planning and response; and review State emergency plans.

Consequently, the December 24, 1975, notice has been overtaken by events and should be replaced with new documents which will: formally establish and describe the functions of the Federal Radiological Preparedness Coordinating Committee (FRPCC), previously known as the Federal Interagency Central Coordinating Committee for Radio-logical Emergency Response Planning and Preparedness; restate the agreed upon responsibilities of the Federal agencies; and carry out the December 7, 1979, directive of the President to FEMA.

This regulation assigns responsibilities to assure useful, coordinated Federal assistance and guidance for State and local government planning and preparedness. FEMA has discussed the assignment of these responsibilities with staff members of the Federal agencies involved and has received their agreement. FEMA has published a proposed rule on procedures and criteria for reviewing and approving State and local government radiological emergency plans and preparedness capabilities (45 FR 42341). Federal agency capabilities, responsibilities, and coordination procedures related to emergency planning and response by Federal agencies will be included in the National Radiological Emergency Preparedness Plan, currently under development by FEMA, pursuant to Section 304 of the Nuclear Regulatory Commission Appropriation Authorization (Pub. L. 96–295) and Executive Order 12241, September 29, 1980.

Because this rule only states the responsibilities of Federal agencies,

notice and public procedure are not required by 5 U.S.C. 553. FEMA is of the view, however, that public comments would be helpful and are, therefore, solicited. To meet requirements of the President's directive of December 7, 1979, without further delay, this rule is effective immediately on an interim basis pending consideration of public comments and its publication in final form.

Interested parties may participate by submitting their views to FEMA in writing. Each comment should include the name and address of the person or organization submitting the comment and should make reference to the above cited docket number. All comments received on or before the date set will be considered in promulgating final regulations on these matters. All written comments received will be docketed and made available for public inspection at FEMA.

Accordingly, the Federal Register notice titled, "Radiological Incident Emergency Response Planning; Fixed Facilities and Transportation" issued by the Federal Preparedness Agency, General Services Administration, and published December 24, 1975 (40 FR 59494), is revoked. In addition, Part 351 "Radiological Emergency Response Planning and Preparedness" is added to Subchapter E, Chapter I of Title 44, Code of Federal Regulations, as follows:

PART 351—RADIOLOGICAL EMERGENCY RESPONSE PLANNING AND PREPAREDNESS

Subpart A—General

Sec.

351.1 Purpose.
351.2 Scope.
351.3 Limitation of scope.

Subpart B—Federal Radiological Preparedness Coordinating Committee and Regional Assistance Committees

351.10 Establishment of committees.
351.11 Functions of committees.

Subpart C—Interagency Assignments

351.20 Federal Emergency Management Agency.
351.21 Nuclear Regulatory Commission.
351.22 Environmental Protection Agency.
351.23 Department of Health and Human Services.
351.24 Department of Energy.
351.25 Department of Transportation.
351.26 Department of Agriculture.
351.27 Department of Defense.
351.28 Department of Commerce.

Authorities: 5 U.S.C. 552; Reorganization Plan No. 3, 1978, 43 FR 41943; Executive Order 12127, March 31, 1979, 44 FR 19367; Executive Order 12148, July 20, 1979, 44 FR 43239; Executive Order 12241, September 29, 1980, 45 FR 64879; President's Directive of December 7, 1979.

Subpart A—General

§ 351.1 Purpose.

This part sets out Federal agency roles and assigns tasks regarding Federal assistance to State and local governments in their radiological emergency planning and preparedness activities. Assignments in this part are applicable to radiological accidents at fixed nuclear facilities and transportation accidents involving radioactive materials.

§ 351.2 Scope.

The emergency planning and preparedness responsibilities covered by this part relate to consequences and activities which extend beyond the boundaries of any fixed nuclear facility with a potential for serious consequences and the immediate area of a transportation accident involving radioactive materials.

§ 351.3 Limitation of scope.

(a) This part covers Federal agency assignments and responsibilities in connection with State and local emergency response plans and preparedness measures. It does not set forth criteria used in the review and approval of these plans and does not include any of the requirements associated with FEMA findings and determinations on the adequacy of State and local government radiological emergency preparedness. FEMA has published a separate proposed rule on procedures and criteria for reviewing and approving these plans and preparedness capabilities (45 FR 42341). Furthermore, this part does not set forth Federal agency responsibilities or capabilities for responding to an accident at a fixed nuclear facility or a transportation accident involving radioactive materials.

(b) Nothing in this part authorizes access to or disclosure of classified information required to be protected in accordance with Federal law or regulation in the interest of national security.

Subpart B—Federal Radiological Preparedness Coordinating Committee

§ 351.10 Establishing of committees.

(a) The Federal Radiological Preparedness Coordinating Committee (FRPCC) consists of the Federal Emergency Management Agency, which chairs the Committee, Nuclear Regulatory Commission, Environmental Protection Agency, Department of Health and Human Services, Department of Energy, Department of Transportation, Department of Defense, Department of Agriculture, Department of Commerce, and, where appropriate and on an ad hoc basis, other Federal departments and agencies. In chairing the Committee, FEMA will be responsible for assuring that all agency assignments described in this rule are coordinated through the Committee and carried out with or on behalf of State and local governments.

(b) The Regional Assistance Committees (RACs), one in each of 10 standard Federal Regions,[1] consist of a FEMA Regional Representative, who chairs the Committee, and representatives from the Nuclear Regulatory Commission, Environmental Protection Agency, Department of Health and Human Services, Department of Energy, Department of Transportation, Department of Defense, Department of Agriculture, Department of Commerce, and, where appropriate, other Federal departments and agencies. The FEMA Chairman of the RACs will provide guidance and orientation to other agency members to assist them in carrying out their functions.

§ 351.11 Functions of committees.

(a) The FRPCC shall assist FEMA in providing policy direction for the program of Federal assistance to State and local governments in their radiological emergency planning and preparedness activities. The FRPCC will establish subcommittees to aid in carrying out its functions; e.g., research, training, emergency instrumentation, public information and education. The FRPCC will assist FEMA in resolving issues relating to granting of final FEMA approval of a State plan. The FRPCC will coordinate research and study efforts of its member agencies related to State and local government radiological emergency preparedness to assure minimum duplication and maximum benefits to State and local governments. The FRPCC will also assure that the research efforts of its member agencies are coordinated with the interagency Radiation Research Committee.

(b) The RACs will assist State and local government officials in the development of their radiological emergency response plans, and will review these plans and observe exercise to evaluate adequacy of the plans. Each Federal agency member of the RACs will support the functions of these committees by becoming knowledgeable of Federal planning and guidance related to State and local radiological

[1] I (Boston); II (New York); III (Philadelphia); IV (Atlanta); V (Chicago); VI (Dallas); VII (Kansas City); VIII (Denver); IX (San Francisco); and X (Seattle).

emergency response plans, of their counterpart State organizations and personnel, where their agency can assist in improving the preparedness, and by participating in RAC meetings.

Subpart C—Interagency Assignments

§ 351.20 The Federal Emergency Management Agency.

(a) Establish policy and provide leadership via the FRPCC in the coordination of all Federal assistance and guidance to State and local governments for developing, reviewing, assessing, and testing the State and local radiological emergency response plans.

(b) Issue guidance to other Federal agencies concerning their responsibilities for providing radiological emergency planning and preparedness assistance to State and local governments.

(c) Foster cooperation of industry, technical societies, Federal agencies and other constituencies in the radiological emergency planning and preparedness of State and local governments.

(d) Develop and promulgate preparedness criteria and guidance to State and local governments, in coordination with other Federal agencies, for the preparation, review and testing of State and local radiological emergency response plans.

(e) Provide assistance to State and local governments in the preparation, review, and testing of radiological emergency response plans.

(f) Assess, with the assistance of other Federal agencies, the adequacy of State and local government emergency response plans and the capability of the State and local government officials to implement them, (e.g., adequacy and maintenance of equipment, procedures, training, resources, and staffing levels and qualifications) and report the findings and determinations to NRC.

(g) Review and approve State radiological emergency response plans and preparedness in accordance with FEMA regulations.

(h) Develop, implement, and maintain a program of public education and information to support State and local radiological emergency response plans and preparedness.

(i) Develop and manage a radiological emergency response training program to meet State and local needs, using technical expertise and resources of other involved agencies. Develop and field test exercise materials and coordinate the Federal assistance required by States and localities in conducting exercises, including guidance for Federal observers.

(j) Develop, with NRC, scenarios for use by NRC licensed facility operators and State and local governments in testing and exercising radiological emergency plans.

(k) Issue guidance for establishment of State and local emergency instrumentation systems for radiation detection and measurement.

(l) Provide guidance and assistance, in coordination with NRC, to State and local governments concerning the storage and distribution of radioprotective substances (e.g., thyroid blocking agents) for use in radiological emergencies.

§ 351.21 The Nuclear Regulatory Commission.

(a) Assess NRC nuclear facility licensee emergency plans for adequacy to protect the health and safety of the public.

(b) Verify that nuclear facility licensee emergency plans can be adequately implemented (e.g., adequacy and maintenance of equipment, procedures, training, resources, staffing levels and qualifications).

(c) Review FEMA's findings and determinations of State and local radiological emergency response plans for areas surrounding NRC licensed nuclear facilities.

(d) Take into account the overall state of emergency preparedness in making decisions to issue operating licenses or shut down licensed operating reactors, including the integration of assessments of emergency preparedness onsite by the NRC and offsite by FEMA.

(e) Where not already established, determine, in cooperation with other Federal agencies, the appropriate planning bases for NRC licensed nuclear facilities including distances, times and radiological characteristics.

(f) Assist FEMA in developing and promulgating guidance to State and local governments for the preparation of radiological emergency response plans.

(g) Participate with FEMA in: assisting State and local governments in developing their radiological emergency response plans, evaluating exercises to test plans, and reviewing and evaluating the plans and preparedness.

(h) Provide representation to and support for the FRPCC and the RACs.

(i) Assist FEMA in the development, implementation, and maintenance of public information and education programs.

(j) Assist FEMA in developing scenarios for use by nuclear facility operators and State and local governments in testing and exercising radiological emergency response plans.

(k) Assist FEMA in the development of guidance for State and local governments on emergency instrumentation systems for radiation detection and measurement.

(l) Assist FEMA in the development and implementation of training programs for Federal, State and local radiological emergency preparedness and response personnel.

(m) Assist FEMA in providing guidance and assistance to State and local governments concerning the storage and distribution of radioprotective substances (e.g., thyroid blocking agents) for use in radiological emergencies.

§ 351.22 The Environmental Protection Agency.

(a) Establish Protective Action Guides (PAGs) for all aspects of radiological emergency response planning in coordination with appropriate Federal agencies.

(b) Prepare guidance for State and local governments on implementing PAGs, including recommendations on protective actions which can be taken to mitigate the potential radiation dose to the population. This guidance will be presented in the EPA "Manual of Protective Action Guides and Protective Actions for Nuclear Incidents." (The preparation of PAGs related to human food and animal feed will be done in coordination with HHS/Food and Drug Administration.)

(c) Assist FEMA in developing and promulgating guidance to State and local governments for the preparation of radiological emergency response plans.

(d) Assist FEMA in development of technical training for State and local officials in radiation dose assessment, protective actions, and decisionmaking.

(e) Participate with FEMA in assisting State and local governments in developing their radiological emergency response plans, evaluating exercises to test plans, and reviewing and evaluating the plans and preparedness.

(f) Assist FEMA in the development of guidance for State and local governments on emergency instrumentation systems for radiation detection and measurement.

(g) Provide representation to and support for the FRPCC and the RACs.

(h) Assist FEMA in developing scenarios for use by nuclear facility operators and State and local governments in testing and exercising radiological emergency response plans.

(i) Assist FEMA in the development, implementation, and maintenance of public information and education programs.

§ 351.23 The Department of Health and Human Services.

(a) Develop and specify protective actions and associated guidance to State and local governments for human food, animal feed, (in coordination with the Environmental Protection Agency) and related health problems, including mental health and behavioral disturbances, which may be associated with radiological emergencies.

(b) Assist FEMA in the development, implementation, and maintenance of public information and education programs to support State and local government radiological emergency response plans and preparedness.

(c) Assist FEMA in the development and implementation of a radiological emergency response training program to support State and local government personnel in accident assessment, protective actions, and decisionmaking.

(d) Develop and assist in providing the requisite training programs for State and local health, mental health, and social service agencies.

(e) Provide guidance to State and local governments on the use of radioprotective substances (e.g., thyroid blocking agents) to include dosage and projected radiation exposures at which such drugs should be used.

(f) Assist FEMA in developing and promulgating guidance to State and local governments for the preparation of radiological emergency response plans.

(g) Participate with FEMA in assisting State and local governments in developing their radiological emergency response plans, evaluating exercises to test plans, and reviewing and evaluating the plans and preparedness.

(h) Provide representation to and support for the FRPCC and the RACs.

(i) Assist FEMA in developing scenarios for use by nuclear facility operators and State and local governments in testing and exercising radiological emergency response plans.

(j) Assist FEMA in the development and guidance for State and local governments on emergency instrumentation systems for radiation detection and measurement.

(k) Assist the State and local governments in the planning for the safe production, during radiological emergencies, of human food and animal feed in the emergency planning zones around fixed nuclear facilities.

(l) Assist FEMA, through the Interagency Radiation Research Committee, chaired by the Department of Health and Human Services, in the coordination and design of research applicable to State and local plans and preparedness.

§ 351.24 The Department of Energy.

(a) Determine the appropriate planning bases for DOE-owned and contractor nuclear facilities, including distances, time and radiological characteristics.

(b) Assess DOE nuclear facility emergency plans for adequacy in contributing to the health and safety of the public.

(c) Verify that DOE nuclear facility emergency plans can be adequately implemented (e.g., adequacy and maintenance of equipment, procedures, training, resources, staffing levels and qualifications).

(d) Assist State and local governments, within the constraints of National security and in coordintion with FEMA, in the preparation of those portions of their radiological emergency response plans related to DOE-owned and contractor nuclear facilities and radioactive materials in transit.

(e) Review and assess FEMA's findings and determinations on the adequacy of and capability to implement State and local radiological emergency response plans for areas surrounding DOE nuclear facilities. Make independent assessments of the overall state of plans and preparedness.

(f) Serve as the lead agency for coordinating the development and issuance of interagency instructions and guidance to implement the Federal Radiological Monitoring and Assessment Plan (FRMAP) (formerly published as the Interagency Radiological Assistance Plan). The FRMAP provides the framework through which participating Federal agencies will coordinate their emergency radiological monitoring and assessment activities with those of State and local governments.

(g) Develop, maintain, and improve capability to detect and assess hazardous levels of radiation.

(h) Assist FEMA in developing and promulgating guidance to State and local governments for the preparation of radiological emergency response plans.

(i) Assist FEMA in the training of Federal, State, and local radiological emergency response personnel.

(j) Participate with FEMA in assisting State and local governments in developing their radiological emergency response plans, evaluating exercises to test plans, and reviewing and evaluating the plans and preparedness.

(k) Develop, with FEMA, scenarios for use by DOE facility operators and State and local governments in testing and exercising radiological emergency plans.

(l) Provide representation to and support for the FRPCC and the RACs.

(m) Assist FEMA in the development of guidance for State and local governments on emergency instrumentation systems for radiation detection and measurement.

§ 351.25 The Department of Transportation.

(a) Assist FEMA in the preparation and promulgation of guidance to State and local governments for their use in developing the transportation portions of radiological emergency response plans.

(b) Assist FEMA in its review and approval of State and local radiological emergency response plans and in the evaluation of exercises to test such plans.

(c) Provide guidance and materials for use in training emergency services and other response personnel for transportation accidents involving radioactive materials.

(d) Provide representation to and support for the FRPCC and the RACs.

§ 351.26 The Department of Agriculture.

(a) Assist FEMA in developing and promulgating guidance to State and local governments for the preparation of radiological emergency response plans.

(b) Participate with FEMA in assisting State and local governments in developing their radiological emergency response plans, evaluating exercises to test plans, and reviewing and evaluating the plans and prepardeness.

(c) Assist State and local governments in preparing to implement protective actions in food ingestion pathway emergency planning zones around fixed nuclear facilities.

(d) Develop, in coordination with FEMA and other Federal agencies, guidance for assisting State and local governments in the production, processing, and distribution of food resources under radiological emergency conditions.

(e) Assist FEMA in the training of Federal, State and local radiological emergency response personnel.

(f) Provide representation to and support for the FRPCC and the RACs.

§ 351.27 The Department of Defense.

(a) Determine appropriate planning bases for DOD-owned and contractor nuclear facilities and installations, including distances, time and radiological characteristics.

(b) Develop, with FEMA, scenarios for use by the Department of Defense nuclear facility operators and State and local governments in testing and exercising radiological emergency response plans.

(c) Assist State and local governments, within the constraints of national security and in coordination with FEMA, in the development, review, and assessment of those portions of their radiological emergency response plans related to DOD-owned and contractor nuclear facilities and radioactive materials in transit.

§ 351.28 The Department of Commerce/ NOAA.

(a) Provide an agreed upon set of needs of State and local governments for meteorological and hydrological services for responding to radiological emergencies.

(b) Assist FEMA in developing and promulgating guidance to State and local governments for the preparation of radiological emergency response plans.

(c) Participate with FEMA in assisting State and local governments in developing their radiological emergency response plans, evaluating exercises to test plans, and reviewing and evaluating the plans and preparedness.

(d) Assist FEMA in providing technical training for State and local officials in the use of meteorological information in responding to radiological emergencies.

(e) Provide representation to and support for the FRPCC and the RACs.

(f) Assist FEMA in the development of guidance for State and local governments on the exposure and location of emergency instrumentation systems for radiation detection and measurement.

(g) The Federal Coordinator for Meteorological Services and Supporting Research will, consistent with the provisions of the Office of Managment and Budget Circular A–62, serve as the coordinating agent for any multi-agency meteorological aspects of assisting State and local governments in their radiological emergency planning and preparedness.

Dated: October 15, 1980.

John W. Macy, Jr.,

Director.

[FR Doc. 80-32873 Filed 10-21-80; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

Radio Broadcast Services; Clarification of FCC Rules by Broadcast Bureau on TV Transmitter Output Power Capability

AGENCY: Federal Communications Commission.

ACTION: Final rule clarification.

SUMMARY: The Broadcast Bureau has clarified the Commission's Rules regarding the output power capability of TV broadcast transmitters. The Commission's UHF Comparability Task Force found this clarification necessary during its examination of techniques broadcasters could use to transmit television signals more efficiently.

DATE: Nonapplicable.

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

FOR FURTHER INFORMATION CONTACT: Lex Felker, Office of Plans and Policy, (202) 653–5940.

SUPPLEMENTARY INFORMATION:

October 3, 1980.

The Broadcast Bureau has clarified the Commission's rules regarding the output power capability of TV broadcast transmitters.

The Commission's UHF Comparability Task Force found this clarification necessary during its examination of techniques broadcasters could use to transmit television signals more efficiently.

Specifically, §§ 73.663(b)(3) and 73.663(c)(3) of the rules require that the power output meters for the visual transmitter and the aural transmitter (if the "direct" method of determination is used for sound transmissions) be calibrated at 80, 100 and 110 percent of authorized power.

However if the transmitter is incapable of operating at 110 percent of authorized power, the calibration may be made at a power output between 100 and 110 percent of authorized output power. These rules do not require that the licensee demonstrate that the transmitter will operate at 110 percent of authorized power.

In adjusting TV broadcast transmitters (particularly Klystron transmitters), there is a trade-off between maximizing the operating efficiency (ratio of TV signal output power to the electric power input) and the reserve capacity to adjust the output power to values exceeding the authorized power.

Maintaining a television broadcast transmitter so that it has the capability to operate at 110 percent of authorized power results in wasted energy, particularly for UHF stations, the Broadcast Bureau said.

Although stations are required to be capable of operating at 100 percent of authorized power during all periods of regular program operation—except at times of technical emergencies beyond the licensee's control—no useful purpose is served by requiring that transmitters (particularly Klystron transmitters) be adjusted for less efficient operation solely to provide the unnecessary reserve capability of operating at 110 percent of authorized power, the Broadcast Bureau emphasized.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-32397 Filed 10-21-80; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1100

Extensions of Time To File Documents; Clarification of Procedural Rule

AGENCY: Interstate Commerce Commission.

ACTION: Clarification of procedural rule.

SUMMARY: Our procedural rules at 49 CFR 1100.19 state that parties who request postponement of a date for filing documents at the Commission must file such requests not less than 10 days before the due date. In many instances, parties in pending proceedings have filed requests for postponement much closer to the due date. This notice is to inform the public that requests for postponement of a due date in a proceeding pending before the Commission will be reviewed for timeliness and that failure to provide the 10 day lead time under 49 CFR 1100.19 may result in denial.

DATES: This notice is effective on October 22, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Erenberg, Associate Director, Office of Proceedings, (202) 275–7514.

By the Commission, Darius W. Gaskins, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-32930 Filed 10-21-80; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 45, No. 206
Wednesday, October 22, 1980

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.

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230 and 239

[Release Nos. 33-6235A; IC-11327A; S7-849]

Proposed Comprehensive Revision to System for Registration of Securities Offerings; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking; correction.

SUMMARY: On September 2, 1980 the Commission proposed three new forms (Forms A, B and C) to be used to register offerings of securities under the Securities Act of 1933 (15 U.S.C. 77a et seq.). See Release No. 33-6235 (September 2, 1980) (45 FR 63693). In order to assist commentators in assessing the eligibility criteria for proposed Form A, the release had attached Appendix I which presented a statistical profile of the use of Form S-16 (17 CFR 239.27) for primary offerings from May 1978 to June 1980. Subsequent to publication of the release, the Commission discovered that certain errors had occurred in the compilation of data. The errors have been corrected and revised. Appendix I is published herewith. The Commission regrets any inconvenience this may have caused the public.

DATE: Comments on Release No. 33-6235 must be received on or before January 15, 1981.

ADDRESS: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comment letters should refer to File No. S7-849. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Hugh Haworth (202) 523-5629, Directorate of Economic and Policy Analysis, Securities and Exchange Commisstion, 500 North Capitol Street, Washington, D.C. 20549.

By the Commission.

George A. Fitzsimmons,

Secretary.

October 15, 1980.

Appendix I.—*Part 1, Profile of Form S-16 Offerings and Issuers May 1978 to June 1980*

[Prepared by the Directorate of Economic and Policy Analysis]

	May 1978 to Jan. 1979		Feb. 1979 to Sept. 1979		Oct. 1979 to June 1980	
	Number of offerings	Percent of offerings	Number of offerings	Percent of offerings	Number of offerings	Percent of offerings
T.1—Type of security:						
Debt	24	40.7	57	47.5	139	55.8
Stock	33	55.9	48	40.0	98	39.4
Other	2	3.4	15	12.5	12	4.8
Totals	59	100.0	120	100.0	249	100.0
T.2—Industry of issuer:						
Extractive	2	4.2	3	3.1	6	3.4
Manufacturing	13	27.1	31	32.0	68	38.7
Transportation	5	10.3	1	1.0	1	0.6
Communication	1	2.1	4	4.1	6	3.4
Utilities	14	29.2	29	29.9	49	27.8
Finance	5	10.4	20	20.6	22	12.5
Miscellaneous	8	16.7	9	9.3	24	13.6
Total	48	100.0	97	100.0	176	100.0
T.3—Time in Registration:						
0 to 1 weeks	5	8.6	23	19.3	56	22.4
1 to 2 weeks	15	25.8	41	34.5	97	38.8
2 to 3 weeks	12	20.7	24	20.1	38	15.2
3 to 4 weeks	11	19.0	20	16.8	27	10.8
4 to 6 weeks	8	13.8	5	4.2	22	8.8
6 to 8 weeks	3	5.2	4	3.4	6	2.4
8 plus weeks	4	6.9	2	1.7	4	1.6
Total	58	100.0	119	100.0	250	100.0

T.4—*Amount of offering*

[In thousands of dollars, except for number of offerings]

	May 1978 to Jan. 1979	Feb. 1979 to Sept. 1979	Oct. 1979 to June 1980
Debt issues:			
Number of offerings	24	57	139
Median	100,000	100,000	75,000
Mean	115,493	124,255	99,802
Minimum	24,610	8,505	2,500
Maximum	500,000	498,125	600,000
Standard Deviation	92,587	97,775	81,929
Equity issues:			
Number of offerings	33	48	98
Median	22,100	25,126	35,635
Mean	31,785	42,881	49,773
Minimum	164	126	975
Maximum	135,250	328,000	334,028
Standard Deviation	33,146	58,174	55,782
Other issues:			
Number of offerings	2	15	12
Median	110,038	100,000	65,000
Mean	110,038	128,179	181,538
Minimum	21,249	35,000	4,380
Maximum	198,826	250,000	732,087
Standard Deviation	125,567	61,915	264,504

T.4—*Amount of offering—Continued*

[In thousands of dollars, except for number of offerings]

	May 1978 to Jan. 1979	Feb. 1979 to Sept. 1979	Oct. 1979 to June 1980
T.5—Annual revenues of issuers: [1]	[In millions of dollars, except for number of offerings]		
Number of issuers	48	97	175
Median	580	862	859
Mean	1,302	1,928	2,211
Minimum	27	6	5
Maximum	6,339	21,076	44,488
Standard Deviation	1,620	3,202	4,315
T.6—Annual earnings of issuers: [2]			
Number of issuers	48	97	175
Median	58	80	78
Mean	90	158	177
Minimum	0	1	(121)
Maximum	395	3,111	8,767
Standard Deviation	92	340	670
T.7—Annual trading volume of issuers' common stock:			
Number of issuers	47	92	173
Median	5,183	5,128	5,115
Mean	8,323	7,603	7,691
Minimum	31	3	3
Maximum	39,292	35,830	47,610
Standard Deviation	8,775	7,528	8,029
T.8—Shareholders of issuers' common stock: [3]			
Number of issuers	48	96	168
Median	29,801	27,209	27,004
Mean	41,709	54,021	66,613
Minimum	2,630	1,025	826
Maximum	251,516	580,572	2,939,090
Standard Deviation	50,677	84,640	230,857

[1] Most recent fiscal year prior to offering.
[2] Most recent fiscal year prior to offerings.
[3] Excludes companies not listed by Moody's Investors Services, Inc.

Note: (1) The total number of offerings varies from table to table due to the occasional incidence of missing data which caused some of the offerings to be excluded from certain tables. Offerings are grouped into time periods based upon filing date. Tabulations exclude extended offerings (i.e., employee savings and thrift plans, stock purchase plans, dividend reinvestment plans and American depository receipts), rights and warrants offerings, identified wholly owned subsidiaries, and secondary offerings. The number of offerings and the number of issuers do not coincide because issuers who made more than one offering during the period are accounted for as single issuers.

(2) In many cases, the time in registration depends upon the registrant's own time schedule.

Source: Moody's Investors Service, Inc. (various manuals) and Registered Offerings Statistical File, Directorate of Economic and Policy Analysis, Securities and Exchange Commission.

Appendix I.—*Part 2, Profile of 25 Largest and 25 Smallest Form S-16 Issuers Ranked on the Basis of Annual Revenue May 1978 to June 1980*

	May 1978 to Jan. 1979		Feb. 1979 to Sept. 1979		Oct. 1979 to June 1980	
	25 largest	25 smallest	25 largest	25 smallest	25 largest	25 smallest
T.1—Type of security:						
Debt	14	5	21	7	20	3
Stock	10	19	2	17	3	19
Other	1	1	2	1	2	3
Total	25	25	25	25	25	25
T.2—Industry of issuer:						
Extractive	0	2	0	1	0	3
Manufacturing	9	4	14	6	14	9
Transportation	2	4	0	0	0	0
Communication	1	0	1	1	2	1
Utilities	5	10	3	12	1	4
Finance	3	2	5	4	3	3
Miscellaneous	5	3	2	1	5	5
Total	25	25	25	25	25	25
T.2—Time in registration:						
0 to 1 week	3	4	8	3	11	4
1 to 2 weeks	8	4	10	4	8	5
2 to 3 weeks	5	5	4	6	3	8
3 to 4 weeks	5	2	3	9	0	4
4 to 6 weeks	3	5	0	1	1	3
6 to 8 weeks	0	4	0	2	1	1
8 plus weeks	1	1	0	0	1	0
Total	25	25	25	25	25	25

Appendix I.—*Part 2, Profile of 25 Largest and 25 Smallest Form S-16 Issuers Ranked on the Basis of Annual Revenue May 1978 to June 1980—Continued*

	May 1978 to Jan. 1979		Feb. 1979 to Sept. 1979		Oct. 1979 to June 1980	
	25 largest	25 smallest	25 largest	25 smallest	25 largest	25 smallest
T.4—Amount of offering (in thousands of dollars):						
Median	99,500	21,249	150,000	25,000	150,000	17,100
Mean	106,270	24,279	161,465	36,801	197,800	26,686
T.5—Annual revenues of issuers [1] (in millions of dollars):						
Median	1,505	246	3,526	206	6,601	107
Mean	2,274	271	5,445	205	9,140	112
T.6—Annual earnings of issuers [1] (in millions of dollars):						
Median	108	32	218	23	314	9
Mean	140	33	421	27	691	13
T.7—Annual trading volume of issuers' common stock (in thousands):						
Median	7,220	3,031	13,982	1,181	15,617	2,294
Mean	11,154	5,764	14,040	2,037	17,409	2,930
T.8—Shareholders of issuers' common stock:						
Median	32,286	19,000	62,743	17,448	72,000	3,766
Mean	56,968	26,300	167,011	22,219	208,846	5,616

[1] For the most recent fiscal year prior to offering.

Note: (1) Offerings are grouped into time periods based upon filing date. Tabulations exclude identified wholly owned subsidiaries and issuers of extended offerings (i.e., employee savings and thrift plans, stock option plans, stock purchase plans, dividend reinvestment plans and American depository receipts), rights and warrants offerings, and secondary offerings.

(2) In many cases, the time in registration depends upon the registrant's own time schedule.

Source: Moody's Investors Service, Inc. (various manuals) and, Registered Offerings Statistical File, Directorate of Economic and Policy Analysis, Securities and Exchange Commission.

[FR Doc. 80-32863 Filed 10-21-80; 8:45 am]

BILLING CODE 8010-01-M

17 CFR Part 240

[Release No. 34-17209; File No. S7-856]

Net Capital Requirement for Brokers and Dealers

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule amendments and solicitation of public comments.

SUMMARY: The Commission is proposing amendments to the uniform net capital rule which would increase the percentage deductions from the market value of certain debt securities in the proprietary or other accounts of the broker or dealer which must be made in computing net capital to reflect the recent sharp fluctuations in the market value of these securities. The Commission is also soliciting comments on whether and to what extent these deductions should be reduced by hedging positions in financial futures or securities of a different issuer.

DATE: Comments to be received by January 15, 1981.

ADDRESSES: All comments should be submitted in triplicate and addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All comments should refer to file No. S7-856 and will be available for public inspection at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Michael A. Macchiaroli, Division of Market Regulation (202) 272-2372, 500 N. Capitol Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The uniform net capital rule not only requires a broker or dealer to maintain a minimum net capital the amount of which depends on the nature of its business but also prohibits it from incurring aggregate indebtedness in excess of 1500 percentum of its net capital, as those two terms are defined in the Rule. A broker or dealer electing the alternative method of computing net capital must maintain a minimum net capital equal to the greater of $100,000 or 4% of aggregate debit items in the formula for Determination of Reserve Requirements for Broker-Dealers.

In computing net capital, a broker or dealer is required to deduct from net worth (net worth as calculated in accordance with generally accepted accounting principles) certain percentages of the market value of all securities carried in its proprietary or other accounts. These deductions are generally referred to as "haircuts." The amount of the haircuts for debt securities (including short term notes) depends on the nature of the issuer, the time to maturity of the security and, for securities of non-governmental issuers, the ratings of nationally recognized rating services. In general, the haircuts for debt securities were designed to reflect the historical market fluctuations of each type of instrument.

Recent events in the debt market have led the Commission to question the adequacy of the haircut provisions for debt securities. Interest rates rose to unprecedented heights in the past year, causing precipitous declines in the values of already issued debt instruments. Several broker-dealer firms dealing primarily in municipal securities were forced to liquidate because of the unanticipated sharp movements in debt securities. Moreover, some major broker-dealer firms reportedly suffered large trading losses in debt securities, as did several large national banks.

Data recently provided to the Commission from industry sources tend to confirm doubts as to the adequacy of the present haircut categories. The data were compiled from records accumulated in the ordinary course of business of broker-dealer firms dealing in debt securities. In general, the data covered the period from February 1976 through February 1980, a period of 49 months. In the case of Government securities, daily values were given for three-month, six-month, nine-month and twelve-month treasury bills, and for selected two-year, five-year, ten-year, twenty-year and thirty-year coupon treasury bonds. For corporate bonds, summary price histories were given for representative long-term industrial and utility bonds. For municipals, weekly prices were provided from the BBI municipal index. The data show that the month-end to month-end price movements in most debt securities in the months of January 1977, October 1979, January 1980 and February 1980 were greater than the existing haircuts for the securities. They indicate a need for higher haircuts than the Rule presently provides. Each of the categories is more fully discussed below, as is the question of whether and to what extent the rule should be revised to incorporate various hedging positions.

I. Government Securities

A. Haircut Schedules

The Rule requires, in the case of a security issued or guaranteed as to principal or interest by the United States or any agency thereof, deductions from the market value of the net long or short position in each category described in subparagraph (A) of the haircut provisions of the Rule. There is no deduction for securities less than one year to maturity. The deduction for securities having one year but less than three years to maturity is 1%; that for securities having three years but less than five years to maturity is 2%; that for securities five years or more to maturity is 3%. The data submitted to the Commission tend to indicate that these haircuts are inadequate in measuring the risk in carrying the securities, particularly for those securities less than one year to maturity and those five years or more to maturity.

The data show that the majority of monthly changes in market value were greater than the existing haircuts, and that for four months (January 1977, October 1979, January 1980 and February 1980) the month-end to month-end price movements were considerably greater than the existing haircuts. Some examples will help to illustrate the concern. In 26 of the 49 months in the survey, treasury bills maturing in six months moved in price between one-tenth of one percent to over 1% (in February 1980). In October 1979, treasury bills maturing in nine months moved 1.50% and in February 1980, 1.90%. Finally, in 39 of 49 months, treasury bills maturing in 12 months moved between .1% and 2.51% (in February 1980). In each case, however, the net capital rule required no haircut.

The data for two-year coupons, five-year coupons, ten-year coupons, twenty-year coupons and thirty-year coupons show the same character of discrepancy as securities having one year or less to maturity. For example, in three different months within a six months period, United States Treasury securities maturing in 30 years declined substantially: 7.06% in February 1980, 8.82% in January 1980 and 9.16% in October 1979. Yet the required haircut is only 3% for these securities.

These figures demonstrate the need to reassess the present haircut category for Government securities.

Based largely on this data, the Commission proposes to alter the haircuts on Government securities in Rule 15c3-1(c)(2)(vi) as follows:

(A) * * *

(*1*) Less than three months to maturity—0% [0%];[1]

(*2*) Three months but less than six months to maturity—⅛ of 1% [0%];

(*3*) Six months but less than nine months to maturity—¼ of 1% [0%];

(*4*) Nine months but less than one year to maturity—⅜ of 1% [0%];

(*5*) One year but less than three years to maturity—1½% [1%];

(*6*) Three years but less than five years to maturity—3% [2%];

(*7*) Five years but less than ten years to maturity—4½% [3%];

(*8*) Ten years but less than 20 years to maturity—5% [3%]; and

(*9*) 20 years or more to maturity—6% [3%].

[1] The present haircut is shown in brackets.

While the proposed haircuts are not based on the largest changes in any 30-day period, the Commission believes that they nevertheless represent a more realistic appraisal of the potential movements of Government securities over a 30-day period.

B. Hedges

The present rule assesses deductions only on the net long or net short positions in the fixed categories in subparagraph (A), thereby recognizing certain hedges. In some cases, however, the Rule may not appropriately deal with hedges. For example, the Rule requires no haircut where a broker or dealer is long Government securities one month to maturity and short a Government security 11 months to maturity but requires a haircut of 1% on the short position where the broker or dealer is long a security 11 months to maturity and short a security 13 months to maturity. Furthermore, the Rule requires no haircut on the following positions: a long Government five years to maturity offset by a short Government security, 30 years to maturity. Yet, the data demonstrate that the historical market fluctuations of these two securities are not similar.

To some degree the problem will be lessened by the new haircut categories. But the provisions will still not distinguish adequately between bona fide risk limiting hedges and non-bona fide hedges. The job of precisely measuring hedges is of course a difficult one for the Commission. It is a matter about which experienced traders disagree daily. However, the data provided to the Commission suggest that netting of longs and shorts be allowed where the securities have a relationship by virtue of relatively close maturity dates rather than because fixed in the same haircut category. For short term instruments (less than one year to maturity), the Commission proposes that an appropriate period for netting purposes be no more than three months. For intermediate term instruments, that period will be no more than one year. For long term instruments (those five years or more to maturity), the period will be no more than five years. Hence, the rule, if amended as proposed, would require a haircut only on the net long or short position for short-term instruments where the long and short positions matured no longer than three months apart. For intermediate-term instruments the netting would be allowed if the instruments matured within one year or less of each other. Long term instruments could be netted if the longs and shorts matured within five years of

one another. No netting would otherwise be permitted.

The Commission therefore proposes to amend Rule 15c3–1(c)(2)(vi)(A), as modified by the proposed amendments set forth above, as follows: Long or short positions may be netted as follows:

(*i*) Long or short positions with maturity dates within one year may be netted against long or short positions with maturity dates within 15 months, but only when such maturity dates are within three months of one another;

(*ii*) Long or short positions with maturity dates of between one and five years (except as in (*i*) above) may be netted against long or short positions with maturity dates of between one and six years, but only when such maturity dates are within one year of another;

(*iii*) Long or short positions with maturity dates of five years or more (except as in (*ii*) above) may be netted against long or short positions with maturity dates of five years of more, but only when such maturity dates are within five years of one another.

II. Municipal Securities

The haircut provision of the net capital rule which treats with municipal securities specifically divides municipal securities into two general categories (i) any municipal security which has a scheduled maturity at date of issue of 731 days or less and which is issued at par value and pays interest at maturity, or which is issued at a discount, and which is not traded flat or in default as to principal or interest and (ii) any other municipal security which is not traded flat or in default as to principal or interest.

The first category contains seven subcategories. The haircuts range from 0% for those securities having less than 30 days to maturity to 1% for those securities having from 456 to less than 732 days to maturity (hereinafter "short term notes"). The second category has four subcategories which require haircuts ranging from 1% for securities with less than one year to maturity, to 5% for securities with five years or more to maturity.

Although the data supplied to the Commission relating to municipal bonds are not as extensive as that available for Government securities, they show that the existing haircuts in this area are inadequate in relation to the market fluctuations in the last year. In two months, October 1979 and February 1980, municipal bonds moved in price substantially more than the maximum haircut. In October 1979, bond prices moved 8.58%; in February 1980 they moved 11.05% as a percentage of market value. Based on this data, increased haircuts are being proposed for municipal securities in category (ii) with more than 2 years to maturity.

The Commission does not now have sufficient data to propose any new haircuts for short-term notes in category (i) or for municipal securities with less than two years to maturity in category (ii). The Commission may possibly determine after further analysis that there is no need to change the haircuts at all for these remaining securities. The Commission solicits relevant data and comment as to whether the haircuts for these securities are appropriate.

The haircuts on securities with longer term maturities are proposed to be increased to reflect the recent sharp fluctuations in their market prices. The new proposed Haircut Schedule for municipal securities is as follows:

(B)(ii) In the case of any municipal security other than those specified in subdivision (B)(i), which is not traded flat or in default as to principal or interest, the applicable percentages of the market values on the greater of the long or short position in each of the categories specified below are:

(3) 2 years but less than 5 years to maturity—5 percent; and

(4) Five years or more to maturity—7 percent.

* * * * *

The Commission also solicits comments on two issues that have been the subject of controversy in the past with respect to municipal securities:

(1) Should the haircut provision for municipal securities distinguish between "rated" and "unrated" securities to differentiate between investment grade issues and more speculative issues?

(2) What criteria should be used to determine the market value of municipal securities for net capital and reporting purposes where the securities are the subject of quotations by only the computing broker or dealer?

III. Nonconvertible Debt Securities

Subsection (c)(2)(vi)(F) of the net capital rule requires a deduction in the case of non-convertible debt securities having a fixed interest rate and fixed maturity date and which are rated in one of the four highest rating categories by at least two of the nationally recognized statistical rating organizations, ranging from 1% for those securities with less than one year to maturity to 7% for securities with five years or more to maturity.

The Commission has insufficient data to make any determination as to appropriate haircuts for securities in this category where the security has less than five years to maturity. The Commission solicits comment on this matter. It appears from the available data, however, that the haircut for long-term debt securities in this category should be raised to 9% rather than the present 7%. The data show that prices of representative issues in this category moved about 30% more than the present haircut in several months of the past year. The new proposed haircut for debt securities in this category will reflect these recent sharp fluctuations in prices.

The proposed new haircut schedule is as follows:

(F) In the case of non-convertible debt securities having a fixed interest rate and fixed maturity date and which are not traded flat or in default as to principal or interest and which are rated in one of its four highest rating categories by each of at least two of the nationally recognized statistical rating organizations, the applicable percentages of the market values on the greater of the long or short position in each of the categories specified below are:

* * * * *

(6) Five years or more to maturity—9 percent.

IV

Because of the changes in the haircuts for government and municipal securities, it will be necessary to adjust the haircut provision for securities issued by investment companies whose assets are in the form of cash or securities or money market instruments which are described in subparagraph (a)–(C) or (E) of Rule 15c3–1(c)(2)(vi). Subparagraph (D) now requires a haircut of 5% of the market value of the greater of the long or short position. That haircut was based on the highest haircut for municipal securities. Compatible with that approach, the Commission proposes to raise the haircut for those securities in subparagraph (D) to 7%. For securities issued by investment companies whose portfolio consists of the instruments described above and non-convertible debt securities in category (F), the Commission proposes a haircut of 9%. The provision would also be amended to make clear that it applies only to redeemable securities issued by the investment company. The Rule would be amended as follows:

(D) In the case of redeemable securities of an investment company registered under the Investment Company Act of 1940, which assets are in the form of cash or securities or money market instruments which are described in subdivision (A)–(C) above or (E) below, the deduction shall be 7% of the market value of the greater of the long or short position. In the case of redeemable securities of an investment company registered under the Investment Company Act of 1940, which assets are in the form of cash or securities or money market instruments which are described in subdivisions (A)–(C) above or (E) or (F) before, the deduction shall be 9 percent of the

market value of the greater of the long or short position.

V. Hedging

Broker-dealers generally do not carry heavy nonhedged positions in debt securities. Often, brokers and dealers have significant positions in instruments which they believe hedge and reduce the market risk in the positions in which they are mainly interested. While not perfect hedges, they are thought to act as buffers to complete speculation. The hedged positions may consist either of positions in securities of the same issuer, positions in financial futures or positions in different issuers. While the Rule, as noted above in the discussion as to Government securities, does take hedges into account to some degree, it has been criticized as being much too conservative.

Much sophisticated analysis has been made of the relationships among the prices of vartious fixed income securities and interest rate futures. Some believe, for example, that futures contracts may be used not only to hedge the underlying cash instruments but also to crosshedge corporate bonds. The net capital rule, as indicated above, does not recognize any such relationships for purposes of reducing the haircuts, although the Rule does extensively deal with techniqus of reducing risks through various hedging devices in listed options trading.

The Commission, in an effort to make its financial responsibility rules compatible to the extent feasible with economic reality, solicits comment on the degree to which the haircut rules should deal with hedges among the instruments described above. From the comments the Commission may be able to develop hedge criteria which are objective, clear and easily determinable for reducing any required haircuts.

Statutory Basis and Competitive Considerations

Pursuant to the Securities Exchange Act of 1934 and particularly Sections 15(c)(3) and 23(a) thereof, 15 U.S.C. 78*o*(c)(3) and 78w(a), the Commission proposes to amend § 240.15c3-1 in Chapter II of Title 17 of the Code of Federal Regulations in the manner set forth below. The Commission believes that any burden imposed upon competition by the proposed amendments is necessary in furtherance of the purposes of the Act, and particularly to implement the Commission's continuing mandate under Section 15(c)(3) thereof, to provide minimum safeguards with respect to the financial responsibility of brokers and dealers.

Text of Proposed Amendments

It is proposed to amend 17 CFR Part 240 as follows:

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

By amending paragraphs (A), (B), (D), and (F) of § 240.15c3-1(c)(2)(vi) as follows:

§ 240.15c3-1 Net capital requirements for brokers or dealers.

* * * * *

(c) * * *

(2) * * *

(vi) * * *

►(A) In the case of a security issued or guaranteed as to principal or interest by the United States or any agency thereof, the applicable percentages of the market value of the net long or short position as specified below are:

(*1*) Less than three months to maturity—0 percent;

(*2*) Three months but less than six months to maturity—⅛ of 1 percent;

(*3*) Six months but less than nine months to maturity—¼ of 1 percent;

(*4*) Nine months but less than one year to maturity—⅜ of 1 percent;

(*5*) One year but less than three years to maturity—1½ percent;

(*6*) Three years but less than five years to maturity—3 percent;

(*7*) Five years but less than ten years to maturity—4½ percent;

(*8*) Ten years but less than 20 years to maturity—5 percent;

(*9*) 20 years or more to maturity—6 percent. Long or short positions may be netted as follows:

(*i*) Long or short positions with maturity dates within one year may be netted against long or short positions with maturity dates within 15 months, but only when such maturity dates are within three months of one another;

(*ii*) Long or short positions with maturity dates of between one and five years (except as in paragraph (c)(2)(vi)(A)(*9*)(*i*) of this section) may be netted against long or short positions with maturity dates of between one and six years, but only when such maturity dates are within one year of another;

(*iii*) Long or short positions with maturity dates of five years or more (except as in paragraph (c)(2)(vi)(A)(*9*)(*ii*) of this section) may be netted against long or short positions with maturity dates of five years or more, but only when such maturity dates are within five years of one another.◄

(B)(*1*) * * *

(*2*) In the case of any municipal security other than those specified in paragraph (c)(2)(vi)(B)(*2*)(i) of this section, which is not traded flat or in default as to principal or interest, the applicable percentages of the market values on the greater of the long or short position in each of the categories specified below are:

(*i*) less than 1 year to maturity—1 percent;

(*ii*) 1 year but less than 2 years to maturity—2 percent;

►(*iii*) 2 years but less than 5 years to maturity—5 percent;

(*iv*) Five years or more to maturity—7 percent.◄

* * * * *

(*D*) In the case of redeemable securities of an investment company registered under the Investment Company Act of 1940, which assets are in the form of cash or securities or money market instruments which are described in paragraph (c)(2)(vi) (A)–(C) above or (E) of this section, the deduction shall be ►7◄ percent of the market value of the greater of the long or short position. ► In the case of redeemable securities of an investment company registered under the Investment Company Act of 1940, which assets are in the form of cash or securities or money market instruments which are described in paragraph (c)(2)(vi) (A)–(C) above or (E) or (F) of this section, the deduction shall be 9 percent of the market value of the greater of the long or short position.◄

* * * * *

(F) In the case of nonconvertible debt securities having a fixed interest rate and fixed maturity date and which are not traded flat or in default as to principal or interest and which are rated in one of the four highest rating categories by each of at least two of the nationally recognized statistical rating organizations, the applicable percentages of the market values on the greater of the long or short position in each of the categories specified below are:

(*1*) Less than one year to maturity—1 percent;

(*2*) One year but less than two years to maturity—2 percent;

(*3*) Two years but less than three years to maturity—3 percent;

(*4*) Three years but less than four years to maturity—4 percent;

(*5*) Four years but less than five years to maturity—5 percent;

►(*6*) Five years or more to maturity—9 percent.◄

* * * * *

By the Commission.

George A. Fitzsimmons,

Secretary.

October 9, 1980.

[FR Doc. 32611 Filed 10-21-80; 8:45 am]

BILLING CODE 8010-01-M

17 CFR Part 240

[Release No. 34-17208; File No. S7-855]

Net Capital Requirements for Brokers and Dealers

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules and solicitation of comments on financial responsibility rules.

SUMMARY: The Commission is proposing amendments to the net capital rule which would affect those portions of the rule applicable when brokers and dealers have elected the alternative net capital requirements. The proposed amendments would lower the ratio of required net capital to debit balances in customers' margin accounts and lower the minimum net capital requirements for those firms electing the alternative. The Commission is also proposing certain changes regarding the entries in the Reserve Formula of the customer protection rule which will also affect the computation of required net capital under the alternative. Finally, the Commission is soliciting comments on a broad range of questions regarding the financial responsibility rules for brokers and dealers in its reexamination of the scope, adequacy and necessity of those rules.

DATE: Comments to be received by January 15, 1981.

ADDRESSES: All comments should be submitted in triplicate and addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All comments should refer to file No. S7-855 and will be available for public inspection at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Gregory N. Smith, Division of Market Regulation (202) 272-2368, 500 N. Capitol Street, NW., Washington, D.C. 20549. For questions relating to the analysis and interpretation of the economic data herein, please contact Rosanne F. Greene, Directorate of Economic and Policy Analysis (202 523-5495).

SUPPLEMENTARY INFORMATION: During the 1970's, the Commission substantially reformed its broker-dealer financial responsibility standards in response to the collapse of large firms and subsequent losses to customers arising from the financial and operational weaknesses of the firms in the late 1960's. In 1973, the Commission adopted Rule 15c3-3, which for the first time established procedures for the segregation of customers' fully-paid and excess margin securities held by broker-dealers and prohibited use of customer funds on deposit with broker-dealers except in certain customer related areas.[1]

The second major reform occurred with the adoption of the present uniform net capital rule (the "Rule"), 17 CFR 240.15c3-1, in 1975 after a lengthy review by the Commission of the then-existing financial responsibility rules and extensive public comment. The Rule eliminated the exemption in the Commission's prior net capital rule for all members of national securities exchanges and made virtually all registered brokers and dealers subject to the Commission's capital requirements.[2] The Rule continued the basic liquidity concept under which the securities industry had operated for many years. That concept requires a firm to have and maintain designated minimum amounts of liquid assets in relating to its aggregate indebtedness. In addition, the Commission introduced an alternative concept to measure the capital adequacy of brokers and dealers. The alternative concept linked the capital requirements of brokers and dealers to their customer related business as measured by the requirements of Rule 15c3-3. These reforms were significant steps in the Commission's continuing efforts to structure its rules to provide adequate protection for customers' assets while recognizing the need of securities firms for flexibility in efficiently using their capital resources.

When it adopted the present net capital rule, the Commission anticipated that it would revisit the financial responsibility rules at some time in the future. The Commission concludes that this review should be undertaken now because of changes in the structure of the industry and the nature and volume of the business of brokers and dealers.

Brokers and dealers and the markets in which they deal are different from those in the early 1970's. The financial data set forth in Tables 1 and 2 for New York Stock Exchange ("NYSE") member firms doing a public business [3] show that there has been a dramatic shift in the business mix of firms measured in terms of their major revenue sources and in their balance sheet structures.[4] In addition, many brokers and dealers now can clear significant portions of their business through a single clearing agency, regardless of the market where the transaction was executed. Participants in securities depositories can move securities throughout the country more efficiently and with less overall loss, to effect transfers and to make deliveries by book entry as a result of the expanded interfaces among depositories. This development has also had the effect of further immobilizing securities certificates.

These factors raise the question whether the present net capital rule properly assesses the risks involved in the business and requires appropriate reserves. The amount of liquid reserves required to prevent losses to customer assets and at the same time maximize scarce capital available to the intricate securities system is a subject which can elicit different responsible opinions. The object of this release is to explore these issues and elicit comment from the public. Accordingly, there follows a brief description of the net capital rule and certain proposed changes. The release concludes with an invitation for public comment on a broad range of questions regarding the financial responsibility rules.

The Commission intends that the proposals and issues raised in this release be considered in conjunction with the release proposing an amended schedule of haircuts on debt securities, also being issued today.[5] The haircut schedule, as proposed, may have a substantial effect on the net capital of

[1] Rule 15c3-3 was adopted pursuant to Section 15(c)(3) of the Securities Exchange Act of 1934 (the "Act") which was amended by Section 7(d) of the Securities Investor Protection Act of 1970. The amendment required the Commission to adopt rules and regulations to provide ". . . safeguards with respect to the financial responsibility and related practices of brokers and dealers; including, but not limited to, the acceptance of custody and use of customers' securities, and the carrying and use of customer's deposits or credit balances. Such rules and regulations shall require the maintenance of reserves with respect to customers' deposits or credit balances, as determined by such rules and regulations."

[2] Section 15(c)(3) of the Act was further amended by the Securities Reform Act of 1975 to require the Commission, by September 1, 1975, to establish minimum, financial responsibility requirements for all brokers and dealers.

[3] Historical data for NYSE member firms doing a public business has been available on a consistent basis since 1972 while comparable data for other industry segments did not become available until 1976 with the adoption of the FOCUS Report (Financial and Operational Combined Uniform Single Report).

[4] For an analysis of the financial structure of the broker-dealer industry, *see* Securities and Exchange Commission, *Staff Report on the Securities Industry in 1979*, September 1980.

[5] Securities Exchange Act Release No. 17209 (October 9, 1980).

Table 1.—*Unconsolidated Annual Revenues and Expenses of MYSE Member Firms Doing a Public Business*

[In millions of dollars]

	1972	1973	1974	1975	1976	1977	1978	1979
REVENUES								
Securities commissions	$3,224	$2,660	$2,271	$2,925	$3,164	$2,809	$3,779	$4,012
Realized and unrealized gain or (loss) in trading and investments	909	415	592	914	1,400	1,296	1,543	2,671
Commodities revenue	120	181	160	174	210	243	351	436
Profit or (loss) from underwriting and selling groups	770	430	430	781	853	776	742	770
Revenue from sale of investment company securities	95	100	41	35	45	58	59	76
Margin interest	507	641	616	455	565	755	1,173	1,652
Revenue unrelated to the securities business	28	41	67	89	137	136	237	353
All other revenues	337	343	443	494	530	657	949	1,294
Gross revenues	5,990	4,811	4,620	5,867	6,902	6,730	8,832	11,264
Number of firms at year-end	490	463	420	409	384	364	361	374

Sources: NYSE Joint Regulatory Report and FOCUS Report directorate of Economic and Policy Analysis Securities and Exchange Commission.

Table 2.—*Summary Balance Sheet for NYSE Firms Doing a Public Business; 1972–79*

[In millions of dollars]

	1972	1973	1974	1975	1976	1977	1978	1979
ASSETS								
Cash	$816.6	$687.6	$581.6	$664.7	$761.0	$797.0	$984.0	$1,763.0
Receivables from other broker-dealers and clearing corporations:								
Securities failed to deliver	1,967.5	1,496.9	987.4	1,163.2	1,663.0	2,030.0	1,781.0	2,279.0
Securities borrowed	1,260.8	1,043	808.3	1,447.1	1,874.0	2,211.0	2,484.0	3,912.0
Other	297.2	272.3	848.6	621.4	418.0	741.0	844.0	632.0
Receivables from customers	12,321.1	8,122.7	6,539.8	8,265.4	11,453.0	13,537.0	15,868.0	17,981.0
Long positions in securities and commodities	8,307.2	7,063.0	8,319.2	8,860.5	15,662.0	13,799.0	15,238.0	20,199.0
Securities owned—not readily marketable	94.0	103.2	75.1	79.8	41.0	32.0	22.0	30.0
Securities borrowed under subordinated agreements and partners' individual and capital securities accounts	198.3	95.2	54.0	65.4	93.0	65.0	63.0	67.0
Securities purchased under agreement to resell [1]	NA	NA	NA	NA	4,255.0	8,187.0	14,018.0	24,244.0
Secured capital demand notes	268.7	412.3	343.3	292.7	291.0	236.0	248.0	255.0
Exchange memberships	218.5	134.1	109.6	102.2	129.0	106.0	108.0	139.0
Other assets	1,365.9	1,244.2	1,139.0	1,163.5	1,541.0	1,880.0	2,244.0	3,503.0
Total assets	27,115.8	20,674.7	19,805.9	22,725.9	38,181.0	43,621.0	53,902.0	75,004.0
LIABILITIES AND EQUITY CAPITAL								
Bank loans payable:								
Secured by customer collateral	5,720.1	2,499.2	1,522.2	2,054.1	4,725.0	5,683.0	5,123.0	4,002.0
Secured by firm collateral	5,960.4	5,146.2	6,783.8	6,803.0	5,108.0	5,612.0	4,337.0	4,557.0
LIABILITIES AND EQUITY CAPITAL								
Securities sold under repurchase agreements [1]	NA	NA	NA	NA	11,222.0	10.584.0	16,306.0	23,851.0
Payable to other broker-dealers and clearing organizations:								
Securities failed to receive	2,077.0	1,389.0	1,039.1	1,173.6	1,539.0	2,161.0	1,745.0	2,105.0
Securities loaned	1,238.3	839.7	573.6	1,033.9	1,585.0	1,828.0	2,198.0	3,715.0
Other	817.4	782.4	619.8	836.1	430.0	902.0	733.0	671.0
Payable to customers	3,998.8	3,610.3	2,934.5	3,323.4	4,786.0	5,099.0	7,202.0	10,992.0
Short positions in securities and commodities	1,285.1	1,018.9	645.2	931.0	2,129.0	3,980.0	6,610.0	13,706.0
Other liabilities	1,828.2	1785.0	2,432.2	3,103.8	2,744.0	3,839.0	5,258.0	6,406.0
Total liabilities excluding subordinated liabilities	22,925.3	17,070.7	16,550.4	19,258.9	34,268.0	39,688.0	49,512.0	70,005.0
Subordinated liabilities	1,041.2	1,077.5	909.4	777.6	766.0	759.0	963.0	1,040.0
Total liabilities	23,966.5	18,148.2	17,459.8	20,036.5	35,034.0	40,447.0	50,475.0	71,045.0
Equity capital	3,149.3	2,526.5	2,346.1	2,689.6	3,147.0	3,174.0	3,427.0	3,959.0
Total liabilities and equity capital	27,115.8	20,674.7	19,805.9	22,725.9	38,181.0	43,621.0	53,902.0	75,004.0
Number of firms at year-end	490	463	420	409	384	364	361	374

[1] Data on repurchase agreements is not available before the first quarter of 1976. Prior to 1976, securities purchased under agreement to resell were combined with long positions in securities and commodities, while securities sold under repurchase agreements were combined with money borrowed secured by firm collateral. Much of the considerable growth of assets in 1976 reflects the increased involvement of broker-dealers in U.S. Government and Agency obligations which was accompanied by a substantial growth in the use of repurchase agreements.

Sources: NYSE Joint Regulatory Report and FOCUS Report.

firms. It should also be noted that the Commission's proposed amendments to the FOCUS report would provide new detailed data relative to firms' activities.[6]

I. Present Net Capital Requirements

Historically, the principal regulatory tool relied upon to insure the financial integrity of broker-dealers was the required maintenance of a net capital base relative to a firm's aggregate indebtedness in order to ensure sufficient liquid assets to cover a firm's current indebtedness. The Commission's basic net capital rule currently requires that a broker-dealer's "aggregate indebtedness" never be more than 1500% of his "net capital," as those terms are defined in the Rule. Net capital essentially means the net worth of a broker-dealer reduced by prescribed percentages of the market value of securities owned by the broker or dealer ("haircuts") and reduced by other assets not readily convertible into cash, but including certain subordinated debt, i.e., net liquid assets. Aggregate indebtedness includes all the money liabilities of a broker or dealer, except certain specifically described items. In essence, the Rule requires a broker or dealer to cover each dollar of his liabilities with not less than one dollar and six and two-thirds cents of liquid assets.

The alternative method of calculating net capital requires a broker or dealer to maintain minimum net capital equal to the greater of $100,000 or 4% of aggregate debit items in the Formula for Determination of Reserve Requirements for Brokers and Dealers under Rule 15c3–3 ("Reserve Formula"), 17 CFR 240.15c3–3a. The debit items in the Reserve Formula represent moneys owed the broker-dealer in relation to customer transactions. The alternative approach is founded on the concept that, if the debit items in the Reserve Formula can be liquidated at or near their contract value, these assets along with any cash required to be on deposit under the Rule, will be sufficient to satisfy all liabilities to customers (which are represented as credit items in the Reserve Formula). As an additional safeguard, election of the alternative requires a firm to reduce by 3% its aggregate debit items to provide, in essence, a bad debt reserve of firm capital to assure adequate resources to pay customer claims. Election of the alternative also requires that operational charges (stock record differences and suspense account items) be reflected in the Reserve Formula after seven business days, rather than after 30 business days, as permitted for those firms which have not elected the alternative. Together, these limitations allow a firm to increase its customer commitments only as a function of its net capital.

Most broker-dealers utilize the basic method for complying with the net capital rule. Tables 3 through 6 provide a financial profile of firms electing the alternative and basic methods for computing net capital. As Tables 3 and 4 indicate, 139 of the 374 NYSE member firms conducting a public business as of December 31, 1979 were using the alternative method for the computation of net capital. These 139 firms accounted for 68% of the aggregate assets, 76% of the aggregate equity capital, and 81% of the aggregate revenues of the 374 NYSE firms conducting a public business. Of the classified NYSE member firms, all ten National Full Line firms elected the alternative capital approach, while 57 Regional firms (48% of NYSE member firms classified as Regional) utilized this method.[7]

Only 44 of the 2,066 broker-dealers that conducted a public business as of December 31, 1979 and were not members of the NYSE used the alternatives method for the computation of net capital (*see* Tables 5 and 6). These 44 firms were, on average, substantially larger than the 2,022 firms using the basic method.

[7] National Full Line firms conduct a general securities business and have a nationwide branch office network. Regional firms, on the other hand, confine their activities to a more limited geographic area. For further information on classified NYSE member firms, *see* Chapter 3, Securities and Exchange Commission, *Staff Report on the Securities Industry in 1979*, September 1980.

Table 3.—*Unconsolidated Revenues and Expenses of NYSE Firms Doing a Public Business 1979*

[Millions of dollars]

	Firms using alternate method			Firms using basic method		
	National full line	Regional firms	Other firms[1]	Regional firms	Other firms	All firms
REVENUES						
Commissions:						
Listed equities on an exchange	$1,275.2	$331.9	$976.5	$153.2	$388.2	$3,125.0
Listed option transactions	251.7	45.6	112.9	15.0	18.0	443.2
All other commissions	138.9	99.2	113.1	42.3	50.7	444.2
Total securities commissions	1,665.8	476.7	1,202.5	210.5	456.9	4,012.4
Gains or losses on trading accounts	793.0	141.6	771.9	65.5	399.3	2,171.3
Realized and unrealized gains or losses on securities investment accounts	69.8	7.7	241.6	3.5	177.0	499.6
Profits or losses from underwriting and selling groups	313.0	77.0	238.2	61.5	79.8	769.5
Margin interest	915.1	183.4	452.5	13.0	87.5	1,651.5
Sale of investment company shares	32.9	14.5	17.0	9.8	1.4	75.6
Investment advisory, account supervision	35.8	7.6	28.3	8.9	41.0	121.6
All other revenue	700.3	106.1	610.2	82.4	463.5	1,962.5
Gross revenue	4,525.7	1,014.6	3,562.2	455.1	1,706.4	11,264.0
EXPENSES						
Employee expenses other than registered representatives' compensation	880.9	175.9	677.0	88.2	270.6	2,092.6
Salaries and other employment costs for general partners and voting Stockholder officers	63.2	78.1	139.2	45.4	113.5	439.4
Commissions and clearance paid	176.3	59.5	298.7	25.5	86.3	646.3
Interest expense	931.2	142.1	988.5	40.2	573.3	2,675.3
Regulatory fees and expenses	19.4	6.3	9.9	3.9	7.9	47.4
All other expenses	2,126.0	468.5	1,068.2	203.9	396.2	4,262.8
Total expenses	4,197.0	930.4	3,181.5	407.1	1,447.8	10,163.8
Net income before taxes	328.7	84.2	380.7	48.0	258.6	1,100.2
Number of firms in group as of end-of-year 1979	10	57	72	60	175	374

[1] Includes three quarters of data for two firms that were acquired or went out of business in the forth quarter.

Source: FOCUS Report, Directorate of Economic and Policy Analysis, Securities and Exchange Commission.

[6] Securities Exchange Act Release No. 17138 (September 19, 1980).

Table 4.—*Summary Balance Sheet for NYSE Firms Doing a Public Business 1979*

[Millions of dollars]

	Firms using alternate method			Firms using basic method		
	National full line	Regional firms	Other firms[1]	Regional firms	Other firms	All firms
ASSETS						
Cash	$1,160.1	$70.3	$258.6	$34.7	$239.3	$1,763.0
Receivables from other broker-dealers:						
Securities failed to deliver	879.5	152.3	963.4	56.2	227.6	2,279.0
Securities borrowed	1,110.8	166.3	2,005.6	36.3	593.0	3,912.0
Other	272.9	38.1	127.1	20.0	173.9	632.0
Receivables from customers	9,546.6	1,724.4	3,690.2	467.0	2,552.8	17,961.0
Long positions in securities and commodities	4,755.8	541.0	6,754.1	219.8	7,928.3	20,199.0
Securities owned—not readily marketable	1.8	2.8	11.0	1.7	12.7	30.0
Securities borrowed under subordinated agreements and partners' individual and capital securities accounts	0	21.7	22.1	15.0	8.2	67.0
Securities purchased under agreement to resell	5,453.1	93.0	7,929.2	275.5	10,493.2	24,244.0
Secured capital demand notes	38.8	32.2	119.9	30.3	33.8	255.0
Exchange memberships	30.5	13.2	53.7	9.5	32.1	139.0
Other assets	1,440.9	176.4	1,056.1	70.2	759.4	3,503.0
Total assets	24,690.8	3,031.7	22,991.0	1,236.2	23,054.3	75,004.0
LIABILITIES AND EQUITY CAPITAL						
Bank loans payable:						
Secured by customer collateral	1,927.7	661.9	1,004.7	144.0	263.7	4,002.0
Secured by firm collateral	1,610.1	150.3	1,910.7	77.1	808.8	4,557.0
Securities sold under repurchase agreements	6,697.2	85.7	8,267.4	234.9	8,565.8	23,851.0
Payable to other broker-dealers:						
Securities failed to receive	871.3	172.6	757.5	63.7	239.9	2,105.0
Securities loaned	1,963.1	211.9	1,230.2	19.6	290.4	3,715.0
Other	169.1	100.9	103.2	25.6	272.2	671.0
Payable to customers	4,517.1	820.5	2,873.1	242.6	2,538.7	10,992.0
Short positions in securities and commodities	1,783.1	217.2	3,777.3	41.5	7,886.9	13,706.0
Other liabilities	3,361.0	220.2	1,431.5	159.3	1,234.0	6,406.0
Total liabilities excluding subordinated liabilities	22,899.7	2,641.2	21,355.4	1,008.3	22,100.4	70,005.0
Subordinated liabilities	378.3	70.2	349.4	43.4	198.7	1,040.0
Total liabilities	23,278.0	2,711.4	21,704.8	1,051.7	22,299.1	71,045.0
Equity capital	1,412.8	320.3	1,286.4	184.5	755.0	3,959.0
Total liabilities and equity capital	24,690.8	3,031.7	22,991.2	1,236.2	23,054.1	75,004.0
Number of firms in group as of end-of-year 1979	10	57	72	60	175	374

[1] Includes three quarters of data for two firms that were acquired or went out of business in the forth quarter.

Source: FOCUS Report, Directorate of Economic and Policy Analysis, Securities and Exchange Commission.

Table 5.—*Unconsolidated Revenues and Expenses of NASD And Regional Broker-Dealers Filing Four Quarters During 1979*

[Millions of dollars]

	Firms using alternate method	Firms using basic method	All firms
Revenues:			
Commissions:			
Listed equities on an exchange	$19.1	$187.5	$206.6
Listed option transactions	1.8	32.7	34.5
All other commissions	42.3	258.2	300.5
Total securities commissions	63.2	478.4	541.6
Gains or losses on trading accounts	86.2	342.6	428.8
Realized and unrealized gains or losses on securities investment accounts	2.2	96.7	98.9
Profits or losses from underwriting and selling groups	17.3	133.7	151.0
Margin interest	17.0	26.9	43.9
Sale of investment company shares	1.9	117.0	118.9
Investment advisory, account supervision	1.9	100.6	102.5
All other revenue	102.1	273.1	375.2
Gross revenue	291.8	1,569.0	1,860.8

Table 5.—*Unconsolidated Revenues and Expenses of NASD And Regional Broker-Dealers Filing Four Quarters During 1979* —Continued

[Millions of dollars]

	Firms using alternate method	Firms using basic method	All firms
Expenses:			
Employee expenses other than registered representatives' compensation	32.6	271.1	303.7
Salaries and other employment costs for general partners and voting Stockholder officers	15.7	147.7	163.4
Commissions and clearance paid	10.1	140.8	150.9
Interest expense	114.5	111.9	226.4
Regulatory fees and expenses	1.9	14.8	16.7
All other expenses	88.4	656.9	745.3
Total expenses	263.2	1,343.2	1,606.4
Net income before taxes	28.6	225.8	254.4
Number of firms in group as of end-of-year 1979	44	2,022	2,066

Source: FOCUS Report, Directorate of Economic and Policy Analysis, Securities and Exchange Commission.

Table 6.—*Summary Balance Sheet for NASD and Regional Broker-Dealers Filing Four Quarters During 1979*

[Millions of dollars]

	Firms using alternate method	Firms using basic method	All firms
Assests:			
Cash	$19.3	$272.2	$291.5
Receivables from other broker-dealers:			
Securities failed to deliver	111.0	763.1	874.1
Securities borrowed	45.1	285.2	330.3
Other	29.9	415.7	445.6
Receivables from customers	229.4	434.5	663.9
Long positions in securities and commodities	780.0	1,882.8	2,662.8
Securities owned—not readily marketable	7.7	29.9	37.6
Securities borrowed under subordinated agreements and partners' individual and capital securities accounts	1.6	8.4	10.0
Securities purchased under agreement to resell	1,377.0	958.6	2,335.6
Secured capital demand notes	1.3	34.6	35.9
Exchange memberships	.3	9.4	9.7
Other assets	92.8	712.8	805.6
Total assets	2,695.3	5,807.3	8,502.6
Liabilities and equity capital:			
Bank loans payable:			
Secured by customer collateral	98.1	156.0	254.1
Secured by firm collateral	126.7	541.1	667.8
Securities sold under repurchase agreements	1,596.7	1,004.7	2,601.4
Payable to other broker-dealers:			
Securities failed to receive	123.8	843.1	966.9
Securities loaned	12.4	161.9	174.3
Other	15.0	126.2	141.2
Payable to customers	148.1	280.5	428.6
Short positions in securities and commodities	303.1	602.6	905.7
Other liabilities	120.4	499.7	620.1
Total liabilities excluding subordinated liabilities	2,544.2	4,216.0	6,760.2
Subordinated liabilities	7.1	129.0	136.1
Total liabilities	2,551.3	4,345.0	6,896.3
Equity capital	144.0	1,462.3	1,606.3
Total liabilities and equity capital	2,695.3	5,807.3	8,502.6
Number of firms in group as of end-of-year 1979	44	2,022	2,066

Source: FOCUS Report, Directorate of Economic and Policy Analysis, Securities and Exchange Commission.

II. Proposed Rule Amendments

The Commission is proposing changes to the net capital rule which will affect only the alternative method of computing net capital. Under the proposed amendments, the alternative will still require, for the protection of customers, a cushion of liquid assets beyond the "net" amount of liquid assets needed to offset a broker's or dealer's liabilities. Later in this release, the Commission discusses the possibility of reexamining the liquidity concept.

The proposed amendments will not only lower the ratio of required net capital to certain debit items and the minimum but also will affect the treatment of certain debit items in the Reserve Formula.

A

The moneys owed by customers of a broker or dealer in connection with their securities transactions are included in Item 10 (a debit item) of the Reserve Formula. This item includes debit balances in customers' cash and margin accounts (other than unsecured accounts and accounts doubtful of collection). The Item 10 debits comprise approximately 85% of aggregate debit items and thus for most brokers and dealers which have elected the alternative are the major determinants of their net capital requirements. In times of heavy trading volume these customer debits will generally increase, thereby causing a broker's or dealer's capital requirement to increase by at least 4% of the increased debit balances in customers' accounts. The Commission's present review of the net capital rule focused on whether the increased requirement was commensurate with the risk connected with these debits.

Initially, it must be noted that there is not necessarily any direct correlation between the 4% figure presently in the Rule and the amount of liquid capital required to protect customers. That figure was selected based on judgments inferred from the then-existing system. The result was that the 4% requirement under the alternative was estimated by the staff to require approximately 15% to 25% less capital than if the firm were required to maintain net capital based on the aggregate indebtedness test.

Since 1975, the year of the adoption of the alternative, these Item 10 debits have increased substantially, thereby resulting in increased net capital requirements. While the level of margin debt is volatile, it has displayed a general trend of expansion since the beginning of 1975. In the first quarter of that year, customers owed NYSE member firms an average of $4.1 billion as debit balances in margin securities accounts. This increased 173% to $11.2 billion in the fourth quarter of 1979. During this same time period, the largest quarter-to-quarter increase in the level of margin debt was $1.1 billion, while the largest decrease was $740 million.[8]

In addition to the 4% capital requirement ratio, the Commission's early warning rules and comparable programs of the various self-regulatory organizations in effect require firms to maintain greater net capital than the minimum. The financial responsibility rules not only restrict withdrawal of firm capital if the ratio of net capital to aggregate debit items falls below 7%, but also require periodic reports in addition to those required generally of brokers and dealers when the ratio falls below 6%. *See* Rule 15c3–1(e) and Rule 17a-11, and discussion under "B", *infra*. The practical effect of these provisions is to cause is broker-dealers to maintain net capital substantially in excess of 7% in order to maintain a cushion of net capital at a level which will avoid an inadvertent piercing of these early warning thresholds. Moreover, the NYSE (of which all major retail firms are members) imposes by rule restrictions on those member firms whose net capital falls below 7% of aggregate debit items. *See* NYSE Rule 326.

In combination, the present capital cushion represented by Item 10 debits and the early warning provisions cited above may be excessive when viewed against the risks of the collectibility of these debit items and the relatively small losses experienced by firms in this area since 1975. Despite recent events revealing both the imprudence and operational inefficiencies of some broker-dealers, it seems appropriate to propose a reduction in the basic requirements. Experience has indicated that other provisions of the Rule (which require capital charges) provide the required discipline in sufficient time to permit the correction of unsound practices or the liquidation of potentially dangerous positions.

The Securities Industry Association Capital Committee (the "SIA") has recommended to the Commission that the minimum capital required under the alternative based on Item 10 debits should be lowered from 4% to 2%.

While that may be the proper figure to determine capital adequacy for financing these particular transactions, at this time the Commission believes that it is appropriate to propose a reduction of the 4% minimum figure to 3% and have that reduction apply only to debit balances in margin accounts rather than to those in cash accounts and other debit items in the Reserve Formula. It should be noted that the SIA did not recommend reductions in the captial requirements based on other debit items.

In sum, the Commission herein proposes to require brokers and dealers which have elected the alternative to have and maintain a net capital of 3% rather than the persent 4% of the debit balances in customers' margin accounts which are maintained in compliance with Regulation T of the Federal Reserve Board or the maintenance margin requirements of the various self-regulatory organizations. This reduction appears to be prudent because these margin accounts should be virtually

[8] *See*, Federal Reserve Bulletin, January 1975 through December 1979, Table 828.

100% collectible. It appears that any risk of loss is adequately safeguarded against by Regulation T and maintenance margin requirements as well as by the cushion provided by the 3% reduction of debit items required of firms electing the alternative.

This reduction will have no effect on most registered brokers and dealers (*see* Tables 7 and 8). As noted above, of the approximately 2,400 broker-dealers doing public business in 1979, only 185 broker-dealers elected the alternative method for computing net capital at year-end 1979, 169 of which carried or cleared customer accounts.

These 169 (128 NYSE and 41 non-NYSE) firms electing the alternative capital method in the fourth quarter of 1979 had required net capital of $1.2 billion based upon the 7% Early Warning Test. Under the SIA proposal, the required net capital of these 169 firms would have been $684 million compared to an estimated $1.02 billion under the current proposal.[9]

Table 7.—*Selected Financial Data for Broker-Dealers Doing a Public Business and Using the Alternative Capital Approach*[1] *Year-End 1979*

[Millions of Dollars]

	NYSE firms	Non-NYSE firms[2]	All firms
Customer Cash/Margin Debits	$14,199	180	$14,379
Aggregate Debits	$16,687	269	$16,956
Net Capital	$2,011	72	$2,083
Required Net Capital[3]	$1,168	19	$1,187
Excess Net Capital[3]	$843	53	$896
Impact of SIA Proposal[4]:			
a. Required Net Capital	$671	13	$684
b. Excess Net Capital	$1,340	59	$1,399
Number of Firms	128	41	169

[1] Excludes 16 firms filing Part IIA of the FOCUS Report who neither carry nor clear customer accounts.
[2] Firms submitting four quarters of FOCUS data in 1979.
[3] Based on Early Warning 7% Test.
[4] Based on 2% "Item 10 Debits" criteria and Early Warning 7% Testing.
Source: FOCUS Report, Directorate of Economic and Policy Anaysis, Securities and Exchange Commission.

Table 8.—*Selected Financial Data For Groups of NYSE Firms Doing a Public Business and Using The Alternative Capital Approach*[1] *Year-End 1979*

[Millions of Dollars]

	National full line	Regional	Other	Total
Total Assets	$24,691	$2,997	$22,511	$50,199
Total Liabilities[2]	$22,900	$2,603	$20,986	$46,489
Subordinated Debt	$378	$78	$299	$755
Equity Capital	$1,413	$316	$1,226	$2,955

[9] The precise impact of the modified proposal set forth in the proposed rule cannot be determined because debit balances in customers' margin accounts are not reported as a separate item on the FOCUS Report. Debit balances in customers' margin accounts in the aggregate represented approximately 72% of cash and margin debits in the Reserve Formula in a sample of 100 broker-dealers who elected the alternative as of year-end 1979.

Table 8.—*Selected Financial Data For Groups of NYSE Firms Doing a Public Business and Using The Alternative Capital Approach*[1] *Year-End 1979*—Continued

[Millions of Dollars]

	National full line	Regional	Other	Total
Customer Cash/Margin Debits	$9,237	$1,693	$3,269	$14,199
Aggregate Debits	$10,222	$1,993	$4,472	$16,687
Net Capital	$1,022	$227	$762	$2,011
Required Net Capital[3]	$716	$140	$313	$1,168
Excess Net Capital[3]	$307	$87	$449	$843
Impact of SIA Proposal[4]:				
a. Required Net Capital	$395	$80	$197	$671
b. Excess Net Capital	$627	$147	$565	$1,340
Number of Firms	10	57	61	128

[1] Excludes 16 firms filing Part IIA of the FOCUS Report who neither carry nor clear customer accounts.
[2] Excludes subordinated debt.
[3] Based on Early Warning 7% Test.
[4] Based on 2% "Item 10 Debits" criteria and Early Warning 7% Test.
Source: FOCUS Report, Directorate of Economic and Policy Analysis, Securities and Exchange Commission.

While the Commission is proposing some net capital reduction in certain areas, the Commission emphasizes that the primary burden is on the securities industry to substantiate, with empirical data where feasible, the basis for this or any other proposed reduction. The Commission is concerned that the consequence of this reduction may simply be a withdrawal of capital from the broker-dealer business. The Commission therefore requests response to the following question: Will the additional capital which is no longer required by the net capital rule be used in the "core" securities activities of the firm or will it tend to be diverted into non-securities activities or be removed from the firm altogether?

As noted above, under the current Rule, brokers and dealers who have elected to operate under the alternative are required to maintain net capital of not less than 4% of Reserve Formula aggregate debit items. Under this provision no broker-dealer may effect a securities transaction if his net capital is less than 4% of aggregate debit items. In addition, the Rule provides that no capital, either equity capital or subordinated debt, may be withdrawn from the firm when its net capital is less than 7% of aggregate debits, i.e., 175% of minimum required net capital. Under Rule 17a–11, a broker-dealer operating under the alternative whose net capital is less than 6% of aggregate debit items (150% of minimum required net capital) must file certain reports monthly on Form X–17A–5 in furtherance of the Commission's early-warning program for broker-dealers who may be approaching financial or operational difficulty.

Unless these thresholds are revised, no effective reduction would be made in the amount of net capital required. Accordingly, the Commission proposes to replace the 7% level under paragraph (e) of Rule 15c3–1 and 6% under Rule 17a–11 with amounts equal to 175% and 150% respectively of the amount of net capital required (i.e., 175% and 150% of the sum of 3% of margin debits as proposed in "A" *infra* and 4% of the remaining debits in the Reserve Formula).

While the Commission recognizes that the early warning levels must be adjusted in connection with implementing any change in net capital requirements, the Commission must also examine whether the existing early warning mechanisms effectively alert the Commission and self-regulatory organizations of a firm's potential financial and operational difficulties in time to take action to protect customers. For example, a firm has reason to believe that a material charge to net capital may arise in the near future. Under the present rules, even if the charge would put the firm's net capital below the minimum, no early warning notice need be given until the charge is actually required to be made. The Commission therefore solicits comment on the following questions: Is the present structure of the early warning system, which is based on a firm's net capital level as of a certain day, adequate to insure customer protection? Do the proposed early warning levels (150% and 175% of minimum required net capital) provide an adequate margin of safety or should they be increased? What changes could be made in the early warning system so that the Commission and the self-regulatory organizations would have timely notice of a firm's potential difficulties without forcing firms to maintain excessive regulatory capital?

C

In order to qualify to operate under the atlernative net capital requirement, a broker or dealer must maintain net capital of at least $100,000. That minimum apparently acts as a deterrent to many firms who carry customer accounts from electing the alternative. Yet, if the benefits of the alternative are as significant as believed and if the alternative is a proper measurement of financial responsibility for broker-dealers, there may be no reason for a minimum greater than that applicable to those who comply with the aggregate indebtedness test (the basic rule). The minimum under the basic rule for those brokers or dealers which do a general

securities business and carry customer accounts is $25,000.

Year-end 1979 FOCUS data indicate that there were approximatley 1001 firms doing a public business [10] and which have net capital of at least $100,000, (or 7% [11] of aggregate debits) but were not utilizing the alternative method. If the net capital threshold were reducted to $25,000, the FOCUS data indicate that approximately 399 additional broker-dealers would have been eligible to use the alternative computation. The number of additional broker-dealers eligible to use the alternative computation at $75,000 and $50,000 thresholds, respectively, would have been 205 and 252.

The Commission has decided that consideration should be given to lowering the minimum in stages. Initially, it proposes for comment a new minimum of $75,000 for election of the alternative.[12] That figure would represent a reduction of 25% from the present minimum and would still appear to provide adequate reserves to ensure that customer funds and securities are not at undue risk. After a monitoring period, ending no later than December 31, 1982, during which the Commission will review FOCUS data and liquidations by the Securities Investor Protection Corporation ("SIPC") and make periodic on-site examinations, the Commission will consider a further reduction.

D

A "fail to receive" arises when a broker or dealer purchasing securities has not taken delivery from the selling broker or dealer as of settlement date. A "fail to deliver" arises when a selling broker or dealer has not made delivery to the buying broker or dealer as of settlement date. When these transactions are related to customer purchases and sales, they are included in Reserve Formula Items 4 and 12, respectively. For a firm electing the alternative, the inclusion of the fails to deliver (a debit item) raises its net capital requirement and the inclusion of the fails to receive (a credit item) increases its potential cash deposit requirement.

As recognized in Securities Exchange Act Release No. 9922 (January 2, 1973), brokers or dealers doing a large volume of business normally find it impractical or unduly burdensome to determine which fail to receive contracts and fail to deliver contracts relate to proprietary accounts or customers accounts on a transaction by transaction basis. That release provided that a conservative allocation should be made to accomplish maximum protection for customers. If such an allocation is used with regard to the foregoing items, the broker or dealer should be able to demonstrate that the result so obtained regarding designations of customer and proprietary positions would be comparable to those which would be obtained if the respective positions had been developed without the use of an allocation.

When the alternative method of computing net capital was adopted, the Commission authorized conservative interpretations regarding Reserve Formula items where an allocation procedure was used. Fails to receive not allocable to the broker's or dealer's proprietary long positions and fails to deliver not allocable to the broker's or dealer's proprietary short positions were presumed to be customer-related and thus includable in the Reserve Formula. These interpretations were intended to insure that customer related fails would be provided for through a Reserve Formula deposit or increased capital requirements.

Before the Rule was amended in 1975, segments of the securities industry had argued that transactions in which corporate and municipal bond fails to deliver are paired off in the Reserve Formula with fails to receive (for instance, when a broker or dealer makes a simultaneous purchase and sale of a security, and the transaction has not yet settled) should not be included in either side of the Reserve Formula since not related to customer activity. That view was rejected in large part because of the experimental nature of the alternative concept and the Commission's desire to test its operation.

That situation may no longer be justifiable. Accordingly, the interpretation should be relaxed where a broker or dealer can demonstrate that it has full possession or control of all customer fully paid and excess margin securities as required under Rule 15c3-3. Moreover, where no customers of the calculating broker or dealer are involved in a particular offsetting fail transaction, the only risk to customers is where the broker or dealer on the other side of the fail to deliver must redeliver to its customer. This is basically a credit risk which should more properly be measured by a charge on "aged" fails to deliver.

At present, paragraph (c)(2)(ix) of the net capital rule requires a capital charge based on the haircuts applicable to the securities underlying the contract for "aged" fail to deliver contracts. A fail becomes "aged" when it has been outstanding 11 business days or longer (except in the case of municipal securities, where the fail must be outstanding 21 business days or longer).

Since elimination of these fails from the Reserve Formula would exclude from net capital consideration a firm's collection risk on fails to deliver until these items became "aged," the Commission herein proposes a new amendment. A broker or dealer may elect a procedure whereby he may exclude from the Reserve Formula both fails to deliver and fails to receive which allocate to one another, so long as the broker or dealer for purposes of paragraph (c)(2)(ix) treats the fail to deliver as "aged" three business days after settlement date of the transaction on all fails except fails related to municipal securities. On fails related to municipals, the aging period would be 11 business days under the proposed amendments. This change would not require significant regulatory capital to support normal street side clearance which settles routinely. The proposed approach would provide a reduction in required net capital. At the same time, an appropriate capital reserve would be imposed on a timely basis to insure customer protection. The broker or dealer must still, of course, be able to demonstrate full possession or control of customer fully paid and excess margin securities.

If the broker or dealer chooses, at his election, to place these "paired" fails in the Reserve Formula, the percentage of net capital required for these fail to deliver items remains the present 4%. Under this approach, the Rule would in addition still require a capital charge for fails to deliver more than 11 business days old (and in the case of municipals, more than 21 business days). A broker-dealer electing either alternative, of course, must treat all fails consistently

[10] The non-NYSE firms "doing a public business" consists of firms filing four quarters of FOCUS data in 1979.

[11] See paragraph B above.

[12] Under the present alternative net capital rule, an introducing broker may still elect the alternative even though he is exempt from Rule 15c3-3 and therefore does not calculate the Reserve Formula. In lieu of the 4% of aggregate debit items calculation, he is required to maintain the $100,000.

One of the benefits of the alternative is that it enables a broker-dealer to take smaller haircuts on inventory positions, thereby allowing him greater flexibility in market making, underwriting and firm trading. Many introducing brokers engage in these activities and therefore could elect the alternative. Under the proposal, the Commission has not changed the $100,000 minimum for introducing brokers electing the alternative, in part, because there is no other capital constraint on the level of an introducing broker's business. The public is invited to respond to the problem of minimum capital requirements for introducing brokers. *See* Part IV, *infra*, question 7. Other brokers or dealers who have elected to operate pursuant to an exemption from Rule 15c3-3, as at present, will not be able to elect the alternative under the proposal.

and continuously in accordance with his election. Under either, the Rule assures protection of any customers which may be involved by providing incentives for the broker-dealer to resolve these items.[13]

E

In C.O.D. transactions with customers, money and securities change hand simultaneously at settlement. C.O.D. transactions with customers (Primarily institutions) as a practical and economic matter may be broken out into receipt vs. payment and delivery vs. payment items which are included in Reserve Formula Items 1 and 10 respectively. However, in either a sale or purchase of securities on a C.O.D. basis, the only financial exposure of a firm to its customer is the "net-equity" on one side as a result of market movement before completion of the transaction. Hence it appears that the Rule, by requiring equal to at least 4% of the amount of such transactions, may require more liquid capital than necessary to protect against the risks in C.O.D. transactions.

The Commission proposes to amend the Rule to allow the broker or dealer to make a choice similar to the alternative presented above related to fails to deliver. The broker-dealer may exclude C.O.D. transactions from the Reserve Formula, treat the security which is the subject of the C.O.D. transaction as if it were a proprietary position and take the appropriate haircut for that security (this would occur as of settlement date, however, with no period allowed for "aging"). Since many C.O.D. transactions currently appear to involve debt securities (government or municipal securities), the haircut on the underlying securities normally may be less than the 7% early warning threshold which currently would be required by including such items in the Reserve Formula. Alternatively, a broker or dealer choosing to place these items in the Reserve Formula would continue to have the 4% capital requirement on these items.

III. Solicitation of Comments on the Report of the Securities Industry Association Capital Committee

As noted earlier in the release, the Capital Committee of the SIA has made certain recommendations to the Commission which would alter both the net capital rule and Rule 15c3–3. Some of those recommendations are reflected in the amendments proposed above; others relating to stock loans and non-customer securities in firm bank loan, have been ongoing subjects of staff study and should before the end of the year result in public releases. With respect to the four remaining recommendations below, the Commission has insufficient data to make a proper evaluation. The Commission requests comment to assist it in determining their merit. They are:

(1) The value of certain illiquid assets (specifically, certain unsecured receivables and exchange memberships, as described below) now deducted from net worth in computing net capital should no longer be required to be deducted.

(2) Delivery vs. payment and receipt vs. payment accounts (C.O.D. accounts) should be excluded from the Reserve Formula, and only the customer equity in an unsettled transaction should be included as a credit (cash item) in the Reserve Formula.

(3) The Commission should reduce to 15% the haircut on preferred stocks under the alternative, or permit its inclusion in paragraph (f)(3)(ii) of the Rule if the inclusion would result in a smaller deduction from net worth than that prescribed by paragraph (c)(2)(vi)(H) of the Rule.

(4) Where a firm short position is allocated to a customer debit, both sides should be excluded from the Reserve Formula.

A

The SIA Report points out that a substantial amount of a firm's non-collateralized receivables are considered non-allowable assets for purposes of computing net capital and that certain receivables due from other brokers and dealers (floor brokerage and other commissions receivable) are allowable assets for a certain time after they arise. The SIA recommends that all receivables from brokers and dealers should be allowable assets on the theory that all brokers and dealers are subject to the Commission's financial responsibility rules and should therefore be able to pay promptly.

The SIA also recommends that receivables related to fees for investment banking and other services which are due from highly rated, financially sound corporations present no greater risk than debt instruments issued by those corporations and should be accorded similar treatment for net capital purposes. Related to these issues, the SIA proposes that receivables against which the broker or dealer has accrued taxes should be allowed to the extent of the accrued tax.

Finally, the SIA report recommends that a firm should be allowed to include the value of exchange memberships in computing net capital. It argues that the memberships are readily liquid, and an appropriate haircut could be devised to compensate for fluctuations in value.

The Commission notes that these proposals go to the very heart of the liquidity concept of the Rule, which is that a broker or dealer must always maintain sufficient liquid assets to satisfy promptly customer demands. With certain limited exceptions, unsecured receivables have not been treated as readily convertible into cash because they may not be readily collectable on the initiative of the broker or dealer. If the broker's or dealer's debtor diputes the claim, or simply does not pay, court action and its attendant delays may be the only recourse. Thus customers may be in the position of waiting for the broker or dealer to liquidate claims against others. Furthermore, it should be noted, there are no objective standards for classifying which receivables should be regarded as collectable and how they should be valued. With respect to exhange memberships, though in most cases they may be readily sold at some price, because of the priorities set forth in exchange rules,[14] it is not certain what amount of the proceeds would benefit customers.

The Commission requests comment from the public regarding these proposals. Specifically, interested persons are encouraged to address the problem of how to determine which unsecured receivables should be treated as readily convertible into cash.

B

The SIA proposes removing both sales and purchases on a C.O.D. basis from the Reserve Forumula (both are now included in Reserve Formula Items 1 and 10). The net equity, which would be determined by computing the sum which the firm would owe a customer on the date of a Reserve Formula calculation, would be entered as a credit in the Reserve Formula.

Elimination of this item from the debits distorts the initial intention of the alternative, which was to utilize the aggregate dollar amount of firm assets which have as their source transactions with customers as the standard for determining the maximum permissible level of the broker's or dealer's activity. In this regard, the impact of the proposal is difficult to measure primarily because data relative to C.O.D. transactions is not segregable on FOCUS or other reports. The Commission understands

[13] Under either alternative, the staff responses in a letter to Wien & Co., Inc., dated July 15, 1976, and in similar letters to other brokers or dealers would no longer be applicable.

[14] *See e.g.*, Article XI, Section 3 of the New York Stock Exchange Constitution.

that many large institutions purchase securities on a C.O.D. basis, and that some broker-dealers use C.O.D. transactions almost exclusively. Excluding C.O.D. transactions from the Reserve Formula theoretically could reduce the capital requirement of a firm doing primarily this type of business to the $100,000 minimum.

Moreover, the Commission notes that, since a broker or dealer could allow under Regulation T a C.O.D. account to remain open for as long as 35 days, the broker or dealer may be taking a significant credit risk which is unmeasured by the net capital rule. Furthermore, because firms under the alternative are required to compute their Reserve Formula only once a week, there is no assurance that reserves will be set aside to cover transactions entered into between computation dates. Finally, it should be noted that a credit entry in the Reserve Formula under Rule 15c3–3 may actually impose a greater financing burden on a firm than the 4% minimum capital requirement based on the contra debit item, since any excess of credits caused by the inclusion of net equity in C.O.D. accounts over aggregate debit items (reduced by 3%) would be required to be placed in the Reserve Bank Account. The broker or dealer then may have greater financing needs and be forced to borrow to meet the deposit requirement.

The Commission requests information from the public in assisting it to determine the potential impact of this proposal and the ability of firms to isolate C.O.D. transactions from their other cash and margin transactions. Commentators are also asked to respond to the issue of evaluating capital requirements for firms executing orders on behalf of institutions dealing in large blocks of securities.

C

Under paragraph (c)(2)(vi)(H) of the Rule, the haircut on preferred stock is 20% of the market value of the greater of the long or short position. Under paragraph (f)(3)(ii) of the Rule, which applies to firms utilizing the alternative, the haircut on securities other than those specifically enumerated is reduced to 15%. Preferred stock is one of the classes of securities which is ineligible for the 15% haircut. The SIA argues that the imposition of a 20% haircut on preferred stock under the alternative does not appear to be reasonably related to the risks involved with positions in such securities and may hinder market making activities in this area.

The SIA proposal does not address the fact that the prices of preferred stocks tend to move in tandem with those of debt instruments and is thus influenced by other factors than those affecting common stocks. The present haircuts for debt securities are based on historical data of the fluctuations of these instruments over a long period of time. That same kind of record should be made for preferred stock. Moreover, like corporate debt securities, preferred stocks are rated by statistical rating services. It may be appropriate to require a greater haircut for those lower-rated prefered stocks than for higher-rated stocks. The Commission requests any information which may assist in the resolution of this issue.

When a firm sells short, as principal, to a customer, both sides of the transaction are included in the Reserve Formula, (i.e., the customer debit and the market value of the short proprietary position). However, when the firm buys as principal from a selling customer who is short and has not resold, the customer credit and related debit can be excluded from the Reserve Formula. The SIA recommends that a firm short position which allocates to a customer debit should be treated in the same manner as a firm long position which allocates to a customer credit.

This recommendation, however, appears to disregard the fact that the broker or dealer who has sold short as principal owes the customer securities and may be required to borrow in order to meet his delivery requirement under Rule 15c3–3. The public is invited to respond to the SIA's proposal and suggest any other possible solution to the difficulty pointed out by the Commission.

IV. Solicitation of Comments on Basic Concepts of Financial Responsibility Rules

The Commission adopted its uniform net capital rule over five years ago and the customer protection rule (Rule 15c3–3) nearly eight years ago. In promulgating these rules, the Commission sought to protect the investing public from the risk of dealing with thinly capitalized and operationally unsound brokers and dealers, while, at the same time, avoiding the imposition of unduly onerous capital requirements and burdensome operational restrictions. As noted above, current industry conditions and recent improvements to back office operations systems suggest it may now be appropriate to revisit the basic concepts.

The Commission therefore, welcomes the participation of the public in this important effort. This release contains questions about a number of areas of particular concern to the Commission. It is not necessary, however, that comments be limited to these questions. Commentators should feel free to provide any reasonable, constructive suggestion or comment regarding any aspect of the Commission's financial responsibility program.

Areas of Inquiry

1. In Securities Exchange Act Release No. 11497, (June 26, 1975) announcing amendments to the net capital rule, the Commission indicated that "[u]ltimately, it may be possible for Rule 15c3–3 in some form to replace the liquidity requirements of the net capital rule and become the primary source of protection of customer assets held by the broker or dealer." The Commission is considering whether this statement has continued validity in today's market environment.

(a) Do you believe that the net capital rule can be substantially revised or even eliminated so as to place greater emphasis on the other financial responsibility rules, particularly Rule 15c3–3?

(b) If so, please explain how and what the effect would be on brokers and dealers and their customers. Would it be necesary to strengthen these rules, particularly Rule 15c3–3, to ensure that customer funds are not deployed in unsafe areas of a firm's business, other than by requiring daily Reserve Formula computations under Rule 15c3–3?

(c) If not, can Rule 15c3–1 be so structured as to make the computation of net capital less complex? If so, please explain.

(d) Can the customer protection rules, other than the net capital rule, be structured to make such rules less complex? If so, how can this be accomplished?

2. As illustrated in Tables 1 and 2, the securities industry is undergoing substantial change. Broker-dealers deploy their capital in new and different areas to enhance their competitive positions and provide new services to investors and corporate issuers.

(a) In what ways, if any, have current financial responsibility requirements, including the net capital rule, altered firms' investment decisions?

(b) Are current regulatory capital standards adaptable to the changing capital needs of a firm? If not, please explain.

3. The ability of small or regional broker-dealers to raise investment capital may differ from that of larger firms or those which are national in scope.

(a) To what extent, if any, do present financial responsibility rules affect the ability of these broker-dealers to raise capital? In particular, can the rules be

made less burdensome to smaller broker-dealers without substantially reducing customer protection?

(b) What additional cost burdens and/or financial risks does the quest for "regulatory capital" (capital required to satisfy regulatory requirements with arguably little or no business justification) impose on small broker-dealers?

4. A number of securities firms have formed subsidiaries or affiliates whose product lines fall outside the securities business and beyond the regulatory reach of the Commission. To what extent, if any, have financial responsibility requirements, including the net capitl rule, created incentives to diversify into activities unrelated to the securities business? Please explain.

5. The alternative represented a new concept for the determination of net capital requirements. The aggregate indebtedness standard measures a firm's capital requirements based on its liabilities. The alternative changes this concept considerably by making the capital requirement contingent upon the level of a firm's customer related assets, in the form of secured receivables. The alternative net capital approach integrates the net capital requirements with the custodial and reserve requirements of Rule 15c3–3 and places greater reliance for the protection of customer funds and securities on Rule 15c3–3. This corresponds to the policy of Rule 15c3–3 and the Securities Investor Protection Act of 1970, both of which exclude other brokers and dealers from their protective provisions.

As the Commission stated in Release 34–11497 when it adopted the alternative:

> The Comission believes the alternative approach will effectively create and maintain an environment of customer protection while enabling the securities industry to fulfill its function of capital raising and the maintenance of a liquid secondary market by:
>
> 1. Acting as an effective early warning device to provide reasonable assurance against loss of customer assets through á logical interface with other operation standards and existing surveillance, reporting and examination aspects of the securities industry regulatory framework;
>
> 2. Avoiding the inefficient and costly commitment of capital within the securities industry where such a commitment is not necessary for customer protection;
>
> 3. Eliminating, to the extent possible and consistent with the objective of customer protection, competitive restraints on the securities industry's ability to compete effectively with other diversified financial institutions;
>
> 4. Making the capital structures of brokers and dealers as well as their investment and operating policies more understandable to lending institutions and other suppliers of capital and to the public; and
>
> 5. Providing some reasonable and finite limitation on broker-dealer expansion to minimize the possibility of customer loss and the possibility that the SIPC Fund will have to be utilized to protect customers.

The Commission is largely satisfied with the operational experience of the alternative since its adoption five years ago. Consequently, the Commission would like to explore the possibility of supplanting the traditional aggregate indebtedness test with the alternative. To do so might require the elimination of the exemptive provisions to Rule 15c3–3 found in paragraph (k)(2)(i) of that rule (and perhaps all of its exemptive provisions) and other adjustments.

(a) Do you believe that Rule 15c3–1 and Rule 15c3–3 could be integrated into a single less complex financial responsibility requirement? If so, how could this best be accomplished?

(b) Do you believe that the alternative can effectively replace the traditional aggreage indebtedness test for brokers and dealers? Please explain.

(c) Should all brokers and dealers be required to follow the alternative and, as a result, also be subject to Rule 15c3–3? Please explain.

(d) Have the objectives voiced by the Commission in the release quoted above been met? Will they continue to be met if the entire industry is subject to the alternative? Please explain.

(e) The alternative measures a broker-dealer's capital requirement in terms of its customer related business. However, a broker-dealer has many obligations running to other brokers and dealers which in turn have customers. Would requiring all firms to comply with the alternative undermine the interdependence of the broker-dealer industry by inadequately protecting broker-dealers who do a large business outside of their customer activity? Please explain.

6. The alternative net capital provisions sought to enhance the ability of brokers and dealers to engage in market making. It does this primarily by modifying the haircuts from those applicable in the basic net capital rule. It has, however, been suggested that even more flexibility might be appropriate.

(a) Does the alternative net capital provision measure market risk in any unreasonable manner and thus require more net capital of market makers with no customer exposure than necessary to ensure the liquidity of a broker or dealer?

(b) Should the haircut provisions of the alternative and basic net capital requirements be made uniform? Please explain.

(c) What standards of financial responsibility are appropriate for market makers? Please explain.

7. The liquidity concept of the net capital rule is premised on the policy that a broker or dealer must maintain a cushion of cash or assets readily convertible into cash in order to meet promptly the demands of customers. It may be unnecessary, however, to require such strict standards of liquidity with respect to firms who do not carry customer accounts and who do not handle customer funds or securities.

(a) What, if any, financial responsibility standards are appropriate for brokers or dealers who do not handle customer funds or securities? Please explain.

(b) What is the feasibility of substituting for the net capital rule at net worth test with a minimum net worth computed in accordance with generally accepted accounting principles (the Commission suggests a $25,000 figure) for brokers and dealers who do not handle customer funds and securities? Please explain.

8. In the last four years, brokers and dealers have become increasingly involved in government financial instruments, including T-bills and GNMA certificates. Not only do they act as instruments as a means to speculate on interest rates or to hedge other positions or, in the case of repurchase agreements, to borrow cash for short periods of time. The staff has issued interpretations dealing with some of these matters. It may be necessary, however, to examine brokers' and dealers' involvement in this entire area to determine if there is need for more specific requirements than those now in effect.

(a) What rules, if any, should the Commission adopt to protect the liquidity of a broker-dealer from the risks of dealing in the financial instruments market?

(b) What amendments, if any, should be made to the net capital rule to protect the liquidity of a broker-dealer from the risks of dealing in the financial instruments market?

(c) What risks, if any, does a broker-dealer experience because of customer transactions in the financial instruments futures or forward markets which are not now provided for by the net capital rule? How should the net capital rule treat those risks?

(d) What modifications, if any, should be made to Rule 15c3–3 in connection with brokers' and dealers' or customers' transactions in financial instruments?

9. The net capital rule requires that in computing net capital several deductions from net worth of certain specified percentages of the market values of marketable securities ("haircuts") be taken. Some have contended that the haircuts for certain securities are unwarranted.

(a) Do you believe that any of the percentage deductions are unwarranted? If so, which are unwarranted and what should be the appropriate deduction? Please supply any data or explanation which may support such changes.

(b) The net capital rule refers to "nationally recognized statistical rating organizations" in determining lower haircut categories for certain assets. *See* Rule 15c3–3(c)(2)(vi)(E) and (F). Are these categories appropriate? Are there other means for distinguishing between investment grade and speculative securities for purposes of reduced haircuts? Should ratings by other organizations and institutions be considered?

10. In the recent past, because of market volume and interest rates, captial requirements for firms electing the alternative have substantially increased and then suddenly declined. Some firms have met this additional capital requirements by subordinated borrowing in accordance with Appendix D of Rule 15c3–1. These loans cannot be repaid within a period of one year and therefore must be maintained even after a firm's capital requirement is reduced. Because of the one year lock-in requirement, these loans frequently prove to be an expensive solution to a perhaps short-term problem.

(a) Is it feasible to modify Appendix D (relating to Satisfactory Subordination Agreements) to allow subordinated borrowings to meet increases in capital requirements based on dramatic increases in customer business, which borrowings may be prepaid within a year if such business returns to normal levels? Please explain.

(b) What, if any, limitations should be placed on such prepayments?

11. The net capital rule requires a deduction from net worth for the inefficiencies or operational defaults of a broker or dealer. For example, a broker or dealer must deduct from net worth the market value of all short securities differences unresolved for seven business days after discovery. In requiring these deductions, the Rule assumes a 100% loss in these unresolved accounts pending their resolution.

(a) Are all of the operational charges warranted? If not, which are not and why not?

(b) Is there a solution other than treating operational inefficiencies as deductions of a broker or dealer? Please explain.

12. The Commission, in its *Study of Unsafe and Unsound Practices of Brokers and Dealers* [15] made the following observations regarding the capitalization of the securities industry at that time:

The defects fall into several broad categories. First and foremost is the inadequacy and impermanence of capital, and, in some cases, the injudicious employment of such capital as does exist.[16]

. . . It should be noted at the outset that protections provided by net capital requirements with a liquidity focus for meeting current obligations are not a substitute for the need for having sufficient long-term capital, in the absence of which the underlying structure of broaker-dealers may be unsatisfactory.[17]

The Commission at that time was concerned about the extreme difficulties experienced by the industry during the period 1968–1970. Since that time, there has been a tightening of Commission oversight and administration of the capital rules. The self-regulatory organizations have, during this same time period, also considerably tightened their surveillance of their members.

(a) Aside from statutory compulsion, is there any reason that the Commission should impose financial responsibility rules at all?

(b) If the Commission should impose financial responsibility rules, are the present rules, i.e., Rules 15c3–1 and 15c3–3, and Rules 8c–1 and 15c2–1, the appropriate rules? Should any of these rules be merged, modified or done away with completely? Are these rules realistic in terms of today's market environment?

(c) If the Commission were to substantially review its rules, or substantially reduce the scope of its rules, what safeguards would exist to insure a sound and adequately capitalized broker-dealer industry?

(d) Are there any other concepts which the Commission should consider which are appropriate in determining the financial responsibility of brokers and dealers?

Statutory Basis and Competitive Considerations

The Securities and Exchange Commission, acting purusant to the Securities Exchange Act of 1934 and partricularly Sections 15(c)(3), 17(a) and 23 thereof (15 U.S.C. 78o(c)(3), 78q(a) and 78u), hereby proposes for public comment amendments to Rules 15c3–1, 15c3–3a, and 17a–11, which would affect the computation of net capital for brokers and dealers, all as set forth below.

The rules as proposed, if adopted, will probably have an impact on competition. For the most part, firms computing under the alternative net capital rule would have lower net capital requirements; furthermore, more firms would be able to avail themselves of the alternative and its simplified method of computation. These amendments may therefore give firms eligible for the alternative some competitive advantage over firms required to calculate net capital according to the traditional aggregate indebtedness rule, giving them greater leeway to expand their business in relations to their capital. Lowering the entry level for the election of the alternative to a certain extent ameliorates this situation, and the Commission intends to study the feasibility of further easing restrictions for election of the alternative.

The goals of the Commission in this respect are to provide safeguards with respect to the financial responsibility and related practices of brokers and dealers and to provide a regulatory environment that permits an efficient deployment of scarce industry capital and encouraging diversification while at the same time assuring investors that their funds and securities are protected against financial instability and operational weaknesses of brokers or dealers. The Commission, therefore, specifically solicits comment on the question of competitive impact and how the benefits and/or burdens imposed by this may be more evenly distributed.

Text of Proposed Amendments

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

Note.—The text of the following proposed amendments uses arrows ► ◄ to indicate additions.

It is proposed to amend 17 CFR 240 as follows:

§ 240.15c3–1 [Amended]

1. By amending paragraphs (a), (e), (f)(1)(i) and (ii), (f)(2) and deleting paragraph (g) of § 240.15c3–1 as follows:

§ 240.15c3–1 Net capital requirements for brokers or dealers.

(a) No broker or dealer shall permit his aggregate indebtedness to all other persons to exceed 1500 percent of his net capital, except as otherwise limited by the provisions of paragraph (a)(1), or,

[15] Study of Unsafe and Unsound Practices of Brokers and Dealers 92d Congress, 1st Sess., House Doc. No. 92–231 December, 1971).

[16] *Id.*, p. 11.

[17] *Id.*, p. 55.

in the case of a broker or dealer electing to operate pursuant to paragraph (f) of this section, no broker or dealer shall permit his net capital to be less than > the sum of the percentages prescribed by that paragraph of debit items < computed in accordance with 17 CFR 240.15c3–3a or, if registered as a futures commission merchant, 4 percent of the funds required to be * * *

* * * * *

(e) *Limitation on withdrawal of equity capital.* No equity capital of the broker or dealer or a subsidiary or affiliate consolidated pursuant to Appendix C (17 CFR 250.15c3–1c) whether in the form of capital contributions by partners (excluding securities in the securities accounts of partners and balances in limited partners' capital accounts in excess of their stated capital contributions), par or stated value of capital stock, paid-in capital in excess of par, retained earnings or other capital accounts, may be withdrawn by action of a stock holder or partner, or by redemption or repurchase of shares of stock by any of the consolidated entities or through the payment of dividends or any similar distribution, nor may any unsecured advance or loan be made to a stockholder, partner, sole proprietor or employee if, after giving effect thereto and to any other such withdrawals, advances or loans and any Payments of Payment Obligations (as defined in Appendix D) (17 CFR 240.15c3–1D) under satisfactory subordination agreements which are scheduled to occur within six months following such withdrawal, advance or loan either aggregate indebtedness of any of the consolidated entities exceeds 1000 percent of its net capital or its net capital would fail to equal 120 percent of the minimum dollar amount required thereby or would be less than > 175 percent of the sum of the percentages prescribed by paragraph (f) of 17 CFR 240.15c3–1 of debit items < computed in accordance with 17 CFR 240.15c3–3a, or, if registered as a futures * * *

(f) *Alternative net capital requirement.* (1)(i) A broker or dealer is not exempt from the provisions of 17 CFR 240.15c3–3 under the Securities Exchange Act of 1934 pursuant to paragraph (k)(1) or (k)(2)(i) may elect not to be subject to the limitations of paragraph (a) of this section respecting aggregate indebtedness as defined in paragraph (c)(1) of this section and certain deductions provided for in paragraph (c)(2) of this section. *Provided,* That in order to qualify to operate under this paragraph (f), such broker or dealer shall at all times maintain net capital equal to the greater of > 3 percent of debit item 10a (relating to debit balances in margin accounts) of the Formula for Determination of Reserve Requirements for Brokers and Dealers (Exhibit A to Rule 15c3–3, 17 CFR 240.15c3–3a) plus 4 percent of the total of the remainder of the debit items of such formula or $75,000 < or, if registered as a futures commission merchant, 4 percent of the funds required to be segregated pursuant to the Commodity Exchange Act, and the regulations thereunder, if greater, and shall notify the Examining Authority for such broker or dealer and the Regional Office of the Commission in which the broker or dealer has its principal place of business, in writing, of its election to operate under this provision. Once a broker or dealer has determined to operate pursuant to this paragraph (f), he shall continue to do so unless a change is approved upon application to the Commission. > A broker or dealer who claims an exemption from Rule 15c3–3 by virtue of paragraph (k)(2)(ii) of that rule shall at all times maintain a net capital of not less than $100,000. If the electing broker or dealer chooses to exclude fails to deliver and fails to receive from the Rule 15c3–3 Reserve Formula in accordance with Note F thereto, such fails to deliver shall be considered "aged" three business days after settlement date except for fails to deliver related to municipal securities, which shall be considered "aged" after 11 business days.

The electing broker or dealer must charte its net capital with the deduction prescribed by paragraph (c)(2)(ix) for such aged fails.<

(ii) In the case of a municipal securities broker as defined in section 3(a)(31) of the Securities Exchange Act of 1934, who is not exempt from the provisions of 17 CFR 240.15c3–3 under the Securities Exchange Act of 1934 pursuant to paragraph (k)(2) or Ik)(2)(i), and who effects transactions only on a payment versus delivery basis with other brokers or dealers or municipal securities brokers or municipal securities dealers, and who does not hold funds or securities for, or owe money or securities to, customers and does not otherwise carry accounts of, or for, customers, in order to qualify to operate under this paragraph (f) such municipal securites broker shall at all times maintain net capital equal to the great of ► 3 percent of debit item 10a (relating to debit balances in customers' margin accounts) of the Formula for Determination of Reserve Requirements for Brokers and Dealers (Exhibit A to Rule 15c3–3, 17 CFR 240.15c3–3–3a) plus 4 percent of the total of the remainder of the debit items of such formula or $25,000.◄ *Provided,* That in order to qualify to operate under this paragraph (f), such municipal securities broker shall notify the Examining Authority for such broker or dealer and the Regional Office of the Commission in which the broker or dealer has its principal place of business, in writing, of its election to operate under this provision. Once a municipal securities broker has determined to operate pursuant to this paragraph (f), he shall continue to do so unless a change in such election is approved upon application to the Commission. ► If the electing broker or dealer chooses to exclude fails to deliver and fails to receive from the Rule 15c3–3 Reserve Formula in accordance with Note F thereto, such fails to deliver shall be considered "aged" three business days after settlement date except for fails to deliver related to municipal securities, which shall be considered "aged" after 11 business days. The electing broker or dealer must charge its net capital with the deduction prescribed by paragraph (c)(2)(ix) for such aged fails.◄

(2) In the case of a broker or dealer who has consolidated a subsidiary pursuant to Appendix C (17 CFR 240.15c3–1c) such broker's or dealer's minimum net capital requirements shall be ► the sum of the greater of 3 percent of debit item 10a (relating to debit balances in customers' margin accounts) of the Formula for Determination of Reserve Requirements for Brokers and Dealers (Exhibit A to Rule 15c3–3, 17 CFR 240.15c3–3a) plus 4 percent of the total of the remainder of the debit items of such formula or $75,000, ◄ or, if the parent is registered as a futures commission merchant, 4 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder, if greater, and the total of each consolidated broker or dealer subsidiary's minimum net capital requirements. The minimum net capital requirements of a subsidiary electing to operate pursuant to paragraph (f) of this section shall be ► the greater of 3 percent of debit item 10a (relating to debit balances in customers's margin accounts) of the Formula for Determination of Reserve Requirements for Brokers and Dealers (Exhibit A to Rule 15c3–3, 17 CFR 240.15c3–3a) plus 4 percent of the total of the remainder of the debit items of such formula or $75,000, ◄ or, registered as a futures * * *.

(g) [deleted]

2. By amending paragraphs (b)(6)(iii), (b)(7), (b)(8)(i), (b)(10)(ii)(B), (c)(2) and (c)(5) of § 240.15c3–3–1d as follows:

§ 240.15c3–1d Satisfactory subordination agreements (Appendix D to 17 CFR 240.15c3–1).

* * * * *

(b) * * *

(6) * * *

(iii) The secured demand note agreement may also provide that, in lieu of the procedures specified in the provisions required by paragraph (b)(6)(ii) of this section, the lender with the prior written consent of the broker or dealer and the Examining Authority for the broker or dealer may reduce the unpaid principal amount of the secured demand note. *Provided,* That after giving effect to such reduction the aggregate indebtedness of the broker or dealer would not exceed 1000 percent of its net capital or, in the case of a broker or dealer operating pursuant to paragraph (f) of 17 CFR 240.15c3–1, net capital would not be less than ► 175 percent of the sum of the percentages prescribed by that paragraph ◄ of debit items computed in accordance with 17 CFR 240.15c3–3a, or, if registered as a * * *

(7) *Permissive prepayments.* A broker or dealer at its option but not at the option of the lender, may, if the subordination agreement so provides, make a Payment of all or any portion of the Payment Obligation thereunder prior to the scheduled maturity date of such Payment Obligation (hereinafter referred to as a "Prepayment"), but in no event may any Prepayment be made before the expiration of one year from the date such subordination agreement became effective; *Provided, however,* That the foregoing restriction shall not apply to temporary subordination agreements which comply with the provisions of paragraph (c)(5) of this Appendix D. No Prepayment shall be made if, after giving effect thereto (and to all Payments of Payment Obligations under any other subordinated agreements then outstanding the maturity or accelerated maturities of which are scheduled to fall due within six months after the date such Prepayment is to occur pursuant to this provision or on or prior to the date on which the Payment Obligation in respect of such Prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the broker or dealer, either aggregate indebtedness of the broker or dealer would exceed 1000 percent of its net capital or its net capital would be less than 120 percent of the minimum dollar amount required by 17 CFR 240.15c–3–1 or, in the case of a broker or dealer operating pursuant to paragraph (f) of 17 CFR 240.15c3–1, its net capital would be less than ► 175 percent of the sum of the percentages prescribed by that paragraph of debit items ◄ computed in accordance with 17 CFR 240.15c3–3a or, if registered as a * * *

(8)(i) The Payment Obligation of the broker or dealer in respect of any subordination agreement shall be suspended and shall not mature if, after giving effect to Payment of such Payment Obligation (and to all Payments of Payment Obligations of such broker or dealer under any other subordination agreement(s) then outstanding which are scheduled to mature on or before such Payment Obligation) either (A) the aggregate indebtedness of the broker or dealer would exceed 1200 percent of its net capital or, in the case of a broker or dealer operating pursuant to paragraph (f) of 17 CFR 240.15c3–1, its net capital would be less than ► 150 percent of the sum of the percentages prescribed by that paragraph of debit items ◄ computed in accordance with 17 CFR 240.15c3–3a or, if registered * * *

* * * * *

(10) * * *

(ii) Notwithstanding the provisions of paragraph (b)(8) of this Appendix, a subordination agreement may provide that, if liquidation of the business of the broker or dealer has not already commenced, the Payment Obligation of the broker or dealer shall mature, together with accrued interest or compensation, upon the occurrence of an Event of Default (as hereinafter defined). Such agreement may also provide that, if liquidation of the business of the broker or dealer has not already commended, the rapid and orderly liquidation of the business of the broker or dealer shall then commence upon the happening of an Event of Default. Any subordination agreement which so provides for maturity of the Payment Obligation upon the occurrence of an Event of Default shall also provide that the date on which such Event of Default occurs shall, if liquidation of the broker or dealer has not already commenced, be the date on which the Payment Obligations of the broker or dealer with respect to all other subordination agreements then outstanding shall mature but the rights of the respective lenders to receive Payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of this Appendix (D). Events of Default which may be included in a subordination agreement shall be limited to:

(A) * * *

(B) The aggregate indebtedness of the broker or dealer exceeding 1500 percent of its net capital or, in the case of a broker or dealer which has elected to operate under paragraph (f) of 17 CFR 240.15c3–1, its net capital computed in accordance therewith is less than ► the sum of the percentages prescribed by that paragraph of debit items ◄ computed in accordance with 17 CFR 240.15c3–3a or, if registered * * *

* * * * *

(c) * * *

(2) *Notice of Maturity or Accelerated Maturity.* Every broker or dealer shall immediately notify the Examining Authority for such broker or dealer if, after giving effect to all Payments of Payment Obligations under subordination agreements then outstanding which are then due or mature within the following six months without reference to any projected profit or loss of the broker or dealer either the aggregate indebtedness of the broker or dealer would exceed 1200 percent of its net capital or its net capital would be less than 120 percent of the minimum dollar amount required by 17 CFR 240.15c3–1, or, in the case of a broker or dealer who is operating pursuant to paragraph (f) of 17 CFR 240.15c3–1, its net capital would be less than ► 150 percent of the sum of the percentages prescribed by that paragraph of debit items ◄ computed in accordance with 17 CFR 240.15c3–3a or, if registered * * *

* * * * *

(5) For the purpose of enabling a broker or dealer to participate as an underwriter of securities or other extraordinary activities in compliance with the net capital requirements of 17 CFR 240.15c3–1, a broker or dealer shall be permitted, on no more than three occasions in any 12 month period, to enter into a subordination agreement on a temporary basis which has a stated term of no more than 45 days from the date such subordination agreement became effective. *Provided,* That this temporary relief shall not apply to a broker or dealer if, at such time, it is subject to any of the reporting provisions of 17 CFR 240.17a–11 under the Securities Exchange Act of 1934, irrespective of its compliance with such provisions or if immediately prior to entering into such subordination agreement either (i) the aggregate indebtedness of the broker or dealer exceeds 1,000 percent of its net capital or its net capital is less than 120 percent of the minimum dollar amount required by 17 CFR 240.15c3–1, or (ii) in the case

of a broker or dealer operating pursuant to paragraph (f) of 17 CFR 240.15c3–1, its net capital is less than ►175 percent of the sum of the percentages prescribed by that paragraph of debit items◄ computed in accordance with 17 CFR 240.15c3–3a, or, if registered as * * *

* * * * *

3. By amending items 10, 12 and 13 and Notes E and F and adding Note G of § 240.15c3–3a as follows:

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

* * * * *

	Credits	Debits
►10a. Debit balances in customers' margin accounts excluding unsecured accounts and accounts doubtful of collection. (See Note E).		XXX
10b. Debit balances in customers' cash accounts excluding unsecrued accounts and accounts doubtful of collection. (See Note E)◄.		XXX
11. Securities borrowed to effectuate short sales by customers and securities borrowed to make delivery on customers' securities failed to deliver.		XXX
12. Failed to deliver of customers' securities not older than 30 calendar days. ►(See Note F)◄.		XXX
13. Margin required and on deposit with the Options Clearing Corporation for all option contracts written or purchased in customer accounts. ►(See Note G).◄		XXX
Total credits	.	
Total debits		.
14. Excess of total credits (sum of items 1–9) over total debits (sum of items 10–13) required to be on deposit in the "Reserve Bank Account" (15c3–3(c)). If the computation is made monthly as permitted by this rule, the deposit shall be not less than 105 percent of the excess of total credits over total debits.		XXX

* * * * *

Note E.

* * * * *

►(4) A broker or dealer operating pursuant to paragraph (f) of Rule 15c3–1 (17 CFR 240.15c3–1(f)) may exclude C.O.D. transactions from Items 1 and 10 of the Reserve formula if the security underlying the transaction is treated as a proprietary position and given the appropriate haircut prescribed under Rule 15c3–1(c)(2)(vi) (17 CFR 240.15c3–1(c)(2)(vi)).◄

►Note F. A broker or dealer operating pursuant to paragraph (f) of Rule 15c3–1 (17 CFR 240.15c3–1(f)) which can demonstrate that its possessions and control of customers' securities requirements are met, may make the following election: Fails to deliver not allocable to the broker's or dealer's long positions and fails to receive not allocable to the broker's or dealer's short positions may be excluded from Items 4 and 12 of the Reserve Formula if those fails to deliver allocate to fails to receive.◄

►Note G.◄ Item 13 shall include the amount of margin required and on deposit with Options Clearing Corporation to the extent such margin is represented by cash, proprietary qualified securities, and letters of credit collateralized by customers' securities.

4. By amending paragraphs (b)(2) of § 240.17a–11 as follows: § 240.17a–11 Supplemental current financial and operational reports to be made by certain brokers and dealers.

* * * * *

(b) * * *

(2) If a computation made by a broker or dealer pursuant to paragraph (f) of Rule 15c3–1 (17 CFR 240.15c3–1(f)) shows, at any point during the month, that his net capital is less than ►150 percent of the sum of the percentages prescribed by that paragraph of debit items◄ computed in accordance with 17 CFR 240.15c3–3a, or that his total net capital is less than 120 percent of the minimum net capital required of him, such broker or dealer shall file a report on Part II or Part IIA of Form X–17A–5 (17 CFR 249.617) as determined in accordance with the standards set forth in 17 CFR 240.17a–5(a)(2)(ii) and (a)(2)(iii), within 15 days after the end of each month thereafter until three successive months shall have elapsed during which his net capital is not less than ►150 percent of the sum of the percentages prescribed by paragraph (f) of debit items◄ computed in accordance with 17 CFR 240.15c3–3a and his total net capital does not fall below 120 percent of the minimum net capital required of him.

* * * * *

By the Commission.

October 9, 1980.

George A. Fitzsimmons,

Secretary.

[FR Doc. 32627 Filed 10–21–80; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79–76 (Colorado–4)]

Ceiling Prices; High-Cost Gas Produced From Tight Formations

AGENCY: Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions that present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas subject to an incentive price (18 CFR 271.703). The rule establishes procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking contains the recommendations of the Colorado Oil and Gas Conservation Commission that the Fort Union, Mesaverde and the Mancos to the base of the Mancos "B" formations be designated as tight formations under § 271.703(d).

DATES: Comments on the proposed rule are due on November 10, 1980.

Public hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on October 27, 1980.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8299 or Victor Zabel, (202) 357–8559.

October 10, 1980.

I. Background

On October 3, 1980, the Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's final regulations (45 FR 56034, August 22, 1980), that the Fort Union formation, the Mesaverde formation, and the Mancos formation to the base of the Mancos "B" Zone, of the Rio Blanco and Dry Gulch Units in Rio Blanco County, Colorado, be designated in the Commission's regulations as tight formations. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Colorado's recommendation that these formations be designated tight formations should be adopted. The United States Geological Survey concurs with Colorado's recommendation. Colorado's recommendation and supporting data are on file with the Commission and are available for public inspection.

The recommended formations are located in an area approximately 40 miles southwest of Meeker, Colorado

and 30 miles northwest of Rifle, Colorado. The area is bounded on the north and south by synclinal and anticlinal trends, and on the northeast by an anticlinal closure known as Piceance Creek Dome. In addition, the area is made up of two federal units, the Dry Gulch and Rio Blanco Units.

The Fort Union formation is approximately 4000 to 5000 feet thick. The thickness of the Mesaverde ranges from approximately 4000 to 5000 feet at depth intervals of 5500 to 9000 feet. The Mancos formation (defined as being from the top of the Mancos to the base of the Mancos "B" zone) is approximately 3000 feet thick at depth intervals of 9000 to 12,000 feet.

II. Discussion of the Recommendation

Colorado claims in its submission that evidence gathered through information and testimony presented at a public hearing convened by Colorado on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed areas is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of crude oil per day.

Colorado further asserts that the typical casing design of wells drilled in the area, as required by Colorado's rules and regulations, protects any fresh water aquifers in the area.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued August 1, 1980, in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Colorado that the Fort Union formation, the Mesaverde formation, and the Mancos formation to the base of the Mancos "B" Zone as described and delineated in Colorado's recommendation as filed with the Commission, be designated as tight formations pursuant to § 271.703.

III. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, on or before November 10, 1980. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76 (Colorado—4), and should give reasons including any supporting data for any recommendations. Comments should also indicate the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Commission no later than October 27, 1980.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3342)

Accordingly, the Commission proposes to amend the regulations in Part 271, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Colorado's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

1. Section 271.703 is amended by adding new paragraph (d)(1)(viii)–(x) and (2) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

(1) The following formations are designated as tight formations:

(i) through (vii) [Reserved]

(viii) *Fort Union Formation in Colorado.*

(A) *Delineation of formation.* The Fort Union formation is located in the Rio Blanco and Dry Gulch Units of Rio Blanco County, Colorado, approximately 40 miles southwest of Meeker, Colorado and 30 miles northwest of Rifle, Colorado. The area is bounded on the north and south by synclinal and anticlinal trends, and on the north-east by an anticlinal closure known as the Piceance Creek Dome.

(B) *Depth.* The average depth to the top of the Fort Union formation is approximately 4700 feet.

(ix) *Mesaverde formation in Colorado.*

(a) *Delineation of formation.* The Mesaverde formation is located in Rio Blanco and Dry Gulch Units of Rio Blanco County, Colorado, approximately 40 miles southwest of Meeker, Colorado, and 30 miles northwest of Rifle, Colorado. The area is bounded on the north and south by synclinal and anticlinal trends, and on the northeast by an anticlinal closure known as the Piceance Creek Dome.

(B) *Depth.* The average depth to the top of the Mesaverde formation is approximately 7200 feet.

(x) *Mancos formation to the base of the Mancos "B" in Colorado.*

(A) *Delineation of formation.* The Mancos formation to the base of the Mancos "B" is located in the Rio Blanco and Dry Gulch Units of Rio Blanco County, Colorado, approximately 40 miles southwest of Meeker, Colorado and 30 miles northwest of Rifle, Colorado. The area is bounded on the north and south by synclinal and anticlinal trends, and on the northeast by an anticlinal closure known as the Piceance Creek Dome.

(B) *Depth.* The average depth to the top of the Mancos formation is approximately 10,500 feet.

(2) A more detailed description of the geographical extent and geological parameters of the designated tight formations is located in the Commission's official file for Docket No. RM79–76, and is also located in the official files of the jurisdictional agency which submitted the recommendation.

[FR Doc. 80–33069 Filed 10–21–80; 8:45 am]

BILLING CODE 6450–01–M

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18 CFR Part 271

[Docket No. Rm 79–76 (Colorado–6)]

Ceiling Prices; High-Cost Gas Produced From Tight Formations

AGENCY: Office of Pipeline and Producer Regulations, Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions that present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas subject to an incentive price (18 CFR 271.703). The rule establishes procedures for jurisdictional agencies to submit to the

Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking contains the recommendations of the Colorado Oil and Gas Conservation Commission that the Mancos "B" formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on November 14, 1980.

Public hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on October 30, 1980.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Streeet, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8299 or Victor Zabel, (202) 357–8559.

I. Background

On October 3, 1980, the State of Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission a recommendation in accordance with § 271.703 of the Commission's final regulations (45 FR 56034, August 22, 1980) that the Mancos "B" formation underlying certain lands in the North Douglas Creek area in Rio Blanco County, Colorado, be designated in the Commission's regulations as a tight formation. The United States Geological Survey concurs in Colorado's recommendation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Colorado's recommendation that the Mancos "B" formation be designated a tight formation should be adopted. Colorado's recommendation and supporting data are on file with the Commission and are available for public inspection.

The recommended formation is located in Rio Blanco County, Colorado and is appoximately 350 feet thick in the southern part, thinning to the north, and more silty to the east. The average depth to a producing interval is approximately 2500 feet.

II. Discussion of the Recommendation

Colorado claims in its submission that evidence gathered through information and testimony presented at a public hearing convened by Colorado on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed areas is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of crude oil per day.

Colorado further asserts that the typical casing design of wells drilled in the recommended formation, as required by Colorado's rules and regulations, will protect any fresh water aquifers in the area.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by the Commission in Order No. 97, issued August 1, 1980, in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Colorado that the Mancos "B" formation, as described and delineated in its recommendation, be designated a tight formation pursuant to § 271.703.

III. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before November 14, 1980. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76 (Colorado—6), and should give reasons including any supporting data for any recommendation. Comments should also indicate the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Commission no later than October 30, 1980.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3342)

Accordingly, the Commission proposes to amend the regulations in Part 271, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Colorado's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

1. Section 271.703 is amended by adding new paragraphs (d)(1)(xi) and (2) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

(1) The following formations are designated as tight formations:

(i) through (x) [Reserved]

(xi) *Mancos "B" formation in Colorado.*

(A) *Delineation of formation.* The Mancos "B" formation is located in northwestern Colorado in the North Douglas Creek area in Rio Blanco County, about 10 miles south of the town of Rangely, Colorado, on the Douglas Creek Arch which separates the Uinta and Piceance Creek geologic basins.

(B) *Depth.* The average depth to the top of the Mancos "B" formation is approximately 2500 feet.

(2) A more detailed description of the geographical extent and geological parameters of the designated tight formations is located in the Commission's official file for Docket No. RM79–76, and is also located in the official files of the jurisdictional agency which submitted the recommendation.

[FR Doc. 80–33070 Filed 10–21–80; 8:45 am]

BILLING CODE 6450–85–M

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18 CFR Part 271

[Docket No. RM79–76 (New Mexico–1)]

Ceiling Prices; High-Cost Gas Produced From Tight Formation

AGENCY: Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions that present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas subject to an incentive price (18 CFR 271.703). The rule establishes procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This

notice of proposed rulemaking contains the recommendation of the New Mexico Oil Conservation Division that the Austin-Mississippian formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on November 17, 1980.

Public hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on October 31, 1980.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8299 or Victor Zabel (202) 357–8559.

Issued October 16, 1980

I. Background

On October 9, 1980, the New Mexico Oil Conservation Division (New Mexico) submitted to the Commission, in accordance with § 271.703 of the Commission's Final Regulations (45 FR 56034, August 22, 1980), a recommendation that the Austin-Mississippian formation in Lea County, New Mexico, be designated in the Commission's regulations as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether New Mexico's recommendation that the Austin-Mississippian formation be designated a tight formation should be adopted. The United States Geological Survey concurs with New Mexico's recommendation. New Mexico's recommendation and supporting data are on file with the Commission and are available for public inspection.

The recommendation formation is located in six townships contained entirely in Lea County, New Mexico (Townships 13, 14, and 15 South, Ranges 35 and 36 East, NMPM). The Austin-Mississippian formation contains approximately 138,240 contiguous acres and ranges from 200 to 300 feet in thickness. The average depth to the top of the recommended formation is 13,250 feet.

II. Discussion of the Recommendation

New Mexico claims in its submission that evidence gathered through information and testimony presented at a public hearing convened by New Mexico on this matter demonstrates that:

(1) The average *in-situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stablized production rate, against atmospheric pressure, of wells completed for production from the Austin-Mississippian formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of crude oil per day.

New Mexico further asserts that the typical casing design of wells drilled in the recommended formation, as required by New Mexico's rules and regulations, will protect fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued August 1, 1980, in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by New Mexico that the Austin-Mississippian formation, as described and delineated in New Mexico's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

III. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, on or before November 17, 1980. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76 (New Mexico—1), and should give reasons including any supporting data for any recommendations. Comments should also indicate the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., 20426, during business hours.

Any persons wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Commission no later than October 31, 1980.

(Natural Gas Policy Act of 1978, U.S.C. 3301–3342)

Accordingly, the Commission proposes to amend the regulations in Part 271, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event New Mexico's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

1. Section 271.703 is amended by adding new paragraphs (d)(1)(xii) and (2) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

(1) The following formations are designated as tight formations:

(i) through (xi) (Reserved)

(xii) *Austin-Mississippian formation in New Mexico.*

(A) *Delineation of formation.* The Austin-Mississippian formation is located entirely in Lea County, New Mexico. The area consists of 138,240 contiguous acres, located approximately 6 to 12 miles North of Lovington, New Mexico.

(B) *Depth.* The average depth to the top of the Austin-Mississippian formation is approximately 13,250 feet.

(2) A more detailed description of the geographical extent and geological parameters of the designated tight formations is located in the Commission's official file for Docket No. RM79–76, and is also located in the official files of the jurisdictional agency which submitted the recommendation.

[FR Doc. 80-33071 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Parts 171, 172, 173, 177, and 182

Indian Mineral Development Regulations; Extension of Comment Period

October 15, 1980.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule, extension of comment period.

SUMMARY: On August 11, 1980, in 45 FR 53164 a proposed rulemaking document was published concerning the revision of 25 CFR Parts 171, 172, 173, 177, and proposed part 182 governing Mineral Development on Indian lands. The comment period on that publication

ended October 10, 1980. This document extends the comment period to sixty days from the date of its publication. The reason for extending the comment period is to give several tribal organizations and other interested persons who have a very keen interest in these regulations additional time in which to submit comments.

DATE: Comment period is hereby extended to December 22, 1980.

ADDRESSES: Send comments to Director, Office of Trust Responsibilities, Attn: Code 241, Bureau of Indian Affairs, U.S. Department of the Interior, Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT: Tim Vollmann, Office of the Solicitor, (202) 343–9331; or Tom Riggs, Bureau of Indian Affairs, (202) 343–3722.

Philip S. Deloria,

Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 80–32916 Filed 10–21–80; 8:45 am]

BILLING CODE 4310–021–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 25

[LR–1942]

Gift Taxes; Transfer of Life Income Interest; Exercise of Nongeneral Powers of Appointment

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains a proposed regulation relating to the transfer of a life income interest by the possessor of that interest. The proposed amendment would clarify existing law and provide guidance to the public for compliance with the law. It would affect certain persons who exercise nongeneral powers of appointment.

DATE: Written comments and requests for a public hearing must be delivered or mailed by December 22, 1980. The amendment is proposed to be effective for taxable years beginning after December 31, 1954.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Robert H. Waltuch of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains a proposed regulation relating to the gift tax consequences of an exercise of a lifetime nongeneral power of appointment with respect to the corpus of a trust by the life income beneficiary. The inter vivos exercise of such a nongeneral power of appointment by the life income beneficiary is not taxable, but where a consequence of the exercise is the transfer of the powerholder's life income interest, a taxable transfer occurs under section 2511. This issue was recently dealt with in Rev. Rul. 79–327, 1979–2 C.B. 342. A technical amendment is being proposed to § 25.2514–3(e) Example (3) to emphasize that the transfer of the life income interest by the life income beneficiary is a taxable transfer under section 2511. The amendment is to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Comments and Request for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

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

Proposed Amendment to the Regulations

The proposed amendment to 26 CFR Part 25 is as follows:

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

§ 25.2514–3 [Amended]

Section 25.2514–3 (e) Example (3) is amended by adding a new sentence immediately after the last sentence in the example to read as follows:

"Although the exercise or release of the nongeneral power is not taxable under this section, see § 25.2514–1(b)(2) for the gift tax consequences of the transfer of the life income interest."

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80–33001 Filed 10–21–80; 8:45 am]

BILLING CODE 4830–01–M

26 CFR Part 48

[LR–2118]

Manufacturers and Retailers Excise Taxes on Special Fuels

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments which would update and revise the regulations concerning manufacturers and retailers excise taxes on special fuels.

DATE: Written comments and requests for a public hearing must be delivered or mailed by December 22, 1980. Except as otherwise provided in this document, the amendments are proposed to be effective on the date which is 30 days after their publication as a Treasury decision. However, the fact that the regulations in this document are to be prospective would not preclude the application of prior Internal Revenue Service positions to periods prior to the effective date of the regualtions.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, 1111 Constitution Ave., N.W., Washington, DC 20224, Attention: CC:LR:T (LR–2118).

FOR FURTHER INFORMATION CONTACT: H. B. Hartley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue, 1111 Constitution Ave., N.W., Washington, DC 20224, Attention: CC:LR:T (202–566–3287).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Manufacturers and Retailers Excise Tax Regulations (26 CFR Part 48) under section 4041 of the Internal Revenue Code of 1954. However, this document does not provide proposed regulations under the amendments to section 4041 made by the Energy Tax Act of 1978 nor under section 4041 (h) (exemption for use by aircraft museums). Regulations concerning these matters are expected to be provided by other regulation projects. These amendments are to be

issued under the authority contained in section 7805 of the Code. [68A Stat. 917, 26 U.S.C. 7805.]

Explanation of Provisions

The proposed regulations would update and revise the existing regulations regarding manufacturers and retailers excise taxes on special fuels to reflect statutory changes made to section 4041 since 1964, except as noted in the Background section above. Of particular significance in this connection are the amendments made by the Excise Tax Reduction Act of 1965 (79 Stat. 136), which repealed all retailers excise taxes on articles other than special fuels, and the Airport and Airway Revenue Act of 1970 (84 Stat. (Part 1) 237), which imposed a tax under section 4041 (c) of the Code on the use of fuels in noncommercial aviation. Certain clarifying additions would also be made to the regulations.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Fedeal Register.

Drafting Information

The prinicpal author of these proposed regulations is H. B. Hartley of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 48 are as follows:

Paragraph 1. Sections 48.4041, 48.4041–1, 48.4041–2, 48.4041–3, 48.4041–4, 48.4041–5, 48.4041–6, 48.4041–7, 48.4041–8, 48.4041–9, and 48.4041–10 of the Manufacturers and Retailers Excise Tax Regualtions are deleted, and §§ 48.4041–11, 48.4041–12, 48.4041–13 and 48.4041–14, are redesignated as §§ 48.4041–14, 48.4041–15, 48.4041–16, and 48.4041–17, respectively.

Par. 2. The following new sections are added immediately after § 48.0–5 to the Manufacturers and Retailers Excise Tax Regulations. The new sections read as follows:

Subpart F—Special Fules

§ 48.4041–1 Taxes on diesel fuel, special motor fuel, and fuel used in noncommercial aviation.

(a) *In general.* Section 4041 imposes an excise tax at the retail level on the sale of diesel fuel for use as a fuel in a diesel-powered highway vehicle, special motor fuel for use as a fuel in a motor vehicle or motorboat, and fuel for use in an aircraft in noncommercial aviation. A tax is also imposed when these liquid fuels are purchased tax-free and subsequently used for one of the above-mentioned purposes, or when these liquid fuels are purchased at one rate of tax and a higher rate of tax applies as a result of the use made of the liquid fuels.

(b) *Rates of tax.* Following are the rates of tax per gallon applicable to liquid fuels taxable under section 4041.

(1) *Diesel fuel.* Diesel fuel sold for use or used—

(i) Through September 30, 1984, as a fuel in a diesel-powered highway vehicle that at the time of the sale or use is—

(A) Registered or required to be registered for highway use—4 cents

(B) Owned by the United States and used on the highway—4 cents

(C) Not registered and not required to be registered for highway use—2 cents

(D) Owned by the United States and not used on the highway—2 cents

(E) a vehicle described in (A) or (B) in which the fuel that is used was purchased at the rate of 2 cents a gallon for use in a vehicle described in (C) or (D) of this subdivision (i)—2 cents

(ii) On and after October 1, 1984, as a fuel in a diesel-powered highway vehicle—1½ cents

(2) *Special motor fuels.* Special motor fuel sold for use or used—

(i) Through September 30, 1984, as a fuel

(A) In a motor vehicle that at the time of the sale or use is—

(*1*) Registered or required to be registered for highway use—4 cents

(*2*) Owned by the United States and used on the highway—4 cents

(*3*) Not registered and not required to be register for highway use—2 cents

(*4*) Owned by the United States and not used on the highway—2 cents

(*5*) A vehicle described in (*1*) or (*2*) in which the fuel that is used was purchased at the rate of 2 cents a gallon for use in a vehicle described in (*3*) or (*4*) of this subdivision (i) (A)—2 cents

(B) In a motorboat—2 cents

(ii) On and after October 1, 1984, as a fuel in a motor vehicle or motorboat—1½ cents

(3) *Noncommercial aviation.* Any liquid sold for use or used as a fuel in noncommercial aviation on or after July 1, 1970—

(i) Other than any product taxable under section 4081—7 cents

(ii) That is taxable under section 4081—3 cents

(iii) On and after October 1, 1980—no tax

(c) *Credit for tax paid.* For a credit or refund for tax paid on special fuel resold, or used other wise than for the purpose for which purchased, see section 6427(a).

§ 48.4041–2 Application of tax on sales of diesel fuel for use in diesel-powered highway vehicles.

(a) *In general.* The tax imposed by paragraph (1) of section 4041 (a) applies to the sale of diesel fuel by any person to an owner, lessee, or other operator of a diesel-powered highway vehicle for use as a fuel in the diesel-powered vehicle. The tax applies to diesel fuel sold for use in a diesel-powered highway vehicle, whether the vehicle actually is employed in highway or off-highway use.

(b) *Liability for tax.* The tax on the sale of diesel fuel is payable by the person who sells the diesel fuel to the owner, lessee, or other operator of a diesel-powered highway vehicle.

(c) *Rate of tax.* Tax is imposed on the sale of diesel fuel at the rate applicable on the date on which the diesel fuel is sold. See § 48.4041–1 (b)(1) for rates. The test of taxability at a rate specified in § 48.4041–1 (b) (1)(i) (A) is whether the vehicle in which the fuel is to be used is registered, or required to be registered, for highway use under the laws of any State or foreign country at the time of sale. Tax at a rate specified in that section applies to all fuel sold for use in a diesel-powered highway vehicle which is registered, or required to be registered, for highway use under the laws of any State or foreign country, even though the vehicle is seldom or never used on the highway and regardless of the proportion of the fuel used off the highway as compared to total fuel consumption.

(d) *Example.* Application of the tax to the sale of diesel fuel may be illustrated by the following example:

Example. The M Corporation is engaged in the construction of a power dam at a site removed from all public highways. Part of its construction equipment consists of diesel-powered shovels, bulldozers, and highway-type dump trucks. Some of the trucks are registered for highway use and are used both

on and off the public roads. Others are not registered and under the applicable State law are nor required to be registered for highway use because they are used entirely on the construction site. Before October 1, 1984, all the diesel fuel sold for use in a registered dump truck is all subject to tax at the rate specified in § 48.4041–1 (b) (1) (i) (A), even though a portion of it is used off the public highway. Before October 1, 1984, the fuel sold for use in the nonregistered trucks, that are operated entirely off the highway, is taxable at the rate specified in § 48.401–1 (b) (i) (C). On and after October 1, 1984, fuel sold for use in both registered trucks and nonregistered trucks is taxable at the rate specified in § 48.4041 (b) (1) (ii). No tax is payable with respect to the diesel fuel sold for use in the power shovels and bulldozers, since they are not "highway vehicles" as defined in § 48.4061 (a)–1 (d).

(e) *Cross references.* (1) For the tax applicable in certain cases based on the use of diesel fuel as a fuel in a diesel-powered highway vehicle, see § 48.4041–6.

(2) For the definition of the terms "highway", "highway vehicle", "diesel fuel", and "registered", see paragraphs (a), (b), (e), and (i) of § 48.4041–8.

(3) For the exemption from tax with respect to diesel fuel sold for use on a farm for farming purposes, see § 48.4041–9.

(4) For the credit or refund of tax paid on diesel fuel resold or used for a purpose other than the purpose for which purchased, see section 6427(a).

§ 48.4041–3 Application of tax on sales of special motor fuel for use in motor vehicles and motorboats.

(a) *In general.* The tax imposed by paragraph (1) of section 4041 (b) applies to the sale of special motor fuel by any person to an owner, lessee, or other operator of a motor vehicle or motorboat, for use as a fuel in the motor vehicle or motorboat.

(b) *Liability for tax.* The tax on the sale of special motor fuel is payable by the person who sells the special motor fuel to the owner, lessee, or other operator of a motor vehicle or motorboat.

(c) *Rate of tax.* Tax is imposed on the sale of special motor fuel at the rate applicable on the date on which the special motor fuel is sold. See § 48.4041–1 (b) (2) for rates. In the case of the sale of special motor fuel for use as a fuel in a motor vehicle, the test of taxability at a fuel in a motor vehicle, the test of taxability at the rate specified in § 48.4041–1 (b) (2) (i) (A) (*1*) is whether the vehicle in which the fuel is to be used is registered, or required to be registered, for highway use under the laws of any State or foreign country at the time of sale. Tax at the rate specified in that section applies to special motor fuel sold for use in a motor vehicle which is registered, or required to be registered, for highway use under the laws of any State or foreign country, even though the vehicle is seldom or never used on the highway and regardless of the proportion of the fuel used off the highway as compared to total fuel consumption. Tax at the rate specfied in subdivision (i) (A) (*3*) or (i) (B) of § 48.4041–1 (b) (2) applies in any case of the sale of special motor fuel for use in a motorboat, or in a motor vehicle that is not registered and is not required to be registered for highway use under the laws of any State or foreign country.

(d) *Example.* Application of the tax to the sale of special motor fuels may be illustrated by the following example.

Example. The N Company is engaged in the manufacture of ceramic products. It has a vehicle which is used to haul clay from a clay pit to its factory. This vehicle has not been registered for highway use and under the applicable State law is not required to be registered for highway use since none of the hauling of clay is done on public highways. The N Company also uses a ditch digging machine in the vicinity of the clay pit for the construction of drains. A fork lift turck is used to move cartons of merchandise from place to place inside the company's warehouse and to assist in the loading of merchandise onto the company's highway trucks for delivery to purchasers. The highway trucks are registered by the State for use on highways. Special motor fuel is used for the operation of all of these items of equipment. Before October 1, 1984, the special motor fuel sold for use as a fuel in the registered highway trucks is subject to tax at the rate specified in § 48.401–1 (b) (2) (i) (A) (*1*). Before October 1, 1984, the special motor fuel sold for use as a fuel in the truck used to haul clay from the pit to the factory and in the fork lift truck is subject to tax at the rate specified in § 48.4041–1 (b) (2) (i)(A) (*3*). On and after October 1, 1984, special motor sold for use in the registered trucks, the unregistred truck, and the fork lift truck is taxable at the rate specified in § 48.4041–1 (b)(2) (ii). No tax is payable with respect to the special motor fuel sold for use as a fuel in the ditch digging machine since that machine is not a motor vehicle.

(e) *Cross reference.* (1) For the tax applicable in certain cases based on the use of special motor fuel as a fuel in a motor vehicle, see § 48.4041–6.

(2) For the definition of the terms "highway", "motor vehicle", "special motor fuel", and "registered", see paragraphs (a), (c), (f), and (i) of § 48.4041–8.

(3) For the exemption from tax with respect to special motor fuel sold for use on a farm for farming purposes or as supplies for vessels, see §§ 48.4041–9 and 48.4041–10, respectively.

§ 48.4041–4 Application of tax on sales of liquid for use as fuel in aircraft in noncommercial aviation.

(a) *In general.* The taxes imposed by subparagraphs (1) and (2) of section 4041 (c) apply to the sale of any liquid by any person to an owner, lessee, or other operator of an aircraft, for use as a fuel in the aircraft in noncommercial aviation.

(b) *Liability for tax.* The tax on the sale of any liquid used as fuel in aircraft in noncommercial aviation is payable by the person who sells the liquid to the owner, lessee, or operator of an aircraft in noncommercial aviation.

(c) *Rate of tax.* Tax is imposed on the sale of liquids used as fuel in aircraft in noncommercial aviation at the rate applicable on the date on which the liquid is sold. See § 48.4041–1 (b) (3) for rates.

(d) *Cross references.* (1) For the tax applicable on the basis of the use of fuel in an aircraft in noncommercial aviation, see § 48.4041–6.

(2) For the definition of the term "noncommercial aviation", see paragraph (j) of § 48.4041–8.

(3) For the exemption of tax with respect to liquids used as fuel in aircraft in noncommercial aviation sold for use on a farm for farming purposes or as supplies for vessels or aircraft, see §§ 48.4041–9 and 48.4041–10, respectively. For tax free sales if sellers and purchasers are registered, see § 48.4041–11.

§ 48.4041–5 Sales of diesel and special motor fuels and fuel for use in aircraft; rules of general application.

(a) *Taxability of liquid fuel delivered into purchaser's tanks*—(1) *Fuel supply tanks.* The sale of diesel fuel to an owner, lessee, or other operator of a diesel-powered highway vehicle, or of special motor fuel to an owner, lessee, or other operator of a motor vehicle or motorboat, or of fuel to an owner, lessee, or other operator of an aircraft used in noncommercial aviation is considered a taxable sale of the liquid fuel if the liquid fuel is delivered by the seller into the fuel supply tank of the vehicle, motorboat, or aircraft. For purposes of this paragraph (a), liquid fuel sold at a location unattended by the seller (such as under a meter system) is considered to be delivered by the seller. In this regard, see section 6247 (a) for credit or refund of tax if liquid fuel acquired in a transaction subject to tax is used in a nontaxable use.

(2) *Bulk tanks.* The sale of diesel fuel to an owner, lessee, or other operator of a diesel-powered highway vehicle, or of special motor fuel to an owner, lessee, or other operator of a motor vehicle or

motorboat, or of fuel to an owner, lessee, or other operator of an aircraft is considered a taxable sale of the liquid fuel if—

(i) The liquid fuel is delivered by the seller into a bulk supply tank (or other container) that is not the fuel supply tank of a vehicle, motorboat, or aircraft, and

(ii) The purchaser furnishes a written statement to the seller before or at the time of the sale stating that the entire quantity of the liquid fuel covered by the sale is for use by it for a taxable purpose as a fuel in such a vehicle, motorboat, or aircraft.

If the purchaser fails to provide the written statement required by paragraph (a)(2)(ii) of this section, the purchaser is liable for the tax on the sale. If a purchase acquires both fuel that is to be used for taxable purposes and fuel that is to be used for nontaxable purposes, and the fuel that is to be used for taxable purposes is stored in a different storage tank (or container) from the tank used to store the fuel to be used for nontaxable purposes, the written statement described in paragraph (a)(2)(ii) of this section may relate to the fuel to be used for taxable purposes if proper records are kept that sufficiently identify the tanks (or containers) into which tax paid fuel is delivered and the quantities of fuel delivered into those tanks (or containers).

If only occasional sales for delivery into a bulk storage tank (or other container) are made to a purchaser, a separate statement must be furnished for each order. However, if sales are regularly or frequently made to a purchaser, a written statement covering all orders for a specified period not to exceed 12 calendar quarters is applicable.

(b) *Sales for resale and to consignees.* (1) A sale to a dealer for resale is not subject to tax even if it is known at the time of the sale that the liquid fuel will be resold by the dealer for use as a fuel in a diesel-powered highway vehicle, motor vehicle, motorboat, or aircraft.

(2) The tax is payable by the person who makes the taxable sale. If a taxable liquid fuel is consigned to a person for sale and the consignor retains ownership in the liquid fuel until it is disposed of by the consignee, the consignor is the person liable for the tax when a taxable sale of the liquid fuel is made by the consignee. If the consignor transfers ownership in the taxable liquid fuel to the consignee before sale of the liquid fuel by the consignee, the consignee is the person liable for the tax upon a subsequent taxable sale of the liquid. See paragraph (d) of § 48.4041–8 for definition of the term "taxable liquid fuel."

48.4041–6 Application of tax on use of taxable liquid fuel.

(a) *In general*—(1) *Diesel fuel.* If a person acquires any diesel fuel by any means other than through a transaction subject to tax under section 4041(a)(1) and uses it as a fuel in a diesel powered highway vehicle, the person is liable for a tax under section 4041(a)(2) on the quantity of diesel fuel so used at the appropriate rate set forth in § 48.4041–1(b)(1). If a person acquired any diesel fuel through a transaction which is subject to tax at the rate set forth in subdivision (i) (C) or (D) of § 48.4041–1(b)(1), and uses it for a use described in subdivision (i) (A) or (B) of § 48.4041–1(b)(1), the person is liable for an additional tax under section 4041(a)(2) on the quantity of diesel fuel so used. See § 48.4041–1(b)(1)(i)(E) for the applicable rate of tax. See section 6427(a) for credit or refund of tax where diesel fuel acquired in a transaction subject to tax at the rate set forth in subdivision (i) (A) or (B) of § 48.4041–1(b)(1) is used as described in subdivision (i) (C) or (D) of § 48.4041–1(b)(1) or in a nontaxable use.

(2) *Special motor fuel.* If a person acquired any special motor fuel by any means other than through a transaction subject to tax under section 4041(b)(1) and uses it as a fuel in a motor vehicle or motorboat, the person is liable for a tax under section 4041(b)(2) on the quantity of special motor fuel so used at the appropriate rate set forth in § 48.4041–1(b)(2). If a person acquired any special motor fuel through a transaction which is subject to a tax at the rate set forth in subdivision (i) (A) (*3*), (*4*) or (B) of § 48.4041–1(b)(2) and uses it as described in subdivision (i) (A) (*1*) or (*2*) of § 48.4041–1(b)(2), the person is liable for an additional tax under section 4041(b)(2) on the quantity of special motor fuel so used. See § 48.4041–1(b)(2)(i)(A)(*5*) for the applicable rate of tax. See section 6427 (a) for credit or refund of tax where special motor fuel acquired in a transaction subject to tax at the rate set forth in subdivision (i) (A) (*1*) or (*2*) of § 48.4041–1(b)(2) is used for a purpose described in subdivision (i) (A) (*3*), (*4*) or (B) of § 48.4041–1(b)(2) or in a nontaxable use.

(3) *Noncommercial aviation.* If a person acquires any liquid fuel by any means other than through a transaction subject to tax under section 4041(c)(1)(A) or section 4041(c)(2)(A) and uses it as fuel in an aircraft in noncommercial aviation, the person is liable for a tax under section 4041(c)(1)(B) or section 4041(c)(2)(B) on the quantity of the liquid fuel so used at the appropriate rate set forth in § 48.4041–1(b)(3).

(b) *Bulk purchases by users.* Taxpayers who purchase taxable liquid fuel in bulk delivered into storage tanks or other containers and use it for taxable or nontaxable purposes or in registered and nonregistered vehicles must maintain adequate records of all fuel used for each purpose to permit verification of the tax paid and of any credits, refunds, or exemptions claimed.

§ 48.4041–7 Dual use of taxable liquid fuel.

Tax applies to all taxable liquid fuel sold for use or used as a fuel in the motor which is used to propel a diesel-powered highway vehicle or in the motor used to propel a motor vehicle, motorboat, or aircraft, even though the motor is also used for a purpose other than the propulsion of the vehicle, motorboat, or aircraft. Thus, if the motor of a diesel-powered highway vehicle or a motorboat operates special equipment by means of a power take-off or power transfer, tax applies to all taxable liquid fuel sold for this use or so used, whether or not the special equipment is mounted on the vehicle or boat. For example, tax applies to diesel fuel sold to operate the mixing unit on a concrete mixer truck if the mixing unit is operated by means of a power take-off from the motor of the vehicle. Similarly, tax applies to all taxable liquid fuel sold for use or used in a motor propelling a fuel oil truck even though the same motor is used to operate the pump (whether or not mounted on the truck) for discharging the fuel into customers' storage tanks. However, tax does not apply to liquid fuel sold for use or used in a separate motor to operate special equipment (whether or not the equipment is mounted on the vehicle). If the taxable liquid fuel used in a separate motor is drawn from the same tank as the one which supplies fuel for the propulsion of the vehicle, a reasonable determination of the quantity of taxable liquid fuel used in such separate motor or during such period is acceptable for purposes of application of the tax. This determination must be based, however, on the operating experience of the person using the taxable liquid fuel, and the taxpayer must maintain records which support the allocation used. Devices to measure the number of miles the vehicle has traveled, such as hubometers, may be used in making a preliminary determination of the number of gallons of fuel used to propel the vehicle. In order to make a final determination of the number of gallons of fuel used to propel the vehicle, there

must be added to this preliminary determination the amount of fuel consumed while idling or warming up the motor preparatory to propelling the vehicle.

§ 48.4041-8 Definitions.

For purposes of the regulations in this subpart, unless otherwise expressly indicated:

(a) *Highway.* The term "highway" includes any road (whether a Federal highway, State highway, city street, rural road, or otherwise) in the United States which is not a private roadway.

(b) *Highway vehicle*—(1) *In general.* The term "highway vehicle" has the same meaning assigned to the term under § 48.4061 (a)–1 (d).

(2) *Diesel-powered highway vehicle.* The term "diesel-powered highway vehicle" means any highway vehicle (within the meaning of § 48.4061 (a)–1 (d)) which is also a motor vehicle (as defined in paragraph (c) of this section) and which uses diesel fuel (as defined in paragraph (e) of this section) for propulsion purposes.

(c) *Motor vehicles.* The term "motor vehicle" includes all types of vehicles propelled by motor that are designed for carrying or towing loads from one place to another, regardless of the type of load or material carried or towed and whether or not the vehicle is registered or required to be registered for highway use. Included are fork lift trucks used to carry loads at railroad stations, industrial plants, warehouses, etc. The term does not include farm tractors, trench diggers, power shovels, bulldozers, road graders or rollers, and similar equipment which does not carry or tow a load; nor does it include any vehicle which moves eclusively on rails.

(d) *Taxable liquid fuel.* The term "taxable liquid fuel" (or "taxable liquid") means any liquid which is either—

(1) Diesel fuel as defined in paragraph (e) of this section,

(2) Special motor fuel as defined in paragraph (f) of this section, or

(3) Any liquid fuel used in an aircraft in "noncommercial aviation", as defined in paragraph (h) of this section.

(e) *Diesel fuel.* The term "diesel fuel" means any liquid (other than a product taxable as gasoline under the provisions of section 4081) which is sold for use or used as a fuel in a diesel-powered highway vehicle.

(f) *Special motor fuel.* (1) The term "special motor fuel" includes any of the following sold for use or used as a fuel for the propulsion of a motor vehicle or motorboat: (i) Liquefied petroleum gases (such as propane, butane, pentane, or methane, or mixtures of the same), or

(ii) Benzol, benzene, naptha, or any other liquid, whether a refined, partly refined, or unrefined product, 10 percent of which has been recovered when the thermometer reads 347° F. (175° C.) or 95 percent of which has been recovered when the thermometer reads 464° F. (240° C.) when subjected to distillation in accordance with the "Standard Method of Test for Distillation of Gasoline, Naptha, Kerosene, and Similar Petroleum Products" (A.S.T.M. designation: D86) of the American Society for Testing Materials, regardless of the trade name under which sold.

(2) The term "special motor fuel" does not include diesel fuel or any product taxable under the provisions of section 4081, nor does it include "kerosene, gas oil, or fuel oil", as defined in paragraph (g) of this section.

(g) *Kerosene, gas oil, or fuel oil.* (1) The term "kerosene, gas oil, or fuel oil" means any product (i) 10 percent of which has not been recovered when the thermometer reads 347° F. (175° C.), and (ii) 95 percent of which has not been recovered when the thermometer reads 464° F. (240° C.), when subjected to distillation in accordance with the "Standard Method of Test for Distillation of Gasoline, Naptha, Kerosene, and Similar Petroleum Products" (A.S.T.M. designation: D86) of the American Society for Testing Materials.

(2) Products designated as kerosene, gas oil, or fuel oil which do not fall within the specifications of both subdivisions (i) and (ii) of paragraph (g)(1) of this section are taxable as special motor fuel if sold or used as a fuel in a motor vehicle or motorboat.

(h) *Fuel used in the aircraft in noncommerical aviation.* The term "fuel used in an aircraft in noncommercial aviation" means any liquid (including any product taxable under section 4081) that is sold for use or used as a fuel in an aircraft in noncommercial aviation (as defined in paragraph (j) of this section).

(i) *Registered.* The term "registered", when used with reference to a highway vehicle, means—

(1) Registered for highway use under the laws of any State, District of Columbia, or foreign country, or

(2) Required to be registered for highway use under the law of the State, District of Columbia, or foreign country in which it is operated or situated. Any highway vehicle which is operated under a dealer's tag, license, or permit is considered to be registered. A highway vehicle is also considered to be "registered" if there has been issued a special permit for operation of the vehicle at particular times and under specified conditions.

(j) *Noncommercial aviation.* The term "noncommercial aviation" means any use of an aircraft, other than in a business of transporting persons or property for compensation or hire by air. The term also includes any use of an aircraft, in a business described in the preceding sentence, which is properly allocable to any transportation exempt from taxes imposed by sections 4261 (transportation of persons) and 4271 (transportation of property) by reason of section 4281 (use of small aircraft on nonestablished lines) or 4282 (transportation of members of affiliated group).

§ 48.4041-9 Exemption for farm use.

(a) *In general.* The tax imposed by section 4041 does not apply to diesel fuel or special motor fuel, or fuel used in noncommercial aviation, sold for use or used on a farm in the United States for farming purposes. The tax applies in the case of diesel fuel delivered into the fuel supply tank of a highway vehicle, or special motor fuel delivered into the fuel supply tank of a motor vehicle or motorboat, or fuel delivered into the fuel supply tank of an aircraft in noncommercial aviation, even if it is known that the liquid fuel is to be used on a farm for farming purposes. However, credit or refund of the tax paid in such case may be claimed as provided by section 6427(c) upon proof that the taxable liquid was used on a farm for farming purposes. The terms "used on a farm for farming purposes", "farm", and "farming purposes", and related terms, have the same meaning for purposes of the exemption in section 4041(f) and the regulations in this section as these terms are defined in paragraphs (1), (2), and (3) of section 6420(c) and the regulations contained in § 48.6420–4.

(b) *Application of exemption.* The exemption referred to in paragraph (a) of this section does not apply with respect to diesel fuel or special motor fuel or fuel used in noncommercial aviation sold for use or used for nonfarming purposes, or diesel fuel or special motor fuel or fuel used in noncommercial aviation sold for use or used off a farm, regardless of the nature of the use. Thus, if a vehicle, motorboat, or aircraft is used both on a farm and off the farm, or if it is used on a farm both for farming and nonfarming purposes, the exemption applies only with respect to that portion of the diesel fuel or special motor fuel or fuel used in noncommercial aviation which is sold for use or used "on a farm for farming purposes". For purposes of this

exemption, it is immaterial whether or not a vehicle is registered for highway use. However, the actual use of the vehicle and the place where it is used are material. For example, if a truck used on a farm for farming purposes is also used on the highways (even though in connection with operating the farm), tax applies to that diesel fuel or special motor fuel which is sold for use or used in operating the truck on the highways, since the fuel was used off the farm.

§ 48.4041–10 Exemption for use as supplies for vessels or aircraft.

(a) *Application of exemption.* The tax imposed by section 4041 does not apply to any special fuels which are sold for use or used as supplies for vessels or aircraft within the meaning of section 4221(a)(3) and (d)(3), and § 48.4221–4. For credit or refund of tax paid on special fuels which have been sold or used as supplies for vessels or aircraft, see section 6416(b)(2)(B), section 6427, and paragraph (f) of this section.

(b) *Evidence required to establish exemption.* (1) In order to establish exemption from tax in the case of a sale of special fuels for use as supplies for vessels or aircraft, it is necessary that the seller obtain from the owner, charterer, or authorized agent of the vessel or aircraft and retain in its possession a properly executed exemption certificates in the form prescribed by paragraph (c) of this section. If fuel is sold tax free for use as supplies for civil aircraft employed in foreign trade or in trade between the United States and any of its possessions, the exemption certificates must show the name of the country in which the aircraft is registered.

(2) If only occasional sales of special fuels are made to a purchaser for use which is exempt from tax as provided in this section, a separate exemption certificate must be furnished for each order. However, if sales are regularly or frequently made to a purchaser for such exempt use, a certificate covering all orders for a specified period not to exceed 12 calendar quarters is acceptable. Such certificates and proper records of invoices, orders, etc., relative to tax-free sales must be kept for inspection by the district director as provided in section 6001. If a seller's records with respect to any sale claimed to be tax free do not include a proper certificate, with supporting invoices and such other evidence as may be necessary to establish the exempt character of the sale, tax is payable by the seller on the sale.

(c) *Acceptable form of exemption certificate.* The following form of exemption certificate, which must be adhered to in substance, is acceptable for the purposes of this section.

Exemption Certificate

(For use by purchasers of special fuels for use as supplies for certain vessels or aircraft (section 4041(g) of Internal Revenue Code of 1954))

(Date), 19— _____

The undersigned purchaser hereby certifies that he/she is the

_____

(owner, charterer, or authorized agent of owner or charterer)

of

_____

(Name of company and vessel)

and that the special fuel specified in the accompanying order, or as specified below or on the reverse side hereof, will be used only as fuel supplies for a vessel belonging to one of the following classes of vessels (including aircraft) to which section 4041(g) of the Internal Revenue Code applies: (Check class to which vessel belongs):

(1) Vessels (including aircraft) engaged in foreign trade.

(2) Vessels engaged in trade between the Atlantic and Pacific ports of the United States.

(3) Vessels (including aircraft) engaged in trade between the United States and any of its possessions.

(4) Vessels employed in the fisheries or whaling business.

(5) Vessels (including aircraft) of war of the United States or a foreign nation.

The undersigned understands that if the special fuels, are sold or used otherwise than as stated above and for a taxable purpose specified in section 4041 (b) or (c) of the Internal Revenue Code, the undersigned will be liable for the tax upon such sale or use. It is also understood that this certificate may not be used in purchasing special fuels, if such fuels are for use as fuel in pleasure vessels, or of any type of aircraft except (1) civil aircraft employed in foreign trade or trade between the United States and any of its possessions, and otherwise entitled to exemption, and (ii) aircraft owned by the United States or any foreign country and constituting a part of the armed forces thereof.

The undersigned understands that the fraudulent use of this certificate to secure exemption will subject the undersigned and all others making fraudulent use to a penalty equivalent to the amount of tax due on the sale of the special fuel and, upon conviction, to a fine of not more than $10,000, or to imprisonment for not more than 5 years, or both, together with the costs of prosecution. The purchaser also understands that it must be prepared to establish by satisfactory evidence the purpose for which the fuel purchased under this certificate was used.

(Signature) _____

(Address) _____

_____

Registration Number if Fuel Used in Noncommercial Aviation

(d) *Exemption certificate not obtained prior to filing of seller's excise tax return.* If the exemption certificate is not obtained prior to the time the seller files a return covering taxes due for the period during which the sale was made, the seller must include the tax on the sale in its return for that period. However, if the certificate is later obtained, a claim for refund of the tax paid on the sale may be filed on Form 843, or a credit for the tax paid may be taken upon a subsequent return as provided by section 6416(b)(2)(B) and § 48.6416(b)(2)–2(c).

(e) *Liability of purchaser.* The person who purchases special fuels, tax free as provided in this section is liable for the tax imposed by section 4041 if the person sells or uses such fuel in a sale or use that is not exempt under any provision of law applicable to the taxes imposed by section 4041.

(f) *Credit or refund*—(1) If diesel fuel or special motor fuel upon which the tax imposed by section 4041(a) or 4041(b), has been paid, is sold or used as supplies for vessels a credit or refund of the tax is available under section 6416(b)(2)(B) to the retail dealer who paid the tax. As an alternative, a payment equivalent to the amount of tax is available under section 6427 to the operator of the vessel who used the fuel. Where the retail dealer claims refund of the tax, the dealer, in accordance with section 6416(a), must reimburse the operator of the vessel for the amount of tax or obtain the written consent of the operator to the filing of such claim.

(2) If aviation fuel upon which the tax imposed by section 4041(c) has been paid is sold or used as supplies for aircraft, credit or refund of the tax is available only as a payment under section 6427 to the operator of the aircraft who uses the fuel or to the person who resells the fuel for such use.

§ 48.4041–11 Tax-free sales of fuel for use in noncommercial aviation only if sellers and certain purchasers are registered.

(a) *In general.* Any sale of liquid fuel for delivery into a fuel supply tank of an aircraft is presumed to be subject to tax under section 4041(c), unless both the seller and purchaser of the liquid fuel are registered as provided in paragraph (b) of this section or are within one of the exceptions provided in paragraph (c) of this section.

(b) *Form of registration.* Except as provided in paragraph (c) of this section (relating to exceptions for State and local governments, for fuel purchased from customs bonded warehouses or continuous customs custody, and for fuel purchased for use in certain aircraft of the United States or or any foreign nation), tax-free sales under section 4041(c) may be made only if both the

seller and the purchaser have registered as required by section 4041(i) and this paragraph (b). If fuel is purchased tax paid for use in noncommercial aviation but is used for a nontaxable purpose, see section 6427(a) for provisions relating to refunds or credits of tax for tax-paid fuels not used for the purpose for which sold. Any person desiring to be registered in order to sell or purchase fuel free of the tax imposed by section 4041(c) must, before making any tax-free sale or purchase, file Form 637A, in duplicate. Form 637A must be diled with the district director of internal revenue for the district in which the principal place of business of the applicant is located (or if the applicant has no principal place of business in the United States, with the Director of International Operations, Internal Revenue Service, Washington, DC 20224). The person who receives a validated Certificate of Registry (Validated Form 637A) is considered to be registered for purposes of selling or purchasing fuel tax free as provided in this section.

(c) *Transactions excepted from registration.* (1) A State or local government purchasing fuel delivered into a fuel supply tank of an aircraft it operates for its exlusive use may, but is not required to, register as provided in this section.

(2) Any purchaser of aircraft fuel who purchases fuel from any customs bonded warehouse or from continuous customs custody elsewhere than in a bonded warehouse is not required to register to purchase aircraft fuel from these sources tax free.

(3) Any purchaser of fuel for use in an aircraft which is owned by the United States or any foreign country and constitutes a part of the armed forces thereof is not required to register to purchase aircraft fuel tax free.

(4) The exceptions from registration in pararaph (c) (1), (2), and (3) of this section do not relieve purchasers from the requirement of furnishing an exemption certificate as required by paragraph (d) of this section.

(d) *Evidence of tax-free sale.* (1) To establish the right of a purchaser to purchase fuel delivered into the fuel supply tank of an aircraft tax free, the seller must obtain from the purchaser and retain in its possession a certificate, properly executed and signed by or on behalf of the purchaser, containing the following information:

(i) Date of purchase,

(ii) The purchaser's registration number (or the exception from registration which is relied upon), and

(iii) A brief statement of the intended tax-free use of the fuel (for example, by an airline in the business of transporting persons or property for hire) or tax-free source of the fuel (the customs bonded warehouse or firm having continuous customs custody).

(2) The following form of certificate, which must be adhered to in substance, is acceptable for the purposes of this paragraph.

(Date)————————, 19 ——

The undersigned signifies that he/she, or the

————————————————

(Name of purchaser if other than undersigned)

of which the undersigned is

————————————————

(Title)

holds Certificate of Registry No. ————— or has not registered because

————————————————

(Brief statement of exception and the fuel from registration relied upon)

delivered into a supply tank of the subject aircraft may be purchased free of tax because the fuel will be used

————————————————

(Brief statement of tax-free use)

(or will be purchased from).

————————————————

————————————————

(Name of customs bonded warehouse or firm having continuous customs custody)

The undersigned understands that if the fuel is used otherwise than as stated above and for a purpose taxable under section 4041 of the Internal Revenue Code, the undersigned will be liable for the tax upon such use, and that the undersigned must be prepared to establish by satisfactory evidence the purpose for which the fuel purchased under this certificate was used.

The undersigned also understands that the fraudulent use of this certificate to secure exemption will subject the undersigned and all others making fraudulent use to a penalty equivalent to the amount of tax due on the sale of the fuel and upon conviction of a fine of not more than $10,000, or to imprisonment for not more than 5 years, or both, together with the costs of prosecution.

————————————————

(Signature)

————————————————

(Address)

(3) Except as provided in paragraph (d)(4) of this section, a separate exemption certificate must be furnished for each sale of fuel delivered into a fuel supply tank of an aircraft. If a portion of the fuel is intended to be used for a nontaxable purpose, the entire amount of the fuel may be sold tax free. Exemption certificates and proper supporting records such as invoices, orders, etc., relative to tax-free sales must be readily accessible for inspection by internal revenue officers and retained as provided in section 6001 of the Code and the regulations thereunder.

(4) If the purchaser of fuel to be used in an aircraft has reasonable grounds to believe that 90 percent or more of the total of the fuel to be purchased by it during a specified period not to exceed 12 calendar quarters will be used in other than noncommercial aviation, it may furnish each of its suppliers an exemption certificate covering all purchases for the specified period. The certificate shall be substantially in the same form as the certificate in paragraph (d)(2) of this section, except that in place of the date the purchaser shall specify the period covered by the certificate, and the purchaser shall give a brief explanation of its grounds for belief that 90 percent or more of its total fuel will be used in other than noncommercial aviation.

(5) The presumption under section 4041(i) that any liquid delivered into a fuel supply tank of an aircraft is taxable places the duty on the seller of the liquid fuel to use reasonable diligence to satisfy itself that a tax-free sale of fuel to the purchaser is allowed by law. In the absence of circumstances surrounding a sale that would raise a question as to whether a tax-free sale is allowable, the requirement of reasonable diligence is satisfied if the seller receives and retains the required certificate evidencing the right of the purchaser to buy the fuel tax free. However, if the circumstances are such as to indicate the seller has filed to use reasonable diligence, it is not relieved of liability for the tax imposed by section 4041(c). In addition, if the seller fails to obtain and retain the evidence of tax-free sales as required by this paragraph (d), it is not relieved of liability for the tax imposed by section 4041(c).

§ 48.4041-12 Sales by United States, etc.

The taxes imposed by section 4041 apply to the sale at retail of taxable liquid fuels by the United States or by any agency or instrumentality of the United States, unless by statute specifically exempted from these taxes. However, the exemptions from these taxes provided by section 4041(f), (g), and (h) and the regulations thereunder contained in this subpart F are available to the extent therein provided.

§ 48.4041-13 Other credits or refunds.

(a) *In general.* For provisions relating to credit or refund of tax paid on taxable liquid fuel resold by the purchaser, or used otherwise than as a fuel for the propulsion of a diesel-powered highway vehicle, motor vehicle, motorboat, or aircraft. See section 6416(b) and the

regulations thereunder contained in Subpart O of this part.

(b) *Tax-paid liquid fuel used by local transit systems.* For provisions relating to credit or refund in the case of taxable liquid fuel used in vehicles while engaged in furnishing scheduled common carrier public passenger land transportation service along regular routes, see section 6416(b) and the regulations thereunder contained in Subpart O of this part.

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80-33012 Filed 10-21-80; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Partial Approval of the Permanent Program Submission From the State of Kentucky Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Proposed rule: partial approval and partial disapproval of the Kentucky permanent regulatory program.

SUMMARY: On February 29, 1980, the State of Kentucky submitted to the Department of the Interior its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of the submission is to demonstrate the State's intent and capability to administer and enforce the provisions of SMCRA and the permanent program regulations, 30 CFR Chapter VII.

After providing opportunities for public comment and a thorough review of the program submission, the Secretary of the Interior has determined that the Kentucky program partially meets the rquirements of SMCRA and the Federal permanent program regulations, as discussed below under "Supplementary Information" and "The Secretary's Findings." Accordingly, the Secretary of the Interior has approved in part and disapproved in part the Kentucky program. Kentucky will not assume primary jurisdiction for implementing SMCRA until its entire program receives approval.

DATE: Kentucky has until December 22, 1980 to submit revisions to the disapproved portions of the program.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, 1951 Constitution Avenue N.W., Washington, DC 20240, Telephone: (202) 343-4225.

ADDRESSES: Copies of the Kentucky program and the administrative record on the review of the Kentucky program are available for public inspection and copying during business hours at:

Administrative Record Room, Office of Surface Mining, Region II, 530 Gay Street SW, Suite 500, Knoxville, Tennessee

Bureau of Surface Mining, Reclamation and Enforcement, Capital Plaza Tower, Sixth Floor, Frankfort, Kentucky

Bureau of Surface Mining, Reclamation and Enforcement, Old TB Facility, Laffoon Street, Madisonville, Kentucky

Bureau of Surface Mining, Reclamation and Enforcement, 1632 East Cumberland Avenue, Middlesboro, Kentucky

Bureau of Surface Mining, Reclamation and Enforcement, 213 Lovern Street, Hazard, Kentucky

Bureau of Surface Mining, Reclamation and Enforcement, 431 South Lake Drive, Prestonsburg, Kentucky

Bureau of Surface Mining, Reclamation and Enforcement, 165 South Mayo Trail, Pikeville, Kentucky

Bureau of Surface Mining, Reclamation and Enforcement, Reclamation Building, (Near Intersection of East 80, Daniel Boone Pakway and Highway 25), London, Kentucky

Bureau of Surface Mining, Reclamation and Enforcement, 620 West Main Street, Grayson, Kentucky

Bureau of Surface Mining, 1951 Constitution Avenue, NW., Room 153, Washington, DC 20240.

SUPPLEMENTARY INFORMATION:

General Background on the Permanent Program

The environmental protection provisions of SMCRA are being implemented in two phases—the initial program and the permanent program—in accordance with Sections 501-503 of SMCRA, 30 U.S.C. 1251-1253. The initial program became effective on February 3, 1978, for new coal mining operations on non-Federal and non-Indian lands which received State permits on or after that date, and effective on May 3, 1978, for all coal mines existing on that date. The initial program rules were promulgated by the Secretary of December 13, 1977, under 30 CFR Parts 710-725, 42 FR 62639 *et seq.*

The permanent program will become effective in each State upon the approval of a State program by the Secretary of the Interior or implementation of a Federal program within the State. If a State program is approved, the State, rather than the Federal government, will be the primary regulator of activities subject to SMCRA.

The Federal regulations for the permanent program, including procedures for States to follow in submitting State programs and minimum standards and procedures the State must include to be eligible for approval, are found in 30 CFR Parts 700-707 and 730-865. Part 705 was published October 20, 1977 (42 FR 56065), and Parts 795 and 865 (originally Part 830) were published December 13, 1977 (42 FR 62639). The other permanent program regulations were published March 13, 1979 (44 FR 15312-15643). Errata notices were published March 14, 1979 (44 FR 15485), August 24, 1979 (44 FR 49673-49687), September 14, 1979 (44 FR 53507-53509), November 19, 1979 (44 FR 66195), April 16, 1980 (45 FR 2600), June 5, 1980 (45 FR 37818), and July 15, 1980 (45 FR 47424).Amendments to the regulations were published October 22, 1979 (44 FR 60969), as corrected December 19, 1979 (44 FR 75143), December 19, 1979 (44 FR 75302-85303, December 31, 1979 (44 FR 77440-7747), January 11, 1980 (45 FR 2626-2629), April 16, 1980 (45 FR 25998-26001), May 20, 1980 (45 FR 33926-33927), June 10, 1980 (45 FR 39446-39447), and August 6, 1980 (45 FR 52306-52324). Portions of these regulations have been suspended, pending further rulemaking. See 44 FR 67942 (November 27, 1979), 44 FR 77447-77454 (December 31, 1979), 45 FR 6913 (January 30, 1980) and 45 FR 51547-51550 (August 4, 1980).

General Background on State Program Approval Process

Any State wishing to assume primary jurisdiction for the regulation of coal mining within its borders under SMCRA may submit a program for consideration. The Secretary of the Interior has the responsibility to approve or disapprove the submission. The Federal regulations governing State program submissions are found at 30 CFR Parts 730-732. After review of the submission by OSM and other agencies, an opportunity for the State to make additions or modifications to the program and an opportunity for public comment, the Secretary may approve the program unconditionally, approve it conditioned upon minor deficiencies being corrected in accordance with a specified timetable, or disapprove the program in whole or in part. If any part of the program is disapproved, the State may submit a revision to correct the items that need to

be changed to meet the requirements of SMCRA and the applicable Federal regulations. If the revised program is also disapproved, SMCRA requires the Secretary of the Interior to establish a Federal program in that State. The State may again request approval to assume primary jurisdiction after the Secretary implements the Federal program.

The procedures and timetable for the Secretary's review of State programs were initially published March 13, 1979 (44 FR 15326), at 30 CFR Part 732.

As a result of litigation in the U.S. District Court for the District of Columbia, the deadline for States to submit programs was extended from August 3, 1979, to March 3, 1980. On May 20, 1980, adjustments were made to the timetables for submissions, comments and hearings (45 FR 33927). As revised, 30 CFR 732.13(d) requires the Secretary to disapprove a State program if the State has not fully enacted all of its permanent program laws and regulations by the 104th day following program submission. The Kentucky program was submitted to the Office of Surface Mining (OSM) on February 29, 1980, and the last day for modifications of State laws and regulations to be submitted by Kentucky was June 12, 1980, the 104th day following program submission.

The Secretary, in reviewing State programs, is applying the criteria of Section 503 of SMCRA, 30 U.S.C. 1253, and 30 CFR 732.15. In reviewing the Kentucky program, the Secretary has followed the Federal rules as cited above under "General Background on the Permanent Program" and as affected by three recent decisions of the U.S. Disrict Court for the District of Columbia *In Re: Permanent Surface Mining Regulation Litigation*. That litigation is a consolidation of several lawsuits challenging the Secretary's permanent regulatory program.

Because of the complex litigation, the court issued its initial decision in two "rounds." The Round I opinion, dated February 26, 1980, denied several generic attacks on the permanent program regulations, but resulted in suspension or remanding of all or part of 22 specific regulations. The Round II opinion, dated May 16, 1980, denied additional generic attacks on the regulations, but remanded some 40 additional parts, sections, or subsections of the regulations. The court also ordered the Secretary to "affirmatively disapprove, under Section 503 (of SMCRA), those segments of a state program that incorporate a suspended or remanded regulation" (Mem. Op., May 16, 1980, p. 49). However, on August 15, 1980, the court stayed this portion of its opinion. The effect of the stay is to allow the Secretary to approve State program provisions equivalent to remanded or suspended Federal provisions in the three circumstances described in paragraph 1 below. Therefore, the Secretary is applying the following standard to the review of State program submissions:

1. The Secretary need not affirmatively disapprove State provisions similar to those Federal regulations which have been suspended or remanded by the district court where the State has adopted such provisions in a rulemaking or legislative proceeding which occurred either (1) before the enactment of SMCRA of (2) after the date of the Round II district court decision, since such State regulations clearly are not based solely upon the suspended or remanded Federal regulations. (3) The Secretary need not affirmatively disapprove provisions based upon suspended or remanded Federal rules if a responsible State official has requested the Secretary to approve them.

2. The Secretary will affirmatively disapprove all provisions of a State program which incorporate suspended or remanded Federal rules and which do not fall into one of the three categories in paragraph one, above. The Secretary believes that the effect of his "affirmative disapproval" of a section in the State's regulations is that the requirements of that section are not enforcement in the permanent program at the Federal level to the extent they have been disapproved. That is, no cause of action for enforcement of the provisions, to the extent disapproved, exists in the Federal courts, and no Federal inspection will result in notices of violation or cessation orders based upon the "affirmatively disapproved" provisions. The Secretary takes no position as to whether the affirmatively disapproved provisions are enforceable under State law and in State courts. Accordingly, these provisions are not being pre-empted or superseded, although the Secretary may have the power to do so under Section 504(g) of SMCRA and 30 CFR 730.11.

3. A State program need not contain provisions to implement a suspended or remanded regulation and no State program will be disapproved for failure to contain a suspended or remanded regulation.

4. A State must have authority to implement all permanent program provisions of SMCRA, including those provisions of SMCRA upon which the suspended or remanded regulations were based.

5. A State program may not contain any provision which is inconsistent with a provision of SMCRA.

6. Programs will be evaluated only on those provisions other than the provisions that must be disapproved because of the court's order. The reminaing provisions will be approved unconditionally, approved conditionally, or disapproved, in whole or in part, in accordance with 30 CFR 732.13.

7. Upon promulgation of new regulations to replace those that have been suspended or remanded, the Secretary will afford States that have approved of conditionally approved programs a reasonable opportunity to amend their programs, as appropriate. In general, the Secretary expects that the provisions of 30 CFR 732.17 will govern this process.

A list of the regulations suspended or remanded as the result of the Round I and Round II litigation was published in the **Federal Register** (45 FR 45604–45607) on July 7, 1980.

To codify decisions on State programs, Federal programs, and other matters affecting individual States, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T will consist of Parts 900 through 950. Provisions relating to Kentucky will be found in 30 CFR Part 917.

Background on the Kentucky Program Submission

On February 29, 1980, OSM received a proposed regulatory program from the State of Kentucky. The program was submitted by the Kentucky Department for Natural Resources and Environmental Protection, the agency designated as the regulatory authority under the Kentucky permanent program. Notice of receipt of the submission and initiating the program review was published in the March 12, 1980, **Federal Register** (44 FR 15948–15950) and in newspapers of general circulation in Kentucky. The announcement invited public participation in the initial phase of the review process as it related to the Regional Director's determination of whether the submission was complete.

On April 16 and 17, 1980, the Regional Director held public review meetings in Kentucky on the program submission and its completeness. The public comment period on completeness began on March 12, 1980, and closed April 17, 1980.

On April 29, 1980, the Regional Director published notice in the **Federal Register** announcing that the program submission had been determined to be complete (45 FR 28368–28369). The determination of completeness was not a determination of whether the

submitted materials complied with the substantive provisions of SMCRA and 30 CFR Chapter VII.

Amendments to the Kentucky Program

In accordance with 30 CFR 732.11(d), as amended on May 20, 1980 (45 FR 33927), the State could elect to modify any element of the complete submission or provide additional information for the administrative record. Modifications to the initial Kentucky program submission (Administrative Record No. KY–61–A) of February 29, 1980, are listed below, along with the date each modification was received.

(1) Modifications to regulations (Administrative Record No. KY–163)—June 12, 1980.

(2) Modifications to proposed systems (Administrative Record No. KY–163)—June 12, 1980.

(3) Modifications to legislation (Administrative Record No. KY–163)—May 14, 1980.

(4) A letter from the Kentucky Department of Natural Resources and Environmental Protection (DNREP) responding to OSM comments on legislation and providing a synthesis of KRS-350, as amended (Administrative Record No. KY–225)—July 18, 1980.

(5) An explanation of the changes made to State system descriptions submitted at the public hearing in Madisonville, Kentucky (Administrative Record No. KY–262)—July 22, 1980.

(6) A letter from DNREP responding to OSM comments on regulations (Administrative Record No. KY–238)—July 28, 1980.

(7) A letter from DNREP explaining how they determined their field offices would adequately serve as a public office (Administrative Record No. KY–238)—July 28, 1980.

On June 23, 1980, the Regional Director published notice in the **Federal Register** (45 FR 41977–41979) and in newspapers of general circulation within the State setting forth procedures for the public hearing and comment period on the substance of the Kentucky program.

Public hearings were held by the Regional Director on the program submission on July 22, 1980, in Madisonville, Kentucky, and July 23, 1980, in Hazard, Kentucky. The public comment period on the Kentucky permanent regulatory program ended on July 28, 1980.

On July 11, 1980, public comment was invited on a tentative list of provisions in the Kentucky program which appeared to be based on suspended and remanded Federal rules (45 FR 46820–46826).

On July 30, 1980, the Regional Director submitted to the Director of OSM his recommendation that the Kentucky program be disapproved, together with copies of the transcript of the public meeting and the public hearing, written presentations, exhibits, copies of all public comments received, and other documents comprising the administrative record.

On August 21, 1980, the Director asked DNREP, by telegram, whether there were any provisions of Kentucky's submission based on remanded or suspended Federal regulations, which the State would not want the Secretary to disapprove.

On August 13, 1980, the Secretary formally announced that comments had been solicited and received on the Kentucky program from the Administrator of the Environmental Protection Agency, the Secretary of Agriculture and the heads of other Federal agencies (45 FR 53839–53840).

On September 23, 1980, the Administrator of the Environmental Protection Agency concurred in the Secretary's approval of those provisions of the Kentucky program being approved which relate to air or water quality standards promulgated under the authority of the Clean Water Act, as amended (33 U.S.C. 1151–1175) and the Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*).

On September 18, 1980, the Director of OSM reopened the record for five days to allow public comment on additional information the State submitted on its legislation and the State's response to the August 21, 1980, telegram identified above (45 FR 62157–62158).

On September 24, 1980, the Director of OSM recommended to the Secretary that he approve the Kentucky program in part and disapprove it in part.

On October 3, 1980, the Secretary approved the Kentucky program, in part, and disapproved the program, in part.

Elements Upon Which the Secretary Evaluated the Kentucky Program

In considering the matters discussed above under "General Background on State Program Approval Process," the Secretary wishes to set forth the elements of the proposed Kentucky program upon which the findings and decisions below are being made.

1. KRS 224 and KRS 350, as amended in 1980 (Administrative Record No. KY–163).

2. The Synthesis of KRS 350 and its amendments received July 18, 1980 (Administrative Record No. KY–225).

3. The Kentucky reguations enacted by the Governor on June 11, 1980, and included in the June 12, 1980, program revisions (Administrative Record No. KY–163). The Secretary recognizes that these regulations will not become effective until the Kentucky program is approved, in whole or with conditions, and, once effective, will only remain in effect for 120 days. Such regulations, although fully enacted by the 104th day after the program submission, could not be approved without the condition that they be made permanent.

4. The Kentucky program narrative received Fedruary 29, 1980, as revised June 12, 1980 (Administrative Record No. KY–163).

5. The DNREP responses to: (a) the initial tentative OSM comments on State legislation, (b) the initial tentative comments OSM made on State systems, and (c) the initial tentative comments OSM made on State regulations. (See Administrative Record Nos. KY–167, KY–169, KY–225, KY–238 and materials subject to comment during the recent 5 day public comment period including KY–277, KY–278, KY–279, KY–280, Ky–281 and KY–299. The responses offered an explanation of the differences between State and Federal language and their effect. Therefore, the Secretary considered the State response as clarifying material and reflected the need for a final policy statement or legal opinion where necessary in the findings.

Secretary's findings

Section 503(a)

In accordance with Section 503(a) of SMCRA, the Secretary finds that Kentucky has, in part, the capability to carry out the provisions of SMCRA. Findings made in accordance with Section 503(a) of SMCRA are set forth in Findings 1 through 7 below:

Finding 1

The Secretary finds that Kentucky has laws which, in part, provide for regulation of surface coal mining and reclamation operations in accordance with SMCRA. The Secretary has identified the following deficiencies:

1.1 KRS 350.090(1) suggests that only the permit applicant may request a hearing on a permit decision and may thus conflict with Section 514 of SMCRA, KRS 350.465(2)(c) and 405 KAR 7:090E. A legal opinion from the General Counsel of DNREP was submitted on August 18, 1980 (Administrative Record No. KY–278), maintaining that the broad language of KRS 350.465(2)(c) is not limited by the specific language of KRS 350.090(1) and that both statutory sections can be given full effect without inconsistency. The Secretary is persuaded by the legal opinion of the

General Counsel of DNREP and thus finds KRS 350.090(1) acceptable.

1.2 The Secretary is unable to find KRS 350.250, Citizen Suit, to be consistent with the requirements of SMCRA for the following reasons:

(a) Section 520(a) of SMCRA creates a right of action in "any person having an interest which is or may be adversely affected." The Kentucky language creates a right of action in "any citizen of the Commonwealth." The Kentucky language is too restrictive in scope since it denies the right of action to entities which are not citizens, such as corporations or associations, as well as to non-citizen residents of Kentucky and citizens of other States.

The General Counsel of DNREP submitted a legal opinion maintaining that the above concern is adequately addressed by the language of KRS 350.250 together with Section 14 of the Kentucky Constitution which, in the General Counsel's view, extends standing to a far greater number of persons than Section 520(a) of SMCRA. (See Administrative Record No. KY–280.)

The General Counsel argues that the KRS language should not be taken literally. Section 14 of the Kentucky Constitution grants access to the courts to "*every person* for an injury done him in his lands, goods, person, or reputation," and KRS 446.010(26) defines "persons" to include individuals, partnerships, corporations, political bodies, societies, etc. According to the General Counsel, "under well-established Kentucky precedent there is no doubt that House Bill 566 and section 14 of the Kentucky Constitution would be construed to complement each other," citing *Sims* vs. *Board of Education* (290 S.W.2d 491 (KY. 1956)), and thus the State constitution would extend the coverage of KRS 350.250 to non-citizens; and OSM's insistence on a legislative amendment would exalt "form over substance." (See Administrative Record No. KY–280.)

The Secretary does not find the argument persuasive. KRS 350.250 provides that "Any citizen of this Common wealth having knowledge that (the law is not being enforced) may bring such failure to enforce the law to the attention of (the responsible) public officer or employee . . . .(A) 11 such demands to enforce the law must be in writing, under oath, with facts set forth specifically stating the nature of the failure to enforce the law." Section 520 of SMCRA allows "any person having an interest which is or may be adversely affected" to bring a civil action to compel compliance with the Act, etc. Written notice must be given to the Secretary or the regulatory authority.

Dickey v. Bagby, 574 S.W. 3d 922 (Ky. 1978) holds that the term "citizen" is synonymous with the term "domiciliary." Thus persons domiciled in other States are not citizens of Kentucky; and no matter how adversely their interests were being affected, they could not sue under KRS 350.250 (unless KRS 350.250 was invalidated as violative for the Fourteenth Amendment's Privileges and Immunities Clause).

Corporations are generally not regarded as "citizens" for most purposes (18 Am Jur 2d, Corporations, § 23); thus, KRS 350.250 may not even allow Kentucky corporations to sue the responsible State officials. Even if corporations were held to be "citizens" for purposes of KRS 350.250, the statute would only cover corporations incorporated in Kentucky (19 Am Jur 2d, Corporations, § 23). (For jurisdictional purposes, a corporation is regarded as a "citizen" of the State under the laws of which it is incorporated.)

Finally, aliens—whether resident in Kentucky or elsewhere—would be excluded from the protection of KRS 350.250.

The Secretary believes that although *Sims*, as cited in the General Counsel's opinion, does state that "(i)n approaching issues involving the constitutionality of legislation, Courts should resolve doubt in favor of constitutionality rather than unconstitutionality", it also states that where legislation directly conflicts with the Constitution, the legislation must be invalidated. The terms "citizen" and "person" are generally not synonymous in the law (*Cf. Dickey v. Bagby* with KRS 446.010 (26)). A court may agree that "citizen" in KRS 350.250 should be interpreted to mean "person," but it is at least as likely to hold that the General Assembly would have used the word "person" if it wanted KRS 350.250 to apply to non-citizens. The words "citizen *of this Commonwealth*" certainly appear to exclude non-citizens. A non-citizen would have to argue that KRS 350.250 is unconstitutional, citing Section 14 of the Kentucky Constitution and cases like *Forrester v. Terry* (357 S.W. 2d 308 (Ky. 1962)). A court would then have to decide whether failure on the part of DNREP to enforce the law is the kind of injury covered by the constitutional provision. A court might invoke *Sims* to preserve the constitutionality of KRS 350.250 at the expense of the rights of the non-citizen.

A major emphasis of SMCRA is citizen participation. Citizens—including those living outside the State's boundaries—should be able to know and assert their rights. KRS 350.250 says that only "citizens of this Commonwealth" can invoke the mandamus provisions and the Secretary must, therefore, assume that other persons are excluded form invoking these provisions.

In conclusion, the Secretary believes that the language "Any citizen of this Commonwealth having knowledge . . . " is broader than that required by Section 520 of SMCRA in that it does not require "an interest which is or may be adversely affected," but it is narrower in excluding citizens of other States, foreign corporations, aliens, and possible even domestic corporations. Therefore, the Secretary finds that the latter feature renders KRS 350.250 inconsistent with SMCRA.

(b) Section 520(a)(2) of SMCRA contains the language "failure . . . to perform any act or duty . . . which is not discretionary" in granting the cause of action for mandamus of nondiscretionary duties. Because KRS 350.250 does not contain this language, a legal opinion from the General Counsel of DNREP was requested to demonstrate that the Kentucky statute is broad enough to encompass mandamus for performance of nondiscretionary duties.

The General Counsel of DNREP submitted a legal opinion on August 19, 1980 (Administrative Record No. KY–279), demonstrating that, in Kentucky, a mandamus action is employed to compel the performance of duties which are not discretionary. Inasmuch as KRS 350.250 contains the word "mandamus," the Secretary is persuaded that no substantive difference exists between the provisions of Section 520(a)(2) and KRS 350.250 relative to compelling compliance with nondiscretionary duties.

(c) KRS 350.250(3) was presumably intended by its drafters to provide:

(1) an action for damages by any person injured in his or her person or property through the violation by any operator of any rule, regulation, order or permit (consistent with Section 520(f), SMCRA);

(2) a mandamus action against any agency or governmental insturmentality alleged to be in violation of the provisions of the Act, any rule, regulation, order or permit (consistent with Section 520(a)(1), SMCRA); and

(3) an injunction action against any person alleged to be in violation of any rule, regulation, order or permit (consistent with Section 520(a)(1), SMCRA).

KRS 350.250(3) provides only that "any person who is or may be adversely affected by the violation by any person

of any rule, regulation, order or permit issued pursuant to this chapter may bring a civil action . . . ."

The Secretary believes that KRS 350.250(3) does not provide for the three causes of actions because it does not explicitly use the terms "damages" or "mandamus." It merely provides for a "civil action" without further specificity. In view of recent case law, the Secretary believes these causes of action must be particularly and explicitly provided for. ((See *Illinois v. Commonwealth Edison*, 14 ERC 1266 (1980) and *California v. Department of the Navy*, 9 ERC 2077, 431 F. Supp. 1271, 1283 (1980).)

(d) No Kentucky counterpart to Section 520(c)(2) of SMCRA exists relative to intervention by the Secretary or the DNREP as a matter of right.

(e) No Kentucky counterpart to Section 520(e) of SMCRA, the savings clause, exists. Without further information, perhaps in the form of an opinion from the chief legal officer of DNREP, the Secretary is unable to find that no other rights under any other statute or common law relative to enforcement under Kentucky's surface mining legislation are restricted.

1.3 KRS 350.032(2) is inconsistent with Section 526(c) of SMCRA because it fails to set forth the standards or criteria for the granting of temporary relief. Absent such statutory language, other general statutory authorizations for temporary relief and judge-made standards in Kentucky for granting such relief would apply. Kentucky courts have adopted the 4th Circuit Court of Appeals "balance of the hardships" test (the minority rule in the Federal court system) to determine when granting such temporary relief is proper. The specific standards set forth in Section 526(c) of SMCRA create a greater burden for the movant than does the 4th Circuit test. For example, under Section 526(c) of SMCRA, the movant would have to demonstrate a "substantial likelihood of success on the merits" whereas under the prevailing State standard the movant would only have to show a "substantial question as to the merits of the final determination."

1.4 KRS 350.062(8) classifies abandoned mine land (AML) projects as government-financed construction. All AML projects cannot be categorically exempted from the environmental performance standards since this would make the Kentucky program less stringent than the Federal rules require it to be. The Secretary requires clarification to assure that any more than "incidental" removal of coal during an AML project would be subject to all requirements of the Kentucky permanent regulatory program.

Finding 2

The Secretary finds that Kentucky has laws which, in part, provide sanctions for violations of State laws, regulations or conditions of permits which meet the minimum requirements of SMCRA. The Secretary has identified the following deficiencies:

2.1 The term "order of suspension" in KRS 350.130(1) is not defined and its use is unclear. It can be fairly intrpreted to mean either (1) the suspension of a permit, (2) an equivalent to a Federal cessation order for immediate danger (or the Kentucky "order to abate and alleviate"), or (3) an equivalent to a Federal failure to abate cessation order (or the Kentucky "subsequent order for cessation and immediate compliance"). As a result of the ambiguity, the Secretary requires further information, perhaps in the form of a legal opinion from the chief legal officer of DNREP, to demonstrate adequately that the issuance of summary cessation orders under KRS 350.130(1) or KRS 350.130(4) will not be adversely affected.

2.2 In order to determine whether KRS 350.032(2) is consistent with Section 526(b) of SMCRA relative to trial *de novo*, the Secretary requires further information, perhaps in the form of a legal opinion from the chief legal officer, of DNREP, as to whether or not KRS 350.032(2) addresses trial *de novo*. On its face the statute appears to provide only for an appeal on the record. However, further information is necessary relative to whether judicial practice in Kentucky has limited appeals under the statute strictly on the record. If KRS 350.032(2) does not provide for trial *de novo*, the Secretary must examine it to determine if adequate safeguards are contained to prevent interference with an enforcement program which might be inconsistent with SMCRA. If KRS 350.032(2) does not provide for trial *de movo*, no further review will be necessary inasmuch as in the litigation in the U.S. District Court for the District of Columbia, *In Re: Permanent Surface Mining Regulation Litigation*, the court indicated that Section 526(b) of SMCRA contemplated a review "on the record."

2.3 Sections 521(a)(2) and (3) of SMCRA require cessation orders to be "immediately" issued, with an opportunity for hearing to follow. In KRS 350.028(3) the language "or orders requiring an operator to adopt such remedial measures as are necessary to comply" could adversely affect Kentucky's authority to issue summary cessation orders under KRS 350.130(4). An opinion was requested from the General Counsel of DNREP to demonstrate no adverse effect. A legal opinion from the General Counsel of DNREP was received on August 18, 1980, (Administrative Record No. KY-278) arguing that the language of KRS 350.028(3) in no way limits the effect of the subsequently enacted sections KRS 350.130(1) and (4), which, assures the General Counsel, require the DNREP to order cessation of activities and corrective measures without a prior hearing as provided by Section 521 of SMCRA and 30 CFR Part 843. The Secretary is persuaded by the legal opinion of the General Counsel of DNREP that there will be no adverse effect upon DNREP's authority to issue summary cessation orders.

2.4 In KRS 350.028(4) use of the disjunctive "or" on line 20 makes it possible to interpret the section so that only a civil penalty would be a proper sancton for a "pattern of violations." This construction would conflict wih both Section 521(a)(4) of SMCRA and KRS 350.130(1) mandating revocation or suspension of the permit as the sanction. Alternatively, KRS 350.028(4) can be interpreted to authorize imposition of civil penalties only if (1) there is a pattern of violations *and* either (2) an unlawful failure to comply *or* (3) a willful violation. Section 518 of SMCRA does not place these conditions on civil penalties. Because of the ambiguities of KRS 350.028(4), a legislative amendment will be necessary unless an opinion by the chief legal officer of DNREP can adequately demonstrate that KRS 350.028(4) is consistent with Sections 518 and 521(a)(4) of SMCRA.

2.5 KRS 350.990(1), Penalties, fails to clearly provide a $750 per day minimum penalty for failure to comply with the requirements contained in the Kentucky equivalency of imminent danger cessation orders as required by Section 518(h) of SMCRA and 30 CFR Section 845.15(b).

The General Counsel of DNREP submitted a legal opinion on August 15, 1980, (Administrative Record No. KY-277), arguing that the problem could be easily solved by the attachment and incorporation of a notice of violation to every order to abate and alleviate (Kentucky's equivalent to an imminent danger cessation order) and thus clothe the order to abate and alleviate with the $750 per day provision.

The Secretary is not persuaded by the arguments of the General Counsel. The solution proposed by Kentucky is that a notice of non-compliance and order for remedial measures (equivalent to a SMCRA notice of violation) be first issued by the inspector in response to a situation discovered during an inspection, where there is a violation of

Kentucky's law, regulations or permit conditions and this condition also creates an imminent danger to the health or safety of the public, or can reasonably be expected to cause significant imminent environmental harm. As this notice would have an abatement period, the $750 minimum daily fine would be triggered if the abatement period was not complied with. According to the letter from the General Counsel, and according to the sample order and notice attached to that letter, the order to abate and alleviate, which would cease operations, would not be issued by the inspector upon discovery of the imminent harm situation, but would be issued at a later time, and possibly by another official.

SMCRA contemplates that, if an inspector discovers a violation creating imminent harm, the inspector shall immediately issue a cessation order. If the violation does not create imminent harm or danger, the inspector issues a notice of violation. In comparing Section 521(a)(2) and Section 521(a)(3) of SMCRA, these actions by an inspector appear mutually exclusive—that is, a condition or practice which is a violation either triggers an imminent harm cessation order or a notice of violation, not both.

It might be possible that orders to abate could be issued by the inspector simultaneously with a notice of non-compliance. The order to abate would not have its own remedial actions or abatement dates (which are not mentioned in KRS 350.130(4)) and would therefore not be strict parallel to the cessation orders for imminent harm under SMCRA. Instead, the notice would provide for these items. The order would recite the finding of imminent harm to the public or environment, and order cessation of operations until abatement. A problem with this approach is that the Kentucky civil penalty section assesses separate penalties for orders to abate issued under KRS 350.130(4) and therefore could be interpreted to have contemplated that these orders to abate be complete and separate from notices of non-compliance.

The minimum daily penalty is an important incentive for operators to complete remedial actions by the abatement date. It would substantially weaken this incentive if the alternative procedure mentioned above in the General Counsel's letter were relied on. Moreover, his suggested approach serves to undermine the required field enforcement. The failure to perform remedial actions set forth in an order to abate should directly trigger the minimum daily penalty without issuance of a notice or a determination that the notice was not abated within the time period prescribed.

2.6 KRS 350.465(3)(h) contains the languate "in lieu of those civil penalties provided in KRS 350.990." Without further information, perhaps in the form of a policy statement, the Secretary is unable to find that the languate of KRS 350.465(3)(h) would not unacceptably permit the substitution of the penalties provided in KRS 350.465(3)(h) for those set forth in KRS 350.990, particularly as to the $750 per day minimum penalty on notices of violation, failure to abate cessation orders and imminent danger cessation orders. (Finding 2.5, above, addresses a separate but related concern relative to the failure of the State statute to provide a $750 per day minimum for imminent danger cessation orders.)

Finding 3

The Secretary finds that the program fails to demonstrate that the State regulatory authority will have sufficient administrative and technical personnel and sufficient funding to enable the State to regulate surface coal mining and reclamation operations in accordance with the requirements of SMCRA. Sections 731.14(i), (j), (l) and (m) of the program submission do not contain sufficient data to enable conclusive findings on staffing and funding adequacy. These deficiencies are covered in detail under Finding 30, below.

Finding 4

The Secretary finds that the State has laws which, in part, provide for effective implementation, maintenance and enforcement of a permit system meeting the requirements of SMCRA. The Secretary has identified the following deficiencies:

4.1 KRS 350.113(3), which allows DNREP to release the remaining increment of a performance bond after determining safisfactory vegetative cover has been established, may (1) conflict with the five-year revegetation responsibility period because KRS 350.113(3) contains no time limit for responsibility, and (2) limit the time when inspections can be made in connection with revegetation compliance because KRS 350.113(3) provides that "(I)n no instance shall this vegetative cover check be made until just prior to or after the completion of the first growing season." These provisions appeared to conflict with the five-year responsibility period established in Section 515(b)(19) of SMCRA.

A legal opinion from the General Counsel of DNREP has addressed these concerns to the satisfaction of the Secretary in two parts. First KRS 350.113(3) directs that the remaining bond shall be released if "the department determines that a satisfactory vegetative cover has been established" without defining "satisfactory." To determine when vegetation is "satisfactory," one must refer to the more specific language of KRS 350.095 which directs the reader to the 5-year period defined in the regulations. Second, KRS 350.113(3) addresses inspections for bond release only and contains very general language. More specific language directing inspections may be found in KRS 350.093, KRS 350.095 and the DNREP regulations. (See Administrative Record No. KY–278.)

4.2 KRS 350.440(1), Excess Spoil Dispoal, is a counterpart to Section 515(b)(22) of SMCRA. Under that Federal section, except for durable rock fills, the end-dumping method of spoil disposal is prohibited as set forth in 30 CFR 816.70–816.74. The language "where advisable," in the Kentucky statute creates a possibility of interpretation that hauling or conveying excess spoil to the toe of a fill is to be the exception and not the rule. Appropriate program provisions, perhaps in the form of a policy statement from DNREP, are needed to demonstrate that, notwithstanding the language "where advisable," all excess spoil handling and placement will be performed consistent with the Federal permanent program regulations.

4.3 KRS 350.450(3)(a), variance from approximate original contour (AOC) requirements, is counterpart to Section 515(e) of SMCRA, which provides an AOC variance on steep slopes only. The cross-reference in this section to KRS 410 (a counterpart to Section 515(b)(3) of SMCRA), creates a variance from AOC on non-steep slopes. KRS 350.3(b) contains the same cross-reference. In *In re: Permanent Surface Mining Regulation Litigation*, the court upheld OSM's interpretation of SMCRA Section 515(e). However, the Secretary recognizes that there are circumstances in which a variance from AOC requirements is allowable under certain conditions, such as experimental practices, and therefore believes this section of the State law may be considered acceptable as long as the program and regulations otherwise demonstrate that the variances will only be granted in a manner consistent with the Federal requirements.

4.4 Under KRS 350.085(5), Denial of Permits, the language "privately owned" on line 2 would be acceptable if it means all non-Federal and non-Indian lands in Kentucky. It does not appear to include, however, State or municipally-owned lands. The Secretary needs more information, perhaps an opinion from the chief legal officer for DNREP and a policy statement from DNREP, before he can find that "privately owned" lands can and will be interpreted to mean State or municipal lands. If this cannot be demonstrated in such opinions and statements, a legislative change to delete the words "privately owned" would appear to be required.

4.5 KRS 350.060(15) allows surface areas overlying underground mines to be categorically exempted from all bonding requirements. While it is true that not all areas overlying underground mining must be bonded against subsidence damage, the categorical exemption is inconsistent with Section 509 of SMCRA and 30 CFR 801.1 *et seq.*, inasmuch as protection of surface owner property rights against potential damage caused by unplanned subsidence must be provided for and prevention of damage to surface facilities through measures to control subsidence must be subject to performance bond coverage. In addition, in some instances the areas overlying an underground mine will be intentionally disturbed for purposes of placing mine-related facilities. The Secretary requires further information, perhaps in the form of an opinion from the chief legal officer of DNREP, to demonstrate adequately that KRS 350.060(15) would permit bonding of surface areas overlying underground mines for the purposes set forth in 30 CFR 801.1 *et seq.* in the rules as amended August 6, 1980, or to the extent required in the March 13, 1979, version of the Federal bonding rules. If an opinion of the chief legal officer of DNREP cannot adequately demonstrate that KRS 350.060(15) would permit bonding in such situations, statutory amendment probably will be required.

4.6 KRS 350.010 the definition of "overburden" does not contain the language "excluding topsoil." This conflicts with both 30 CFR 701.5 and Kentucky regulation 405 KAR 7:020E Section 1(68) which do contain the language. The Secretary requires further information, perhaps in the form of a policy statement from DNREP, to assure that there will be no adverse effect either upon the topsoil handling requirements of 405 KAR 16:050E and 18:050E or any other requirements.

Finding 5

The Secretary finds that the State has, in part, adequate processes for the designation of lands unsuitable for surface coal mining. Inconsistencies between the Kentucky regulations and the Federal regulations developed pursuant to Section 522 of SMCRA are discussed under Finding 21, below.

Finding 6

The Secretary finds that the State has, in part, adequate process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with any of the Federal or State permit processes applicable to the proposed operations. Inconsistencies between the Kentucky regulations and the Federal regulations on permitting are discussed under Finding 14, below.

Finding 7

The Secretary finds that State has rules and regulations consistent, in part, with 30 CFR Chapter VII. The regulations, which were enacted under emergency powers of the Governor, contain inconsistencies when compared to 30 CFR Chapter VII, as explained under Findings 12 through 30, below.

Section 503(b) of SMCRA Findings

As required by Section 503(b)(1)–(3) of SMCRA, 30 U.S.C. 1253(b)(1)(3), and 30 CFR 732.11–732.13, the Secretary has, through OSM, fulfilled the requirements set forth in Findings 8 through 10 below:

Finding 8

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 pertinent to the proposed Kentucky program.

Finding 9

Obtained written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of the Kentucky program being approved at this time which relate to air or water quality standards promulgated under the authority of the Clean Water Act, as amended (33 USC 1151–1175), and the Clean Air Act, as amended (42 USC 7401 *et seq.*).

Finding 10

Held public review meetings in Madisonville, Kentucky, on April 16, 1980, and Pikeville, Kentucky, on April 17, 1980, to discuss the completeness of the Kentucky submission and held public hearings on the substance of the submission at Madisonville, Kentucky, on July 22, 1980, and at Hazard, Kentucky, on July 23, 1980.

Finding 11

In accordance with Section 503(b)(4) of SMCRA, the Secretary finds that Kentucky has, in part, the legal authority but does not have sufficient qualified personnel necessary for the enforcement of environmental protection standards in accordance with SMCRA. See Finding 30, below.

30 CFR 732.15 Findings

In accordance with 30 CFR 732.15, the Secretary makes Findings 12 through 30 below on the basis of information in the Kentucky program submission, public comments and testimony, and written presentation at public hearings and other relevant information.

Finding 12

In accordance with 30 CFR 732.15(a) the Secretary finds that the program submission provides, in part, for the State to carry out the provisions and meet the purposes of SMCRA. However, the Secretary finds a number of deficiencies in the laws, regulations and descriptive elements of the State submission which should be remedied before the program can be approved. Problems in State legislative authority were discussed in Findings 1, 2 and 4. Problems with the State regulations and narrative descriptions are discussed in Findings 12 through 30 below.

Kentucky has not submitted any alternative approaches pursuant to the requirements of 30 CFR 731.13. Therefore, no findings are made regarding alternative provisions.

The Secretary finds that the State has not yet updated its legal opinion required by 731.14(c) with the revisions to Kentucky regulations submitted after the initial submission. Accordingly, the Secretary is unable to rely on that opinion to clarify any of the program amendments.

In addition the Secretary has identified the following deficiencies relating to areas affecting regulations in more than one of the findings discussed in Findings 13 through 30 below.

12.1 405 KAR 7:030E Section 2 is inconsistent with 30 CFR 700.11(b) and SMCRA Section 528 which defines operations not subject to the regulations. The words "disturbed by" should be replaced by "affected by" to assure that areas above underground mines are included in determining the total area of the mine for purposes of the two-acre exemption. Otherwise, a significant number of relatively large underground mines would be excluded from

regulation under the Kentucky program while the Federal law requires that they be regulated.

12.2 The following definitions in 405 KAR 7:020E Section 1 are significantly different than those in 30 CFR Chapter VII.

(a) No. 9, "approximate original contour" (AOC), omits "coal refuse piles." The State asserts that the Kentucky definition of AOC is not less stringent than the Federal definition because coal refuse piles are not explicitly mentioned, that the Act's definition of AOC does not contain a specific reference to removal of coal refuse piles, and that "OSM obviously interprets the language of the Act to require removal of coal refuse piles as necessary to achieve AOC, or otherwise the specific reference to coal refuse piles in the federal regulations would be unauthorized." The State concludes that its regulations should properly be construed as requiring removal of coal refuse piles (as opposed to properly constructed coal refuse disposal areas, which cannot be eliminated) as necessary to achieve AOC. (See Administrative Record No. KY–238). Based on Kentucky's concluding statement, the Secretary finds the Kentucky definition consistent with the Federal definition.

(b) No. 55, "head of hollow fill," omits criteria for less than 250,000 cubic yards associated with contour mining. However, the Secretary agrees with the explanation given by Kentucky that the State regulations address the criteria as a performance and design requirement in 405 KAR 16:130E Section 3(1) and 18:130E Section 3(1). The Secretary finds that the intent of the Federal definition is met by the cited State regulations.

(c) No. 56, "highwall," omits "or for entry to underground mining activities." The State asserts that Section 516(b)(2) of SMCRA "requires sealing of entryways and other openings, but does not require complete elimination of all vertical rock cuts as is required by 515(b)(3) for surface mining activities" and that the "distinct difference between surface mining activities and underground mining activities, which OSM was directed by 516(a) and 516(b)(10) to consider, is that in underground mining activities the face-up areas are long-term facilities rather than short-term as in surface mining, and that material from the face-up excavations is typically utilized for construction of working areas which become stable and vegetated and suitable for higher and better postmining land uses." Further, the State asserts that "no other material for backfill exists, and redisturbance of the stable and revegetated work areas would be required in order to return to AOC." The State also pointed out that fills which had become stabilized and revegetated need not be disturbed as a result of the remand of May 16, 1980. (See Administrative Record No. KY–238.)

The Secretary recognizes that there are distinct differences between surface mining activities and underground mining activities but believes the definition of "highwall" must include underground mine entrances for clarity in its use throughout the laws and regulations. For example, the requirement at SMCRA Section 515(d)(3) that land above a highwall not be disturbed includes underground mines. Differences in the highwall for surface mining and underground mining must be resolved in performance standards rather than eliminating underground mines from the definition of "highwall." Further, the Secretary believes that, while the district court has ordered a variance from return to AOC for long-term stabilized areas at underground mines, such a variance should not include unconditionally allowing a highwall to remain after bond release at mines opened after SMCRA was enacted. The Secretary wishes to advise the State that he is considering highwall variances in certain conditions submitted as a "State window" alternative by West Virginia. Kentucky may have similar circumstances and may wish to submit a "State window" alternative under the procedures in 30 CFR 731.13.

(d) No. 58, "historically used for cropland," omits criteria specified in 30 CFR 701.5. Specifically, the time period for measuring historic use must begin before acquisition, with acquisition being defined to include purchase, lease, or option of the land for coal mining. The Kentucky regulation allows the time period to begin only before the permit application and does not define the term "acquisition."

The State believes that its definition is "functionally the same" as the Federal requirement in that the language of paragraph (2) of the Federal definition is unnecessary since it is covered under the language of paragraph (3) which is contained in Kentucky's definition. (See Administrative Record No. KY–238.)

The Secretary does not agree. Under the Kentucky language, an operator could acquire property, cease use of the area for cropland for 5 years and then submit a permit application, which would be processed without consideration of the land's historical use before acquisition for coal mining.

(e) No. 64, "in situ processes," omits "slurry mining." Kentucky does not believe that inclusion of "slurry mining" in the definition is appropriate since the term is understood to apply to the recovery of coal from slurry ponds, which is not an in situ process. (See Administrative Record No. KY–238.)

The Secretary finds that the State has provided no other definition for slurry mining in its regulations nor has it included any special performance standards for slurry mining. Since slurry mining is included in the definition of "in situ processes" in 30 CFR 701.5, it is also covered by the performance standards for in situ mining in 30 CFR Part 828. The State must include at a minimum a definition of slurry mining and special performance standards similar to 30 CFR Part 828 for slurry mining or other regulatory provisions as stringent, if it does not include slurry mining as an in situ process.

(f) No. 89, "person," omits "any agency, unit, instrumentality of Federal, State, or local government including any publicly owned utility or publicly owned corporation of Federal, State or local government." The State indicated that its definition of "person" is not less inclusive than the statutory definition of "person" at Section 701(19) of SMCRA. (See Administrative Record No. KY–238.)

"Person" as defined in 30 CFR 700.5 and used in the Federal regulations is intended to include government entities. A change to State regulations may not be necessary if an opinion from the chief legal officer of DNREP can adequately demonstrate that the State regulation is as inclusive as the Federal regulation.

(g) No. 90, "person having an interest which may be adversely affected or person with valid legal interest," does not include actions by DNREP as potential causes of adverse impact on a person's interest. Kentucky believes this language in 30 CFR 700.5 is superfluous and maintains that any person who is injured has access to the full range of legal remedies. (See Administrative Record No. KY–238.)

Without the specific inclusion of "or any related action of DNREP" in this definition, the Secretary believes the State regulations do not give standing to the same degree afforded by Federal regulations and intended by SMCRA. The State regulations emphasize only actions by the operator and do not make it clear that a person has remedies in relation to State action.

(h) No. 92, "precipitation event," omits consideration of snowmelt. Kentucky indicated that it did not include the language from the Federal definition in 30 CFR 701.5 because of the relatively insignificant amount of snowmelt Kentucky receives in relation to the

amount of runoff from rainfall. (See Administrative Record No. 238.)

The Secretary believes snowmelt should be included in the determination of precipitation event so that snowmelt will be considered when an operator designs a pond to meet criteria for detention that are based on the size of precipitation events (i.e., the requirement to prevent water from a 10-year 24-hour precipitation event from outflowing at the emergency spillway as required by 405 KAR 16:090E Section 5). To not consider snowmelt could result in undersized ponds and possible noncompliance with performance standards.

(i) No. 96, "probable hydrologic consequences," does not include aquatic habitat on the permit and other affected areas as a consideration in the determination of hydrologic consequences as does 30 CFR 795.5.

(j) No. 106, "recurrence interval," is not limited to precipitation event recurrence intervals as is the Federal definition of 30 CFR 701.5. However, the Secretary believes that the State definition is sufficiently broad as to include precipitation event recurrence intervals when used in context with the design and performance standards based on the recurrence interval concept. Therefore, the Secretary finds the definition consistent with the Federal regulations.

(k) No. 129, "surface coal mining operations," is adequate although it does not include the extraction of coal from coal refuse piles. This finding is based on the State's argument, which the Secretary finds persuasive, that extraction of coal from refuse piles is clearly encompassed within the phrase "extraction for the purpose of obtaining coal." The State also points out that extraction of coal from coal refuse piles has been added to the definition (No. 128) of "surface mining activities" to clarify that such extraction belongs within that category of surface coal mining operations. (See Administrative Record No. KY-238.)

Finding 13

In accordance with 30 CFR 732.15(b)(1), the Secretary finds that the Kentucky program submission demonstrates, in part, that the Kentucky DNREP can implement, administer, and enforce all applicable requirements of Subchapter K of 30 CFR Chapter VII under existing authorities in Kentucky laws, regulations and descriptive elements of the program submission. Kentucky incorporated provisions of 30 CFR Chapter VII, Subchapter K in 405 KAR Chapters 16 and 18. The description of the system to administer and enforce performance standards is found in the narrative entitled "State Section 731.14(g)(6)" and is found acceptable. However, the Secretary finds a number of deficiencies in the laws and regulations, which should be remedied before the program can be approved. Deficiencies with the State legislative authority are discussed under Findings 1, 2 and 4 above. Significant differences between Kentucky regulations and Subchapter K of 30 CFR Chapter VII and SMCRA are as follows:

13.1 405 KAR 16:040E Section 2 is inconsistent with 30 CFR 816.14 which requires casing and sealing of drilled holes. Use of the word "than" in the first line of Section 2 appears to eliminate certain types of holes which should be included (drill, boreholes, wells and other exposed underground openings).

13.2 405 KAR 16:050E Section 1(3) is inconsistent with 30 CFR 816.21 and 816.22(e) because the State section allows the substitution of "available materials" for topsoil when suitable topsoil is unavailable without requiring that this "available material" be tested for its chemical and physical properties. Without the tests there is a potential that the available material will not be suitable for adequate plant growth.

13.3 405 KAR 16:070E Section 1(1)(b) and 16:090E Section 5(18) are inconsistent with 30 CFR 816.42(a)(2) and 816.46(u) because the State regulations fail to require that treatment facilities will remain in place until applicable State and Federal water quality requirements for the receiving stream are met. This finding is also applicable to 405 KAR 18:070E Section 1(1)(b) and 18:090E Section 5(18) for underground mining and the Federal analogs 30 CFR 817.42(a) and 817.46(u).

The State maintains that the State regulations were written to comply with the Distict Court ruling which suspended portions of 30 CFR 816.42. The State believes tying sedimentation pond removal to meeting standards for the receiving stream goes beyond the requirements of the Environmental Protection Agency under the Clean Water Act and therefore would not be in compliance with the court ruling. The State has agreed that SMCRA requires that the best available technology be used to control sediment and believes that the criteria in the State regulations will result in a significant reduction in sediment from surface runoff before the ponds are removed. (See Administrative Record No. KY-238.)

The Secretary believes the State has misinterpreted the court decision. Only those portions of the Federal regulation which apply the numerical effluent standards to revegetated areas are remanded. Protection of the receiving stream is mandated by SMCRA Section 515(b)(10)(B)(i) and 30 CFR 816.42(a)(2) and 816.46(u) which have not been remanded.

13.4 Although 30 CFR 816.42(b) has been suspended in relation to the application of effluent limitations to periods of heavy rainfall, the State regulation for this exemption, 405 KAR 16:070E Section 1(1)(h), lacks technical support. The State regulation allows the rainfall exemption to continue for five days after a precipitation event greater than the 10 year 24-hour event which appears very lenient for areas where the time of concentration may be less than one day. The Secretary requests the State to provide technical data to support a determination that a five-day exemption is appropriate for Kentucky. This finding is also applicable to 405 KAR 18:070E Section 1(1)(h) for underground mining and the Federal analog 817.42(b).

13.5 405 KAR 16:060E Section 2(2)(c) is less stringent than 30 CFR 816.45 for sediment control measures. Kentucky's rule requires retaining sediment and runoff "where practicable." The Federal rule requires that sediment be retained "in all cases." SMCRA requires the best technology currently available to control sedimentation and provides that mining may be prohibited where it is not technologically and economically feasible to comply with SMCRA. Therefore, a "where practicable" test is considered to be not in accordance with SMCRA. This finding is applicable also to 405 KAR 18:060E Section 2(2)(c) for underground mining and the Federal analog 30 CFR 817.45.

13.6 405 KAR 16:110E Section 1(2) is inconsistent with 30 CFR 816.52(a)(2) which provides protection for aquifers, since the Kentucky rule does not require measurements from mineralogical and chemical analyses of aquifers, overburden and spoil. This finding is also applicable to 405 KAR 18:110E Section 1(2) and the Federal analog 30 CFR 817.52(a)(2).

13.7 05 KAR 16:090E Section 5(16) is less stringent than 30 CFR 816.46(t) which requires examination of sediment pond dams at least four times per year for structural weakness, erosion and other hazardous conditions. The Kentucky regulations would require inspections "as required by the department." This finding is applicable also to 405 KAR 18:090E Section 5(16) for underground mining and the Federal analog 30 CFR 817.46(t).

Kentucky stated that it intends to require inspection four or more times per year. However, for some ponds, due to small size and low hazard location,

four inspections per year may not be necessary. (See Administrative Record No. KY–238.)

The Secretary believes the Federal regulations clearly require four inspections per year. Should the State believe that there are certain conditions which could alter the requirements for inspections for dams meeting specific criteria in Kentucky, the State may wish to submit an alternative provision under the procedures provided in 30 CFR 731.13.

13.8 405 KAR 16:060E Section 11 is less stringent than 30 CFR 816.57(a) which prohibits mining within 100 feet of a perennial stream or a stream with a biological community as defined in 30 CFR 816.57(c). Kentucky's counterpart to 30 CFR 816.57(a)(1) allows relocation of streams other than as authorized by 405 KAR 16:080E which applies to diversions. Both 405 KAR 16:060E Section 11 and 405 KAR 16:080E lack the Federal standards for stream relocation specified in 30 CFR 816.57(a). This finding is applicable also to 405 KAR 18:060E Section 9 for underground mining and the Federal analog 30 CFR 817.57(a).

13.9 405 KAR 16:090E Section 5(4) provides an exemption from the requirement to remove sediment from sedimentation ponds that have been filled to the designed sediment storage volume. Although 30 CFR 816.46(h) which requires sediment removal when 60 percent design capacity has been reached has been suspended, the Secretary believes that the State must include a provision to assure that sediment is removed when a pond has reached its designed sediment storage volume. Otherwise, the pond may no longer serve a useful function, and the State exemption would be inconsistent with the requirement in 30 CFR 816.46(a) that sedimentation ponds be used. This finding is also applicable to 18:090E Section 5(4).

13.10 405 KAR 16:120E Section 2 is less stringent than 30 CFR 816.62(a) because the State does not require submission of the pre-blast survey to the DNREP in all cases when a pre-blast survey is conducted. The Federal provision requires *all* surveys to be promptly submitted to the regulatory authority (RA). The Secretary believes that the regulation must require prompt submission of all pre-blast surveys so that the RA can assure that the interests of the person who requested the survey are considered prior to blasting. This finding is also applicable to 405 KAR 18:120E Section 2 for underground mining and the Federal analog 30 CFR 817.62(a).

13.11 405 KAR 16:120E Section 2(3) and 18:120E Section 2(3) require the person who requested a pre-blast survey to provide written notification to the permittee and the RA if he or she disagrees with the survey and to do so within 30 days. 30 CFR 816.62(c) and 817.62(c) state that the person who requests the survey "may" make the notifications described above, but neither require that it be done nor set a time limit on when it may be done.

The State asserts that the 30 day limit will not be a burden on the public, but would serve the public interest since the citizen, by notifying the permittee and the department, would obtain a timely resolution of his or her problem. The State argues that the word "shall" relates to the requirement to make the notification within 30 days and, if the citizen does not want to resolve the disagreement, he or she need not make the notifications. (See Administrative Record No. KY–238.)

Since the opportunity for the citizen to comment is intended to be before the blasting actually occurs, the Secretary agrees with the concept of establishing a time for objecting to the report. However, the Secretary does not believe such a provision should serve to jeopardize a citizen's right to question the validity of the report based on later information or maintain that the report was incorrect in later actions. Without further clarification from the State, the Secretary is unable to find that the regulation will not affect a citizen's rights in later administrative or judicial reviews.

13.12 405 KAR 16:120E Section 3(9) is less stringent than 30 CFR 816.65(i) and (k) because it establishes the peak particle velocity for blasting at 2 inches per second whereas the Federal requirement is 1 inch per second. While the 1 inch per second standard was remanded by the court (Civil Case 78–2190, 2191, and 2192), that remand applies only to the interim regulatory program. Therefore, the Secretary cannot find the Kentucky permanent program provision acceptable. This finding applies also to 405 KAR 18:120E Section 4(1) for underground mining and the Federal analogs 30 CFR 816.17(i) and (k).

13.13 405 KAR 16:120E Section 4(6)(a) and (b) gives the DNREP the discretion to allow blasting within zones where mining is prohibited under 405 KAR 24:040E Section 2. The State section provides that blasting distances less than 300 feet from a dwelling, school, church, hospital or nursing facility may be approved on the basis of a pre-blast survey. 405 KAR 24:040E Section 2(2), the Federal analog 30 CFR 761.11 and SMCRA Section 522(e)(5) prohibit mining within 300 feet of these facilities except when there is a valid existing right or, in the case of a dwelling, where the dwelling owner signs a waiver for mining at a lesser distance. The Secretary assumes that 405 KAR 24:040E Section 2 would be the controlling test in determining whether mining would be allowed within these distances and that 405 KAR 16:120E would only be operative if a determination of valid existing rights has been made or a waiver is given by a dwelling owner.

13.14 405 KAR 16:120E Section 4(7) is less stringent than 30 CFR 816.65(g) concerning flyrock and other blasting material, because the State does not prohibit throwing blasting rock beyond the property owned or leased by the permittee.

Kentucky stated its intent to correct this omission, but believes that the prohibition may be better stated in terms of "permit area" rather than "land owned or leased." (See Administrative Record No. KY–238.)

Since the State language has not yet been changed, the Secretary cannot make a final judgment on the State's proposal to substitute "permit area" for "land owned or leased."

13.15 405 KAR 16:120E Section 4(9) is less stringent than 30 CFR 816.65(i) relating to limitations on blasting operations because the State specifies use of a "vector *sum* of velocities measured in three mutually perpendicular directions" in lieu of the largest of the three peak particle velocities as specified in the Federal regulation. The State regulation would allow averaging of the velocities and thus find the maximum allowable velocity had not been exceeded in cases where the Federal rules would find it had. This finding is also applicable to 405 KAR 18:120E Section 3(9) and the Federal analog 30 CFR 817.65(i).

13.16 405 KAR 16:120E Section 4(1) and Appendix B are less stringent than 30 CFR 816.65(k) and (l) because the denominator in the Kentucky formula in Appendix B has been decreased from 60 to 50, thus increasing the maximum weight of explosives that can be detonated in the 8 millisecond period. This finding is applicable also to 405 KAR 18:120E Section 3(11) and Appendix B for underground mining and the Federal analog 30 CFR 817.65(k) and(l)(1)(2).

13.17 405 KAR 16:130E Sections 1, 2, 405 KAR 16:140E Section 3, and 16:190E Section 4 require spoil and/or other materials to be "transported "and" placed in a controlled manner" rather than "hauled or conveyed to and

placed" as required by 30 CFR 816.71, 816.72, 816.103 and 816.104. The Secretary assumes that the State language is equivalent to the Federal language and that end dumping of material into fills would be prohibited as was contemplated when the terms "transported" was used in SMCRA. This finding is also applicable to 405 KAR 18:130E Sections 1 and 2, 18:140E Section 1 and 18:190E Section 3 and the Federal analogs 30 CFR 817.71, 817.72, 817.81 and 817.103.

13.18 405 KAR 16:130E Section 1(6) is less stringent than 30 CFR 816.71(f) because the State allows a safety factor for spoil disposal areas as low as 1.3 whereas the minimum factor in the Federal regulation is 1.5. This finding is also applicable to 405 KAR 18:130E Section 1(6) and the Federal analog 30 CFR 817.71.

13.19 405 KAR 16:130E Section 1(11) is inconsistent with 30 CFR 816.71(k). The Federal regulation prohibits disposal of coal processing wastes in head-of-hollow or valley fills. The State regulation might be interpreted to prohibit coal processing waste disposal in such fills only, if the coal processing wastes are mixed with excess spoil or underground development waste. This should be clarified. In addition, paragraph (c) requires that the wastes must be "demonstrated to have no adverse effect on stability" whereas the Federal language is "demonstrated to be consistent with the design stability." Since either provision ultimately must be verified on the ground or proved during performance and the intent of the words "design stability" is to prevent adverse effect on stability, the Secretary finds the State language "demonstrated to have no adverse effect on stability" to be consistent with the Federal requirement. This finding is applicable also to 405 KAR 18:130E Section 1(11) for underground mining and the Federal analog 30 CFR 817.71(k)(3).

13.20 405 KAR 16:130E Section 4(6) is inconsistent with 30 CFR 816.74(e), the performance standards for durable rock fills. The Federal regulation requires drainage channels "in natural ground" at the periphery of the fill. The requirement for the drainage to be in "natural ground," even though a durable rock fill is supposedly free draining, is because there is up to 20 percent of non-durable rock allowed in this type of fill and water passing through the fill may disintegrate this material and result in a clogged fill. The "natural ground" channel will minimize the amount of water which passes through the fill and is available to erode the non-durable rock material. The State regulation does not require the drainage channels to be in natural ground and is accordingly less stringent. This finding is applicable also to 405 KAR 18:130E Section 4(6) for underground mining and the Federal analog 30 CFR 816.74(e).

13.21 405 KAR 16:130E Section 1(7) is less stringent than 30 CFR 817.71(g) because the Federal regulation requires that no depressions or impoundments be allowed on a fill while the Kentucy regulation requires that no "significant" depressions or impoundments be left. This finding is applicable also to 405 KAR 18:130E Section 1(7) for underground mining and the Federal analog 30 CFR 817.71(g). Kentucky maintaind that minute depressions formed by settling and successful revegetation should not be redisturbed. (See Administrative Record No. Ky-238.) The Secretary is unable to accept Kentucky's argument without clarification of the terms "significant" and "minute."

13.22 405 KAR 16:130E Section 2(2)(c) is less stringent than 30 CFR 816.72(b)(3) because the Kentucky regulation allows the main underdrain on a drainage system for valley fills to be smaller than the minimum size allowed by the Federal regulations. This could adversely affect stability during periods of heavy rainfall or snowmelt. This finding is also applicable to 405 KAR 18:130E Section 2(2)(c) for underground mining and the Federal analog 30 CFR 817.72(b)(3).

13.23 405 KAR 16:130E Section 2(3) is less stringent than 30 CFR 816.72(c) because paragraph 2(3)(b) provides discretion for the RA to allow lifts of excess spoil material in valley fills of greater thickness than the 4 feet allowed by the Federal regulation. The Federal regulation does not provide for discretionary judgements on the lift thickness. This finding is also applicable to 405 KAR 18:130E Section 2(3) for underground mining and the Federal analog 30 CFR 817.72(c).

13.24 405 KAR 16:130E Section 4(4)(c) is less stringent than 30 CFR 816.74(c)(3) which requires that the internal drainage system for durable rock fills shall be protected by a properly designed filter system "in all cases." The Kentucky regulation requires a filter system only "when necessary to ensure proper long-term functioning." This finding is applicable also to 405 KAR 18:130E Section 4(4)(c) for underground mining and the Federal analog 30 CFR 817.74(c)(3).
Kentucky stated: "In some durable rock fills, an internal drainage system need not be separately constructed, since the materials in the fill are of such nature that the fill itself is free draining. Dumping rock from heights can result in a free-draining fill with natural filtering action due to the natural particle size segration that occurs during the placement of the fill." (See Administration Record No. KY–238.)

The Secretary agrees that some rock fills remain free draining without a designed drainage and filter system. However, the Secretary cannot find the Kentucky provision consistent with the existing Federal rule which does require an internal drainage system with a filter. The Secretary agrees that the State's argument has some merit and will reconsider this Federal rule.

13.25 405 KAR 16:140E Section 1(l) is inconsistent with 30 CFR 816.81(a). Different wordind renders the State regulation less stringent. The Kentucky regulation would permit general disposal of processing waste outside the permit area. The Federal regulation requires disposal in the permit area, except with special authorization from the regulatory authority. Kentucky has agreed to correct this error but the change was not made in the submitted document. (See Administrative Record No. KY–238.)

13.26 405 KAR 16:190E Section 2(1) is less stringent than 30 CFR 816.102(a) regarding backfilling and grading. The State section does not require that the final grade not exceed the approximate premining slope as does the Federal provision. The Federal regulation provides flexibility in determining the approximate premining slope, but it is important that the premining slope be used as a criterion in determining allowable postmining slope. Also, the State regulation is limited to elimination of only newly created highwalls and those portions of existing highwalls that are "substantially disturbed," whereas the Federal requirement is to eliminate the highwall in all cases.

Kentucky stated its intent to change "substantially disturbed" to "adversely, physically impacted" in order to use the language of the Interior Board of Appeals, IBSMA 79–5, Cedar Coal Company. (See Administrative Record No. KY–238.)

The Secretary believes the language change proposed by Kentucky would be acceptable, if promulgated. However, that change will not resolve the issue of final graded slopes exceeding approximate premining or lesser grades.

13.27 405 16:200E Section 1 includes an exemption from seeding for "other small incidental areas related to the fulfillment of the postmining land use plan subject to approval by the department." This discretion is not provided in 30 CFR 816.111(b)(1). Before the Secretary can determine if this

section is consistent with Federal requirements, he needs further information, perhaps in the form of a policy statement, explaining the use and intent of the clause.

13.28 405 KAR 16:200E Section 1(2)(d) is inconsistent with 30 CFR 816.111(b)(4) concerning revegetation requirements. The State regulation allows that the establishment of crops would "automatically" satisfy all three of the revegetation requirements established in the Federal regulation. The Federal regulation, however, provides that the establishment of crops can "automatically" satisfy only the one requirement for permanent ground cover. Therefore, the State regulation does not provide acceptable provisions for the other two requirements, i.e., for a vegetative cover to protect against erosion or for vegetation of the same seasonal variety. This finding is also applicable to 405 KAR 18:200E Section 1(2) for underground mining and the Federal analog 30 CFR 817.111(b).

13.29 405 16:200E Section 2 is inconsistent with 30 CFR 816.112 which states four conditions that must be met before an introduced species may be substituted for a native species. State Section 2(3)(a) allows use of introduced species without a demonstration that the species are desirable and necessary. In addition, the State regulation provides a choice between paragraphs (3)(a) and (3)(b), thereby requiring that only three of the four conditions in 30 CFR 816.112 must be met.

This finding is applicable also to 405 KAR 18:200E Section 2 for underground mining and the Federal analog 30 CFR 817.112. In addition, the introductory sentence in 405 KAR 18:200E Section 2 is inconsistent with the Federal requirement since 30 CFR 817.112 requires the RA to approve the use of introduced species and the State regulation does not require approval by the DNREP prior to use of an introduced species.

13.30 405 KAR 16:200E Section 6(1) and (2)(a) is less stringent than 30 CFR 816.116(a) and (b)(1) because the Federal regulation allows the technical standard for comparison of ground cover to be developed only by USDA or USDI while the State counterpart allows State discretion in stating "or other procedures approved by the department." This finding is also applicable to 405 KAR 18:200E Section 6 and the Federal analog 817.116(a) and (6)(1).

Kentucky feels that it is unnecessary to restrict technical guidance materials to USDA and USDI publications since other reliable sources such as publications of the College of Agriculture of the University of Kentucky could be used. (See Administrative Record No. KY–238.)

The Secretary agrees that other publications may be as good as the USDA and USDI publications if the other materials are submitted for approval as part of the regulatory program. This is specifically provided for in 30 CFR 816.111(b)(1).

13.31 405 KAR 16:200E Section 6(2)(b) is inconsistent with 30 CFR 816.116(b)(1) in specifying when the period of extended responsibility under bonding begins. The Federal regulation requires that the period begin after the last year of augmented seeding, fertilizing, irrigation or other work. The State adds the word "substantially" before "augmented seeding, fertilization. . ." without defining the meaning of "substantially."

The State considers the word "substantially" necessary to avoid restarting the period of responsibility when, for example, reseeding a small area is necessary. (See Administrative Record No. KY–238.)

The Secretary finds that the word "substantially" does not sufficiently describe husbandry practices which may be allowed without restarting the bond period. 30 CFR 805.13 which was promulgated on August 6, 1980, specifies how to determine allowable husbandry practices.

13.32 405 KAR 16:200E Section 6(2)(c) is inconsistent with 30 CFR 816.116(b)(3). Section 6(2)(c)(1) does not require that the ground cover "shall not be less than can be supported by the best available topsoil or other suitable material in the reaffected area" as specified in 30 CFR 816.116(b)(3)(i). Further, Section 6(2)(c) states that "ground cover . . . shall not be less than the *department determines to be* necessary to control erosion." The Federal requirement does not contain the emphasized words. This discretion appears to weaken the subsection insofar as the lack of erosion control would be observed on the ground under the Federal requirement but could be subject to an incorrect prejudgment under the State regulation. This finding is applicable also to 405 KAR 18:200E Section 6(2)(c)(2) and 6(2)(a) for underground mining and the Federal analog 30 CFR 817.116(b)(3) and 817.116(a) and (b)(1).

Kentucky considers the omitted phrase too subjective to be enforceable. (See Administrative Record No. KY–238.) The Secretary does not consider the omitted language too subjective for enforcement because both ground cover and soil materials can be measured.

13.33 405 KAR 16:200E Section 6(4) is stringent than the 30 CFR 816.116(d). The Federal regulation requires that standards to measure success of revegetation be met for five full years while the State regulation requires the standards to be met only three out of five years. This finding is also applicable to 405 KAR 18:200E Section 6(4) and the Federal analog 30 CFR 817.116(d).

13.34 405 KAR 16:200E Section 7(3)(a) is less stringent than 30 CFR 816.117(c)(2) in that it allows stocking and groundcover to approximate that on the reference area, or "*as approved in the mining and reclamation plan as appropriate for the approved postmining land use.*" The emphasized phrase provides discretion that is not in the Federal rule. Paragraph (a) also does not include a provision similar to 30 CFR 816.117(c)(2) stating that local and regional recommendations regarding species composition, spacing, and planting arrangement shall be used. The Secretary may be able to find the State language acceptable if the technical standards to be used by DNREP are included in a program resubmission and found adequate. This finding is also applicable to 405 KAR 18:200E Section 7(3) and the Federal analog 30 CFR 817.117(c)(2).

13.35 405 KAR 16:210E Section 2 is less stringent than 30 CFR 816.133(b). The State section does not require that the postmining land use be compatible with surrounding areas and makes allowances for damages resulting from previous improper management that are not provided by the Federal regulation. This finding is also applicable to 405 KAR 18:220 Section 2 and Federal analog 30 CFR 817.133(b).

13.36 405 KAR 16:010E Section 7 is less stringent than 30 CFR 816.131 with regard to the conditions for the temporary cessation of operations. The State regulation does not requires that the permittee's notice of cessation of operations beyond 30 days include a statement of the exact number of acres which will have been affected in the permit area, the extent and kind of reclamation of those areas which will have been accomplished prior to cession, and identification of the backfilling, regarding, revegetation, environmental monitoring, and water treatment activities that will continue during the temporary cessation.

This finding is applicable also to 405 KAR 18:010E Section 5(2) and (3) for underground mining and the Federal analog 30 CFR 817.131(a). In addition, Section 5(2) of 405 KAR 18:010E specifies only that the permittee will not be relieved of the hydrology related

requirement while the Federal regulation specifies that temporary cessation shall not relieve the permittee of any permit provision. Section 5(2) requires only that the operator prevent "unreasonable adverse effects" and Section 5(3) requires environmental monitoring equipment to be made secure to the extent practicable. The section lacks the requirement that the permittee support and maintain all surface access openings and secure surface facilities in areas in which there are no current operations, but where operations are to be resumed under an approved permit.

Kentucky asserts that a notice does not appear to serve a useful purpose because any decision by the department to require certain actions by the permittee to ensure compliance with performance standards prior to and during the cessation will be based on an inspection by the department, not on the notice supplied by the permittee. (See Administrative Record No. KY–238.)

The Secretary does not agree since it is important that DNREP be alerted to temporary cessations as soon as possible to ensure that the appropriate control measures have been taken prior to an inspection. Further, it is important that the permittee assume responsibility for demonstrating that the requirements of the permit will be met. If responsibility were not placed on the permittee, the DNREP would have to initiate an inspection immediately upon receipt of all notices which may not always be possible.

13.37 405 KAR 16:250E Section 2(1) is less stringent than 30 CFR 816.181(a) because the Kentucky regulation omits the requirement that support facilities be located to prevent damage to public or private property.

13.38 405 KAR 16:030E Section 3(1) for underground mining is less stringent than 30 CFR 817.11(c)(1) concerning locations of mine identification signs. The State requires identification signs only at principal points of access while the Federal counterpart requires signs at all points of access.

In response, Kentucky states: "In many cases there are numerous points of access along a short distance of public road, all of which are clearly associated with the same mining operation. To require a sign at each such point serves no useful purpose since the information is readily available at a nearby 'principal' point of access." (See Administrative Record No. KY–238.)

The Secretary believes "principal points of access" would be too subjective to be enforceable and that access points which are not clearly associated with the same mining operation would go unmarked. Lack of signs may constitute a safety hazard to members of the public who may not be aware that unmarked points of access lead to a mine. Further, the signing requirement is not considered burdensome or expensive so there is no significant benefit to leaving access points unmarked.

13.39 405 KAR 18:050E Section 5, which provides an exception to the stock piling of topsoil on a long-term basis, is inconsistent with 30 CFR 817.24. The State section, which has no similar Federal counterpart, could be made acceptable if the State can clarify, in a program resubmission, how suitable topsoil will be obtained for reclaiming the disturbed area if it is not stockpiled.

13.40 405 KAR 18:070E Section 1(1)(a) and 18:090E Section 1 are less stringent than 30 CFR 817.42(a) (1) and (3) and 817.46(a) concerning water quality standards and effluent limits. The Federal regulation requires that "all" drainage from the disturbed area pass through a sediment pond. The Kentucky regulation requires *only* that discharge that does not meet effluent standards be passed through a pond. 30 CFR 817.42(a)(3) specifies the only conditions under which an exception to the requirements for sediment ponds or treatment facilities may be granted and the Kentucky regulations do not include these conditions.

Kentucky believes that "Many of the underground mines that will be subject to this regulation are existing operations where the disturbed areas are stabilized and revegetated. Water quality samples may in some cases demonstrate that runoff from these areas meet effluent limitations. In these cases there is absolutely no need to construct a sedimentation pond." (See Administrative Record No. KY 238.)

The Secretary agrees that stabilized areas do not require a sedimentation pond. However, the Secretary finds that the State regulations fail to properly state the conditions under which an area may be considered as sufficiently stable with regard to water quality.

13.41 405 KAR 18:090E Section 5(3) is less stringent than 30 CFR 817.46(g). The Federal regulation requires that there be no outflow through an emergency spillway "regardless of the volume of water and sediment present from the underground mine during the runoff." The State regulation does not contain the quoted words and could be interpreted to allow runoff from a 10 year 24 hours precipitation event to pass through an emergency spillway if the pond was full from previous storms or excessive sediment. The Kentucky regulation would result in smaller ponds than intended by the Federal regulation which could lead to unacceptable degradation of water quality.

13.42 405 KAR 18:090E Section 5(5) is unclear because a line appears to be missing. Language similar to the following emphasized words from 30 CFR 817.46(i) would complete the regulation: ". . . department plus any inflow from the *underground mine. The evaluation of the crest of the emergency* spillway shall be a minimum. . . ."

13.43 405 KAR 18:110E Section 1(2) is less stringent than 30 CFR 817.52(a)92) concerning ground water protection. The State regulation requires periodic monitoring of ground water levels only, while the Federal regulation requires monitoring of ground water levels and ground water quality.

13.44 405 KAR 18:110E Section 1(3) is less stringent than 30 CFR 817.52(a)(3) because the State regulation does not require that the results of hydrologic tests demonstrate compliance with the criteria for allowable underground mine entry and access discharges as specified in 30 CFR 817.50.

13.45 405 KAR 18:060E Section Section 7 is inconsistent with 30 CFR 817.55 since the State regulation does not include a provision similar to the following requirement of 30 CFR 817.55(d): "Continue as a controlled and identifiable flow and is ultimately treated by an existing treatment facility." This provision is one of the criteria required before the department may approve diversion and discharge of water into other underground mine workings.

13.46 405 KAR 18:200E Section 6(4) sets forth standards for measuring success of revegetation for areas less than 40 acres that are not found in 30 CFR 817.116 on underground mining. However, the State section matches the standards for areas less than 40 acres found in the corresponding requirements for surface mines, 30 CFR 816.116(d). On that basis, the Secretary finds 405 KAR 18:200E Section 6(4) acceptable.

13.47 405 KAR 18:210E Section 2 is less stringent than 30 CFR 817.122 concerning public notice to persons who may be affected by subsidence. The Kentucky regulation requires that only a 3 month notice be given to property owners when underground mining will occur beneath their residences whereas the Federal regulation requires a 6 month notice. In addition, under the Kentucky provision, this period can be shortened to as little as 30 days under certain circumstances.

13.48 405 KAR 18:220E Section 4(8) is less stringent than 30 CFR 817.133(c)(8) pertaining to approval of measures to prevent or mitigate adverse effects on fish, wildlife, and related environmental

values and threatened or endangered species. The State regulation does not require the period for review by State and Federal agencies to occur prior to mining.

Kentucky believes that the Federal requirement is inappropriate and that approval of an alternative land use will occur as a permit revision nears the completion of the underground operation. (See Administrative Record No. KY–238.)

The Federal regulation for permit approval (30 CFR Part 786) does not provide for delaying approval of the postmining land use until near the end of the life of the mine. 30 CFR 786.19(m) requires that a permit not be approved until the RA has found that the applicant has demonstrated compliance with 30 CFR 817.133. To meet that requirement, it would be necessary to obtain approval of the measures to mitigate effects on fish and wildlife prior to issuing the permit. The Secretary believes it is important to obtain the approval prior to mining to assure compliance with the provisions to protect fish and wildlife and related environmental values during and after mining.

13.49 405 KAR 20:030E Section 1(1) is inconsistent with 30 CFR 819.11(a) pertaining to auger mining. The Kentucky language allows the applicant to avoid the provisions of the Federal regulations requiring undisturbed areas of coal to be left in unmined sections by designating specific areas where he plans to develop future entry ways for underground mining. This exception does not exist in the Federal regulations and the intent to the Kentucky language is unclear. The State regulation also omits the requirement that distances between undisturbed areas of coal greater than 2,500 feet must be approved by the RA.

13.50 405 KAR 20:060E does not contain provisions similar to 30 CFR 826.15(c) which limits land disturbance above the highwall and 30 CFR 826.16 which contains criteria for spoil placement on pre-existing benches for steep slope mining.

Kentucky says that it omitted this paragraph because the prohibition against disturbing land above the highwall is covered under 405 KAR 20:060E Section 2(4) which the State believes is consistent with Section 515(d)(3) of SMCRA. Kentucky asserts that 30 CFR 826.12(c) and 826.15(c) are overly restrictive by requiring that a disturbance must "facilitate compliance with" Part 826 because SMCRA states "facilitate compliance with the environmental protection standards of" Section 515, not just 515(d). The State feels that the Federal regulations are more restrictive than SMCRA, especially in making 3 CFR 826.15(c)(1), (2), and (3) the only criteria for disturbing land above the highwall, and that SMCRA contemplates a wider range of criteria. (See Administrative Record No. KY–238.)

The Secretary finds Kentucky's argument unpersuasive and believes the Federal regulation properly interprets SMCRA's intent and purpose. This is discussed in the preamble to the Federal regulations (44 FR 15291–15292).

13.51 405 KAR 20:070E Section 2 is less stringent than 30 CFR 827.12(f), concerning coal processing plants and support facilities off the mine site, because the State regulation omits protection for water rights.

Finding 14

In accordance with 30 CFR 732.15(b)(2), the Secretary finds that the Kentucky program demonstrates, in part, that the Kentucky DNREP can implement, administer, and enforce a permit system consistent with Subchapter G of 30 CFR Chapter VII. The description of the permit system is found in the narratives entitled "State Section 731.14(g)(1)(9)" and "State Section 731.14(g)(i)(10)." The permit system description is acceptable. However, the Secretary finds a number of deficiencies in the laws and regulations which should be remedied before the program can be approved. Deficiencies with State legislative authority are discussed in Finding 4 above. Kentucky incorporated provisions of 30 CFR Chapter VII, Subchapter G, in 405 KAR Chapter 8. Significant differences between the Kentucky regulations and Subchapter G of 30 CFR Chapter VII and SMCRA are as follows:

14.1 The State regulation does not make provision for requirements similar to 30 CFR 770.12(c) which requires coordination of review and issuance of permits under other applicable Federal acts. Without this provision there is no assurance that the agencies with responsibilities for those acts would have an opportunity to review and comment on permit applications.

14.2 405 KAR 8:010E Sections 5(6)(b)(1) through (4) are less stringent than 30 CFR 771.23(e)(2)(i) through (iv) which specify the information required on maps and plans. The State omits identification of portions of the operation which occurred prior to the enactment of SMCRA and between the enactment of SMCRA and the implementation of the interim program. As discussed in the preamble to 30 CFR Chapter VII (44 FR 15017), this delineation is necessary so that the public and the regulatory authority can clearly distinguish among the various phases of regulation applicable in reviewing applications.

14.3 405 KAR 8:030E Section 2 does not make provisions for 30 CFR 778.13(g) and SMCRA Section 508(a)(11) which requires a statement as to the permit applicant's interest in lands contiguous to the permit area. This finding is also applicable to 405 KAR 8:040E Section 2 for underground mining and the Federal analog 30 CFR 782.13(g).

Kentucky has stated that, "Although the requirement is statutory, the information is not pertinent to the permit review process." (See Administrative Record No. KY 238.)

As noted by the State, this is a statutory obligation set out in SMCRA Section 508(a)(11). The Secretary believes that the information is necessary to assure that proper evaluation of provisions protecting off-site resources and land owners is made during the permit review process.

14.4 405 KAR 8:030E Section 4 does not include provisions consistent with 30 CFR 778.15(b) which requires a written consent of the surface owners or other conveyance expressly granting the right to mine. This finding is also applicable to underground mining, 405 KAR 8:040E Section 4 and the Federal analog 782.15(b). Specific criteria for evidence of the right to mine where the private mineral estate has been severed from the private surface estate is specifically called for in Section 510(b)(6) of SMCRA.

14.5 405 KAR 8:030E Section 13(2) is less stringent than 30 CFR 779.14(b). The Federal regulation requires the collection and analysis of "test borings or core samples" in developing the geologic description, whereas Kentucky speaks more generally of "geologic information." This would not necessarily provide sufficient information on which to evaluate the permit application. See discussion in preamble to Federal rules (44 FR 15032). Section 507(b)(15) of SMCRA requires that a statement of the results of test borings or core samplings from the permit area be contained in the permit application.

14.6 405 KAR 8:030E Section 13(2)(c) is inconsistent with 30 CFR 779.14(b)(3). The State allows a waiver of "all or part of the geologic information" whereas the Federal regulation limits a waiver only for the "statement of the results of test borings or core samples." In addition, the State section does not limit the waiver to cases where "other equivalent information" is available in satisfactory form. The State provision would not

provide adequate information for evaluation of the effect of the proposed operation on the hydrologic balance. This finding is applicable also to 405 KAR 8:040E Section 13(2) for underground mining and the Federal analog 30 CFR 783.14(b).

Kentucky does not believe that "other equivalent information" is appropriate language since there is no other information which could be the full equivalent of test borings and core samples. Kentucky stated its intent to require test borings and core samples when necessary, consistent with Section 507(b)(15) of SMCRA. The State believes there may be no need for test borings and core samples when information obtained from areas surrounding the permit area clearly indicate that there is little likelihood that adverse conditions, such as acid-forming spoil, could exist in the proposed permit area. (See Administrative Record No. KY–238.)

The Secretary believes that test borings and core samples from adjacent areas could in some cases serve as adequate "equivalent information" for the permit area. However, the Kentucky section is too general because it allows for a broad waiver of all geologic information without specifying that any information is actually available.

14.7 405 KAR 8:030E Section 15(2) is inconsistent with 30 CFR 779.16(b) which specifies the types and extent of surface water information to be included in an application. The State regulation requires surface water information only for the "proposed permit area." This excludes information on adjacent areas as required by the Federal regulation. This finding is applicable also to 405 KAR 8:040E Section 15(2) for underground mining and the Federal analog 30 CFR 783.16(b). Kentucky has agreed to delete the words "for the proposed permit area." (See Administrative Record No. KY–238.) The Secretary believes the correction proposed by Kentucky, if promulgated, would eliminate the issue.

14.8 405 KAR 8:030E Section 23(1)(d) is inconsistent with 30 CFR 779.24(g) which requires that a map show the locations of water supply intakes for users of surface water flowing into, out of and within the hydrologic area. The State regulation omits identification of users of surface water flowing into and out of the hydrologic area. The State regulation references *only* users of water within the hydrologic area. This finding is applicable also to 405 KAR 8:040E Section 23(1)(d) for underground mining and the Federal analog 30 CFR 783.24.

14.9 405 KAR 8:030E Section 25(2)(a) is less stringent than 30 CFR 780.12(b)(1) with regard to the compliance plan for the reconstruction of existing structures. The Federal regulation requires that both design and performance standards be met, but the State requires only that the performance standards be met. This findng is applicable also to 405 KAR 8:040E Section 25(2)(a) for underground mining and the Federal analog 30 CFR 784.12(b)(1).

Kentucky stated that "It is illogical, unnecessary, and a waste of time, money and effort to reconstruct a structure to meet design standards if the structure could have minor modifications made which would bring it into compliance with the performance standards irrespective of meeting design standards." (See Administrative Record No. KY–238.)

The Federal requirement is for reconstruction to meet design criteria only if performance standards are not being met since that is an indication of the structure's ability to hold up during the long term. However, if the structure does not meet standards as it exists, short-term modifications to bring the non-conforming structures up to performance standards would not likely maintain the necessary performance level over the long-run and would not ensure that the structure will be safe.

14.10 405 KAR 8:030E Section 25(2)(c) is less stringent than 30 CFR 780.12(b)(3). The Federal regulation requires that existing structures which must be modified be monitored during and after reconstruction in all cases while the State allows discretion in monitoring by stating "as required by the Department." This finding is applicable also to 405 KAR 8:040E Section 25(2)(c) for underground mining and the Federal analog 30 CFR 784.12(b)(3).

Kentucky indicated that in some cases additional monitoring by the permittee is simply not necessary and, where it is necessary, the monitoring will be required. (See Administrative Record No. KY–238.)

The Secretary believes that existing structures and their reconstruction are more likely to involve environmental problems than structure properly designed from the beginning. Nothing in the Kentucky submission persuades the Secretary that there are cases where monitoring is unnecessary. The State may wish to submit information for consideration by the Secretary.

14.11 405 KAR 8:030E Section 24 is inconsistent with 30 CFR 780.14(b) because the State section fails to require that the mining plan map show features adjacent to the permit area where necessary. This may limit the State's ability to analyze the impacts of the proposed operation. This finding is applicable also to 405 KAR 8:040E Section 24 for underground mining and the Federal analog, 30 CFR 784.14(b).

14.12 405 KAR 8:030E Section 37(1) is inconsistent with 30 CFR 780.23(a)(2). The State section omits the Federal provision concerning management plans when grazing is the proposed postmining land use. Although actual grazing need not be done, the plans are still needed to verify that the land is capable of grazing as a postmining use. This finding is also applicable to 405 KAR 8:040E Section 37(1) for underground mining and the Federal analog, 30 CFR 784.23(a).

Kentucky has stated that the requirement for management plans is no longer relevant since the court remanded the requirement that an operator implement postmining land uses. (See Administrative Record No. KY–238.) However, Kentucky has misinterpreted the Federal requirement in this section. Management plans are required here only as a part of the postmining land use plan to demonstrate the feasibility of the operator's proposal. Further, Section 503(a)(4) of SMCRA specifies that the description of postmining land use must be detailed and the Secretary believes the management plan is necessary to ensure the intent of SMCRA.

14.13 405 KAR 8:030E Section 34(1)(a)(3) is inconsistent with 30 CFR 780.25(a)(1)(iii) concerning plans for ponds, impoundments banks, dams, and embankments. The Federal regulation requires "preliminary" information "required to assess the hydrologic impact of the structure"; the State regulation requires "all" information "necessary to demonstrate compliance with the design and performance standards." While "all" is more stringent than "preliminary," the State provision looks only at the design and performance standards for the individual structure, while the Federal regulation looks to its overall hydrologic impact. This finding is applicable also to 405 KAR 8:040E Section 34(1)(a)(3) for underground mining and the Federal analog 30 CFR 784.16(a)(1)(iii).

14.14 405 KAR 8:030E Section 34(1)(a)(4) and Section 27(2)(c) are inconsistent with 30 CFR 780.25(a)(1)(iv) and 780.35(b)(3). The Federal regulations require a "survey" of possible effects on a structure due to subsidence from past underground mining operations; the State regulations require only an estimate. The Secretary believes that a survey would be necessary to assure that structural failure does not occur in areas where subsidence is still occurring. This finding is applicable also to 405 KAR 8:040E Section 34(1)(a)(4) for

underground mining and the Federal analog 30 CFR 784.16(a)(1)(iv).

14.15 405 KAR 8:030E Section 34(2) is inconsistent with 30 CFR 780.25(b). The Federal regulation requires all plans for sedimentation ponds to comply with specified MSHA regulations; the State regulation requires such compliance only for ponds that will remain as permanent impoundments. As a result, the ponds would not be in compliance with either the Secretary's regulations or the MSHA regulations.

14.16 405 KAR 8:040E Section 13(1)(a)(3) is less stringent than 30 CFR 783.14(a)(1)(iii), the geology description for underground mining. The State regulation does not require a description of the compaction and erodability factors in relation to the physical characteristics of overburden.

14.17 405 KAR 8:040E Section 23(2)(e) is less stringent than 30 CFR 783.25(f). The Kentucky regulation omits the requirement to portray the area and vertical extent of aquifers and seasonal differences of head in different acquifers in cross-sections and contour maps when subsurface water will be encountered.

Kentucky believes that its language is broad enough to require information for seasonal differences on a case-by-case basis and that it is unnecessary to require that information in every case. (See Administrative Record No. KY–238.)

The Secretary does not agree that Kentucky's language would ensure that sufficient information would be required. As stated in the preamble to the Federal rules (44 FR 15070), the Secretary believes that all of the information required by 30 CFR 783.25(f) is necessary to determine the surface effects of underground mining. Under Federal requirements the data are required for any case where subsurface water is encountered and this is the only "case-by-case" test which should apply.

14.18 405 KAR 8:040E Section 25 is inconsistent with 30 CFR 783.25(h) to the extent that it does not require the location and extent of existing or previously surface mined areas to be identified on cross-sections, maps and plans.

14.19 405 KAR 8:040E Section 23(2)(h) is inconsistent with 30 CFR 783.25(i) in the State section does not require dimensions and locations of existing areas of spoil, noncoal waste disposal, embankments and water treatment and air pollution control facilities. Without this information, it would not be possible to evaluate compliance with the environmental performance standards.

14.20 405 KAR 8:040E Section 34 does not include a statement consistent with 30 CFR 784.16 that design plans for ponds, impoundments, dams, and embankments not submitted with the general plan include a certification statement. Kentucky has stated that it requires that all design plans be included in the permit application and therefore there is no need for this statement in their regulations. On the basis that the State will treat all plans as part of the permit application and require the certification through the normal permit process, the Secretary finds 405 KAR 8:040E Section 34 acceptable.

14.21 405 KAR 8:040E Section 24(3)(a) does not require cross-sections to help specify the information on mining activities as does 30 CFR 784.23(a). Kentucky believes that the term "drawings" include cross-sections and other appropriate types of drawings. (See Administrative Record No. KY–238.) The Secretary finds that neither the term drawings nor cross-sections are used in the State regulations and, therefore, believes there is an inconsistency.

14.22 The State deleted language requiring the identification of areas "eligible for listing on the National Register of Historic Places" from 405 KAR 8:040E Section 23(1)(C). Although this wording has been suspended with regard to lands designate unsuitable by SMCRA (30 CFR 761.11(c) and 761.12(f)), it is relevant information to be required with the permit application so that agencies with responsibility for protecting those resources will be able to make a meaningful review of permit applications. Further, the Federal analog, 30 CFR 779.12(b), was not suspended.

14.23 405 KAR 8:040E Section 2 is less stringent than 30 CFR 785.13 concerning experimental practices. The State regulation does not refer to the Director of OSM's approval authority for experimental practices. Kentucky has agreed to correct this omission (Administrative Record No. KY–238.) The Secretary assumes that this correction will be made during the State's permanent rulemaking procedures.

14.24 405 KAR 8:060E Sections 6(1)(b)(1) and 6(2)(d)(1) are less stringent than 30 CFR 785.16(b)(1) and (c)(4)(i) concerning a variance from AOC when watershed control would be improved. The Federal regulations allow a steep slope AOC variance if watershed control will be improved compared to the premining condition; the State regulation allows variance if watershed control will be improved compared to the postmining condition it would have if it were restored to AOC. In addition, Section 6(2)(d)(1) allows the variance if there would be an increase in streamflow that would benefit users at times when streams are normally low; the Federal regulation does not include this provision in the criteria for determining watershed improvement.

Kentucky does not believe this Federal provision for comparison against premining conditions is necessary since Section 515(e) of SMCRA requires only that the watershed control of the area be improved and does not specify to what conditions the improvement should be compared. Kentucky goes on to say that "the choice is between: (1) mining and returning to AOC, and (2) mining and *not* returning to AOC. In most cases, *either* process will produce, at least temporarily, an increase in TSS and perhaps other pollutants as compared to unmined conditions. Therefore, the equitable basis for a decision on whether to approve the variance is to compare the resulting watershed conditions under the variance and under AOC. The federal regulation will render the variance essentially unobtainable, since it is unreasonable to expect that a mined area will show hydrologic improvement (at least in TSS) over the unmined condition, whether it is or is not returned to AOC."

The Secretary is not persuaded by Kentucky's argument. Proper soil replacement and compaction after mining can actually improve conditions for vegetative growth and infiltration rates in certain situations. Therefore, it is not unreasonable to expect that a mined area will show hydrologic improvement over unmined conditions.

Further, the premining condition is the only condition which can accurately be measured before mining and therefore is the only acceptable standard for comparison. At the time of a permit application, the proposed improvement is only theoretical and the premining condition is the only known factor. To eliminate the premining condition and utilize another hypothetical situation (i.e., the postmining condition if restored to AOC) would amount to comparing a hypothetical case to a hypothetical case. This would be too subjective to be enforceable.

Concerning stream flow, Kentucky believes that its regulation merely specifies the manner in which a watershed may be improved with respect to low flow conditions and thus does not conflict with the Federal requirement. (Administrative Record No. KY–238.) The Secretary, however, finds nothing in the program submission

which explains how stream flow would be increased at times of low flow without causing additional flooding and other problems at times of high flow. The State may wish to submit this provision for consideration by the Secretary as an alternative in accordance with the procedures in 30 CFR 731.13.

14.25 405 KAR 8:050E Section 3(2) omits a provision comparable to 30 CFR 785.17(b)(9) which requires prime farmland to be returned to equivalent levels of yield as non-mined prime farmland of the same soil type.

14.26 405 KAR 7:020E Section 1(144) is inconsistent with 30 CFR 786.5, the definition of "willful violation." The Federal definition specifies "willful violation of State or Federal laws or regulations," whereas the State regulation specifies only SMCRA, KRS Chapter 350, and the regulations of Title 405, Chapters 7 through 24. However, the operative State regulation (405 KAR 8:010E Section 13(1)(b)(2)(3)) specifies "any law, rule, or regulation of the United States or any state law, rule, or regulation enacted pursuant to Federal law, rule, or regulation, pertaining to air or water environmental protection," as well as SMCRA, KRS Chapter 350, and regulations promulgated pursuant thereto. This language is consistent with the operative Federal regulation (30 CFR 786.17(d)). Therefore, the Secretary finds that it is not necessary for the State definition to include the same language as the Federal definition.

14.27 405 KAR 8:010E Section 8(8) is less stringent than 30 CFR 786.11(d) concerning public notice of filing permit applications. The State regualtion does not specify when the applicant must file a copy of the application in a local public office for public inspection; the Federal regulation requires the filing by the first newspaper publication date. The newspaper publication would be meaningless if the application were not on file and available for public review at the same time.

14.28 405 KAR 8:010E Section 12(1)(a) does not specifically require that the information contained in a permit application, which should be available to the public, should include soil samples as does 30 CFR 786.15(a)(1). However, the Secretary assumes that, since there are no prohibitions against this information being available, it would be available as part of the permit on file. On this basis the Secretary considers 405 KAR 8:010E Section 12 acceptable.

14.29 405 KAR 8:010E Section 13(3)(b) is less stringent than 30 CFR 786.17(c)(2). Section 13(3) omits the requirement to terminate any mining approved pursuant to this paragraph if an administrative or judicial hearing authority denies a stay applied for in the appeal or affirms the violation. Kentucky feels that the Federal requirement "essentially constitutes a suspension of a permit because of the existence of a violation on another permit area" and that SMCRA does not require this. (See Administrative Record No. KY-238.

The State is correct that the Federal requirement is to suspend the permit. As discussed in the preamble to the Federal regulation (44 FR 15100), this requirement is deemed necessary because the pursuit of an appeal cannot be viewed as being in "good faith" once a stay is denied or the appeal is lost on its merits.

14.30 405 KAR 8:010E Section 15 is inconsistent with 30 CFR 786.21, the criteria for permit approval or denial concerning existing structures. The State regulations omits everything after the first paragraph of 30 CFR 786.21 (the specific criteria), but incorporates 7:040E Section 5 (permit requirements for existing structures) by reference. That section has the following deficiencies:

(a) 7:040E Section 5(2)(c)(1) requires compliance with performance standards only. 30 CFR 786.21(a)(2)(ii)(A) requires compliance with the *design and* performance standards.

(b) 7:040E Section 5(2)(c)(1) allows an applicant more than six months to modify the structure; 30 CFR 786.21(a)(2)(ii)(A) puts the limit at six months.

(c) 7:040E Section 5(2)(c)(3) requires only such monitoring "as required by the Department"; 30 CFR 786.21(a)(2)(ii)(C) requires monitoring in all cases when a structure must be modified.

14.31 405 KAR 8:010E Section 16(4) is less stringent than 30 CFR 786.23(e) concerning notice of a decision on a permit application. The Federal regulation requires simultaneous notice to anyone who filed an objection to the permit application, simultaneous delivery of a copy to the Regional Director of OSM, and simlutaneous publication of the decision in the newspaper. State regulation omits the simlutaneity requirement. The simultaneity requirement is necessary to assure that all parties have the full time and some period to respond.

14.32 405 KAR 8:010E Section 17(3) is inconsistent with 30 CFR 786.25 (permit terms) because Section 17(3) does not include experimental practices when specifying citations for modifying, suspending, or revoking permits. Without this language, the State would not have to require modification of a permit or suspend or revoke a permit for violation of approved experimental practices. The State could resolve this deficiency by including a reference to State regulation 7:060E Section 3, periodic review of experimental practices.

14.33 405 KAR 8:010E Section 20(2) is less stringent than 30 CFR 788.12(a) which specifies when permit revisions are required. The second part of 30 CFR 788.12(a)(1) calls for the RA to establish parameters to determine what constitutes sigificant departures from the original permit. Section 20(2) states "any application for a revision which proposes significant alterations in the operations . . . shall be deemed a major revision." Unless a definition of "significant departures" is provided, the provision does note fulfill the requirements of 30 CFR 788.12(a)(1) because operators would not have meaningful parameters by which to know when a permit revision application must be made nor would there be a meaningful definition for enforcement purposes. This may be corrected in the regulations or as a guideline submitted as part of the program.

Finding 15

In accordance with 30 CFR 732.15(b)(3), the Secretary finds that the Kentucky program demonstrates, in part, that the Kentucky DNREP can regulate coal exploration consistent with 30 CFR Parts 776 and 815 and can prohibit coal exploration that does not comply with these requirements. However, the Secretary finds deficiencies in the law, regulations and descriptive elements which should be remedied before the program can be approved.

Deficiencies in the legislative package are noted in Findings 1, 2, and 4. Kentucky has incorporated the provisions of 30 CFR Parts 776 and 815 concerning coal exploration and performance standards into portions of 405 KAR 8:020E and 20:020E. The narrative description of the State systems is found in the narratives entitled "State Section 731.14(g)(1)" and "State Section 731.14(g)(8)." Significant differences between the Kentucky regulations and 30 CFR Parts 776 and 815 and a deficiency in the system are as follows:

15.1 405 KAR 8:020E Section 2(3)(a) is inconsistent with 30 CFR 776.12(b)(1) concerning notice of application for approval to conduct exploration of more than 250 tons. The State section does not require posting of the notice of the exploration application at a public office. Posting of the notice is necessary to provide the opportunity for public comment on the application.

15.2 Information in the narrative description for 731.14(g)(1) and (g)(8) is inconsistent with the requirements of regulations. The description states that the Department will act on an exploration application in 20 days whereas 405 KAR 8:020E allows a 30 day period for the public comment and 60 days to act after the application is determined complete.

Finding 16

In accordance with 732.15(b)(4), the Secretary finds that the Kentucky program demonstrates, in part, that the Kentucky DNREP can regulate the extraction of coal incidental to government-financed construction consistent with 30 CFR Part 707. However, the Secretary finds one regulation that is significantly different from the Federal requirement.

405 KAR 7:030E Section 3 is inconsistent with 30 CFR 707.11–707.12 because it allows all reclamation work under Title IV of SMCRA (abandoned mine land (AML) reclamation fund) to be exempted from the environmental protection performance standards of KRS Chapter 350 and Title 405, Chapters 7 through 24. In some cases, recovery of coal may be more than an "incidental" portion of an AML project and the Kentucky program fails to ensure that these situations will be regulated. This is also discussed in Finding 1.4.

Finding 17

In accordance with 30 CFR 732.15(b)(5), the Secretary finds that the Kentucky program demonstrates, in part, that the Kentucky DNREP can enter inspect, and monitor all coal exploration and surface coal mining and reclamation operations consistent with Section 517 of SMCRA and Subchapter L of 30 CFR Chapter VII. However, the Secretary finds a number of deficiencies in the law and regulations which should be remedied before the program can be approved. Deficiencies with the program's legislative package are contained in Finding 2. Provisions of 30 CFR Chapter VII Subchapter L are incorporated in 405 KAR 12:010E, 12:020E, and 12:030E. The description of the State's inspection system is found in narratives entitled "State Section 731.14(g)(4)" and "State Section 731.14(g)(8)." Deficiencies in "State Section 731.14(g)(4)" are discussed in Finding 19, and deficiencies in "State Section 731.14(g)(8)" are discussed in Finding 15 and below. Significant differences between the Kentucky regulations and the Federal requirements are as follows:

17.1 405 KAR 12:010E Section 3(4)(a), (b) and (c) is inconsistent with 30 CFR 840.11(a), (b) and (c) since it omits language similar to "the inspector *shall* collect evidence of any violation of those conditions or requirements observed" and omits language requiring collection of evidence with respect to *every* violation.

Kentucky believes that OSM can assume that evidence taking shall take place under 405 KAR 12:010E Section 4(1) and the program plan document. Kentucky also presumes that evidence will be collected at all inspections, and states that evidence is now, and will be, collected on every violation under 405 KAR 12:010E, Section 4(1) (See Administrative Record No. KY–238.)

The Secretary believes that evidence collection cannot be presumed or assumed, and must be specifically directed by regulation. Otherwise, citizens will not have the ability, required under SMCRA, to file suit to require inspectors to collect evidence of all violations observed.

17.2 405 KAR 12:010E Section 3(2) is inconsistent with SMCRA Section 517(c)(2) and 30 CFR 840.11(d)(2) by not requiring inspections without prior notice. The State section indicates that DNREP is not obligated to give prior notice but it does not direct DNREP not to give prior notice. If the regulation is not revised, the Secretary will need some indication, such as a policy statement or inspector's handbook, showing that normally an inspection will be without prior notice.

17.3 The circumstances under which 405 KAR 12:010E Section 8 would be applied are unclear. This section, which provides for a permittee to request a review from a supervisor of an inspector's "discretionary authority, other than notice or orders for violations," has no Federal counterpart and may provide an exception to administrative review procedures under 405 KAR 7:090E. The Secretary is unable to analyze the effect of this regulation without clarification from the State as to the intended use of Section 8.

17.4 405 KAR 12:010E Section 4(1) is inconsistent with 30 CFR 840.14(b) in that the State section requires that copies of inspection materials be made available to the permittee, but does not mention availability to the public. Without this reference the State program fails to ensure the intent of SMCRA Section 517(f), which requires inspection material to be immediately available to the public and conveniently available to residents of the area of mining.

17.5 405 KAR 12:030E Section 1 and 731.14(g)(8) of the narrative description are inconsistent with 30 CFR 842.12(a) because the State regulation restricts requests for inspection to those persons "having an interest which is or may be adversely affected." The Federal regulation and SMCRA Section 521(a) allow "any citizen" to request an inspection.

17.6 405 KAR 12:030E Section 2 does not contain provisions similar to 30 CFR 842.14 regarding a citizen's right to request a review of alleged failure of the regulatory authority to make adequate and complete periodic inspections. Without specific regulations to this effect the State program fails to ensure that the intent of SMCRA Section 517(h)(2) is met.

Finding 18

In accordance with 30 CFR 732.15(b)(6), the Secretary finds that the Kentucky program demonstrates, in part, that DNREP can implement, administer, and enforce a system of performance bonds and liability insurance consistent in the requirements of Subchapter J of 30 CFR Chapter VII. However, the Secretary finds a number of deficiencies in the law, regulations, and descriptive elements of the State submission that should be remedied before the program can be approved. Kentucky incorporated provisions of Subchapter J in 405 KAR Chapter 10. The description of the proposed system for bonding and insurance is located in the narrative entitled "State Section 731.14(g)(3)." Deficiencies in legislative requirements are discussed in Finding 4. Significant differences between the Kentucky program and the Federal requirements are discussed below.

The State also proposed bonding methods based on proposed revisions to bonding regulations published in the **Federal Register** January 24, 1980 (45 FR 6028–6042). The Secretary considered the State's proposal against the Federal bonding regulations published in final in the **Federal Register** on August 6, 1980 (45 FR 52306–52324), as well as the regulations published in the **Federal Register** on March 13, 1979 (44 FR 15311 *et seq.*). The Secretary will approve State rules consistent with either the March 13, 1979 regulations or the August 6, 1980 regulations.

18.1 405 KAR 7:020E Section 1, (116), the definition of "self-bond" is inconsistent with 30 CFR 800.5 in that it does not require self-bonds to be secured or other substantial demonstration of financial acceptance. The definition of self-bond was not amended by the August 6, 1980 modifications to the bonding rules.

18.2 405 KAR 10:020E Section 1 is less stringent than 30 CFR 805.11(a) concerning determination of bond amount. The State section omits the

requirement for consideration of cost changes during the previous five years. This requirement was not revised in the August 6, 1980, modifications to the bonding rules.

Kentucky believes that 405 KAR 10:020E Section 1 provides sufficient latitude to consider historical cost factors and that such a consideration is implicit in the other factors specified by the regulations. (See Administrative Record No. KY–238.)

Although the Kentucky language may be sufficiently broad to allow the consideration of historic cost changes, the Secretary finds nothing in the State program which speficially requires DNREP to consider historic cost and define the time frame which must be considered. The program resubmission should clearly show that DNREP will consider historic cost for a five-year period to ensure that bonds will be established high enough to prevent inflationary trends from making bonds inadequate to cover future reclamation costs.

18.3 405 KAR 10:010E Section 2(2) is less stringent than 30 CFR 800.11(b), concerning the requirement to file bonds, because the State section does not require bond coverage prior to the extension of underground mines. This requirement was not modified by the August 6, 1980, bonding rules.

Kentucky states that it will require that all surface disturbances to be bonded. The State feels that the Federal regulations allow alternative methods for subsidence control for undisturbed surface areas above underground workings and under the Kentucky provisions all subsidence control measures must be in place for the whole operation before tunnels or operations are extended. (See Administrative Record No. KY–238.)

The Secretary agrees that the Federal regulations allow for alternative methods of bonding for subsidence control. However, 405 KAR 10:010E Section 2(2), as written, does not require that the bond be approved by the RA prior to extension of the underground mine. This is especially important since KRS 350.060(15) allows surface areas overlying underground mines to be categorically exempted from all bonding requirements as discussed in Finding 4.5. The Secretary cannot find either the regulation or the statutory provision acceptable.

18.4 405 KAR 10:060E relating to the bonding of underground mines and long-term facilities is less stringent than 30 CFR Part 801 as published August 6, 1980, because the State regulation does not consider surface construction activities related to subsidence control or to measures for mine drainage treatment. The Federal bonding rules in existence before August 6, 1980, did not provide special criteria for bonding underground mines or long-term facilities. The State also provides that bonds "may" be forfeited rather than "shall" be forfeited and therefore has no mandatory criteria for bond forfeiture as required by 30 CFR 801.13 as published August 6, 1980, and 30 CFR 808.13 as published March 13, 1979.

18.5 405 KAR 10:020E Section 3 is less stringent than 30 CFR 805.13 concerning the revegetation period for bond release. The addition of the word "substantially" in front of "augmented seeding" changes the meaning intended by 30 CFR 805.13(b), as published March 13, 1979, and as modified on August 6, 1980. This wording is also used in 405 KAR 16:200E Section 6 and 18:200E Section 6 as discussed in Finding 13.31.

The State believes that use of the word "substantially" is consistent with the proposed OSM rules on bonding, specifically the new paragraph (c) of 30 CFR 805.13 with allows for separation of certain augmented areas in order to limit the applicability of the renewed period of liability. (See Administrative Record No. KY–238.)

The Secreary finds that the Kentucky program does not contain a definition of "substantially" that will sufficiently ensure consistency with both 30 CFR 805.13(b) and SMCRA Section 515(b)(20). 30 CFR 805.13(b) as modified August 6, 1980, sets forth methods to determine specific husbandry practices which would not be considered "augmented seeding." The State program must demonstrate consistency with these requirements.

18.6 405 KAR 10:020E Section 4 is less stringent than 30 CFR 805.14. The State section does not include changes in mining operations or standards of reclamation as reasons for adjusting the amount of the bonds. There are no provisions for a reevaluation of bonds in relation to 301 CFR 788.11 concerning review of outstanding permits. In addition, the word "substantially" in relation to cost makes the State section less stringent. These requirements were not modified by the August 6, 1980, rules. Kentucky feels that Section 4(a) provides adequate authority to adjust bond amounts. (See Administrative Record No. KY–238.)

The Secretary does not agree because the authority as stated in the Kentucky regulation does not include the same reasons for adjustment as the Federal requirement and because the Kentucky regulation does not mandate that there be a periodic reevaluation. Without the reevaluation, the authority for adjustment will not be effective.

18.7 405 KAR 10:030E Section 4 is less stringent than 30 CFR 806.11 as published March 13, 1979, and 30 CFR 806.14 as published August 6, 1980 concerning conditions for accepting a self-bond. Section 4(1) does not require the agent for service of process to be within the State, which could lead to delays in bond forfeiture because of jurisdictional problems. Section 509(c) of SMCRA requires the demonstration of a suitable agency to receive service of process. The Secretary believes that the program must specify what is a suitable agency under Kentucky law. In addition, the State regulation does not require security for self-bonds as discussed in Finding 18.1.

18.8 405 KAR 10:030E Section 2 does not contain provisions similar to 30 CFR 806.12(f)(2) and SMCRA Section 509(b) requiring collaterial to be values at its market value. This requirment was not modified by the August 6, 1980, rule changes. Kentucky believes that omission of the cited language does not lead to a substantively different result. (See Administrative Record No. KY–238.)

The Secretary believes the Kentucky regulation could allow securities to be valued at face value which, because they may be discounted or otherwise have different values not related to face value, may result in inadequate bond coverage. In addition, SMCRA Section 509(b) specifically requires market value of such securities shall be equal to or greater than the amount of the bond required for the bonded area.

18.9 405 KAR 10:030E Sections 2(5)(e)(3) and (7)(g)(3) do not require that a notice of violation be issued for the lack of bond coverage. While the requirement relates to the suspended portions of 30 CFR 806.12(e)(6)(iii) and (g)(7)(iii) as published March 13, 1980, requiring cessation of operations upon discontinuance of bond coverage, the State regulation must still provide that lack of bond coverage is a violation of the permit. This is especially important since the State has elected to allow for incremental and cumulative bonds and these types of bonding methods add timing factors which might lead to increased risk due to minimizing bond coverage. The State may wish to consider the language in the Federal regulation promulgated on August 8, 1980.

18.10 405 KAR 10:030E Section 2, Kentucky does not include provisions relating to mortgages or security under collateral bonding requirements as allowed by 30 CFR 800.5 as promulgated August 6, 1980. The Secretary assumes

that the State will not allow mortgages and securities as bonds and therefore does not find the State Regulations inconsistent with the Federal requirements.

18.11 405 KAR 10:040E Section 2(2) and (3) do not include the additional criteria of 30 CFR 807.12(b) and (c) concerning the criteria and schedule for release of bonds, as promulgated on August 6, 1980. Since the State has elected to adopt bonding methods which allow bond release on portions of the permit area consistent with the OSM regulations promulgated August 6, 1980, it is important that the State include requirements to ensure that the amount remaining after a phase II bond release is sufficient to cover revegetation and reconstruction of drainage structures and to assure that no incremental area is completely released from the permit area prematurely.

18.12 405 KAR 10:040E Section 1(1) is inconsistent with 30 CFR 807.11(a) because of the omission of language equivalent to the portion of 30 CFR 807.11(a)(1) requiring identification of appropriate seasons for evaluation in the mining and relamation operations plan. Kentucky does not agree that this is inconsistent (Administrative Record No. KY–38).

The Secretary believes identification of the appropriate seasons for evaluation of the area in relation to bond release is necessary to avoid confusion regarding the timing of request for bond release. Inspections for bond release and evaluation of revegetation cannot be made equally effectively at all times of the year.

18.13 405 KAR 10:040E Section 1(3) and (4) is less stringent than 30 CFR 807.11(c) because the State section does not define "person having an interest which is or may be adversely affected" to include the heads of Federal, State or local government agencies for purposes of considering objections to bond release. This requirement was not changed by the August 6, 1980, modifications. Kentucky believes that such a definition is arrived at by reference to well settled rules of standing. (See Administrative Record No. KY–238).

The Secretary does not agree with the State's argument because KRS 350.093(6) specifically mandates that the Kentucky DNREP designate by regulation the responsible officer or head of any governmental agency which shall have the right to file written objections to proposed bond releases. In order then for the State regulation to be consistent with Section 519(f) of SMCRA and KRS 350.093(6), it must specifically designate those governmental agencies which "have jurisdiction by law or special expertise with respect to any environmental, social, or economic impact involved in the operation, or is authorized to develop and enforce environmental standards with respect to such operations."

18.14 405 KAR 10:040E Section 1(5) is less stringent than 30 CFR 807.11(d) concerning procedures for seeking release of performance bonds. In comparison to the Federal regulations, there is no requirement for a notice to invite owners and lessees to accompany inspectors. The August 6, 1980, modifications to the bonding rules did not change this requirement. State Section 12:030 covers only agency reaction to a complaint, not notification of the surface owner.

Kentucky does not believe that such a provision can be required because there is no statutory authority for lessee and surface owner inspections in Section 519 of SMCRA. (See Administrative Record No. KY–238.)

The Secretary believes the invitation to the surface owner to accompany the inspector is consistent with public participation and surface owner protection provisions of SMCRA.

18.15 405 KAR 10:040E Section 1 does not have a provision consistent with 30 CFR 807.11(f)(5) which specifies that the municipality or county will receive notice by certified mail of the regulatory authority's decision to release the bond 30 days before actual release. This requirement is not affected by the August 6, 1980 modifications to the bonding rules.

Kentucky feels that Sections 1(1) and 1(2) of 405 KAR 10:040E provide a provision relating to the notification of local governmental bodies. (See Administrative Record No. KY–238.)

The Secretary finds that 405 KAR 10:040E Sections 1(1) and 1(2) provide for notification to local government bodies of a request for a release only. The State regulations do not include provisions relating to notification of DNREP's decision to release a bond 30 days in advance of the actual release as required by 30 CFR 807.11(f). Without this provision, there would be no mechanism for assuring that the appropriate local government agency has been notified and been given 30 days notice or that the opportunity to request a public hearing on the decision has been provided before the release of the bond making such a hearing immaterial.

18.16 405 KAR 10:050E Section 2 is less stringent than 30 CFR 808.12 concerning procedures for forfeiture of bonds. The State omitted language similar to 30 CFR 808.12(a)(4) and (b) which is intended to prevent the regulatory authority from giving up on the pursuit of bond forfeitures under certain conditions. This requirement is not affected by the August 6, 1980, modifications to the bonding rules.

Kentucky does not believe that a regulation is necessary for the department to diligently prosecute bond forfeitures. The State indicated that once a bond forfeiture is instituted, it will be seen through to the end. (See Administrative Record No. KY–238.)

The Secretary believes the regulatory authority should be clearly mandated to consider all written determinations to forfeit as final actions and to defend appeals against those determinations. However, the Secretary believes that a policy statement from DNREP which clearly states that the agency will act in accordance with 30 CFR 808.12(a)(4) and (b) may be acceptable in lieu of a regulation.

18.17 405 KAR 10:050E Section 3 is less stringent than 30 CFR 808.13 because the State regulation substitutes the word *"may"* for *"shall"* and, therefore, has no mandatory criteria for bond forfeiture. The Secretary believes flexibility in avoiding forfeiture is provided in 30 CFR 808.11 which allows the regulatory authority to withhold forfeiture if the permittee and surety agree to a compliance schedule. Section 3 also omits wording equivalent to 30 CFR 808.13(b)(2) and (3) which allows forfeiture when the permittee cannot demonstrate ability to continue to operate in accordance with permit requirements because a creditor has attached judgment to the equipment at the permit area or to collateral pledged to the regulatory authority as bond. These requirements were not affected by the August 6, 1980, modifications to the bonding rules.

18.18 In the narrative for systems under State Program Section 731.14(g)(3), the system for bond computation is not adequately explained. The original State submission contained a formula for bond computation which allowed for a maximum per acre bond of approximately $2,500, which OSM identified to the State as possibly unrealistic in light of OSM estimates of reclamation costs between $3,500 and $8,000 for non-steep slopes (Administration Record No. KY–298). The revised program submission of June 12, 1980, did not contain sufficient information to allow a recomputation of the formula. The Secretary therefore must assume that no changes have been made and asks that the program resubmission clarify the procedures for establishing the bond amounts.

18.19 The statement on page 7.3.6 of the system description, in the next to the last paragraph, indicates that additional bond is required only for new acreage which is in conflict with 405 KAR 10:120E Section 4 and 30 CFR 805.14 as published March 13, 1979, and as modified August 6, 1980.

18.20 There are discrepancies between the Kentucky regulations and the Kentucky system description under State Program Section 731.14(g)(3) for bond release. Although the Kentucky system description appears consistent with the Federal requirements for filing a notice for an informal conference, recording the meeting, and the deadlines for decisions, the descriptions are not supported by the Kentucky regulations. For example, page 7.3.10 of State Program Section 731.14(g)(3) maintains that the surface owner will be invited to accompany the inspector on bond release inspections, yet, as stated in Finding 18.13, the State regulations do not contain this requirement and the State has argued against it. Similarly, the program description on page 7.3.12 maintains that there will be a two-week newspaper notice prior to an informal conference. 405 KAR 7:090E Section 4 on informal conferences, however, does not provide for such a notice and the State has maintained (Administrative Record No. KY–281) that 405 KAR 7:090E Section 4 on informal conferences does not apply to bond release.

18.21 The system description contains a statement on page 7.3.15 that "the Department has experienced no problems in collecting forfeited bond amounts."

Based on experiences OSM has had in trying to complete abandoned mine land reclamation projects in Kentucky, the Secretary believes that there is a large backlog of abandoned mines for which no action to forfeit and collect or release bonds has been taken (Administrative Record Nos. KY–232 and KY–233). A backlog would have potential implications with regard to the State's ability to proceed with new bond forfeitures under primacy. Therefore, the Secretary requests that the State explain, in the resubmission, its methodology for resolving any current backlog that might delay new forfeitures.

Finding 19

In accordance with 30 CFR 732.15(b)(7), the Secretary finds that the Kentucky program demonstrates, in part, that the State has sufficient provisions for civil and criminal sanctions for violations of State law, regulations and conditions of permits, and exploration approvals consistent with Section 518 of SMCRA. However, the Secretary finds a number of deficiencies in the law, regulations, and descriptive elements of the State submission that should be remedied before the program can be approved. Kentucky incorporated regulatory provisions related to Section 518 of SMCRA in 405 KAR 7:090E. The program submission decribes the State's system for implementing these sanctions in the narratives entitled "State Section 731.14(g)(4)", "State Section 731.14(g)(5)" and "State Section 731.14(g)(7)." Deficiencies in the legislative requirements are discussed in Finding 2. Significant differences between the Kentucky program and the Federal requirements are as follows:

19.1 405 KAR 7:090E does not contain provisions to include history of previous violations as a factor in determining civil penalties as required by Section 518(a) of SMCRA.

19.2 405 KAR 7:090E fails to include procedures for assessment of civil penalties. Kentucky has indicated its belief that no point system regulations are required in light of the court remand (Administrative Record No. KY–238). Although the State is not required to have a point system, or a penalty system as stringent as 30 CFR Part 845, the State is required to establish a procedure for assessment of civil penalties to include the four factors set forth in Section 518(a) of SMCRA in determining the amount of the penalty.

19.3 405 KAR 7:090E Section 3(6) allows the posting of bond in lieu of the payment of a penalty into escrow. Although not specifically provided in the Federal regulations, the Secretary may consider bonds in lieu of escrow acceptable if the program resubmission demonstrates that such bonds are easily forfeitable so that they do not act as an impediment to the collection of civil penalties and that they are in the amount of the proposed assessment. However, the Kentucky regulation as written is inconsistent with SMCRA Section 518(c) because the bond is not requred to be put up until seven days before the hearing, which could be much later than the date payment is required under Section 518(c). See Finding 19.4 for further discussion.

19.4 405 KAR 7:090E Section 3 is inconsistent with SMCRA Section 518(c) because the State section does not require the payment of proposed penalty or placement of the penalty into escrow within 30 days of the receipt of the proposed assessment. 405 KAR 7:090E Section 3(1)(e) states that the penalty does not have to be placed in escrow until seven days before the hearing. The hearing can be delayed past the 30-day limit for payment or placement into escrow established in SMCRA by a waiver of the State requirement for a hearing within 21 days as provided for in 405 KAR 7:090E Section 3(1)(a) or by a request for an informal conference under 405 KAR 7:090E Section 3(1)(b). It is not clear if a prepayment into escrow must be made before the informal conference. It is also not clear that payment becomes due within the time frame provided by SMCRA if no hearing is requested and the State proceeds under the requirements of 405 KAR 7:090E Section 3(f) which requires a final order of the DNREP to be issued if no hearing is requested but does not specify the time frames on that order.

19.5 There is an apparent conflict between Sections 10 and 11 of 405 KAR 7:090E regarding the assessment of civil penalties. Section 11 requires an assessment of not less than $100 for all violations, while Section 10 allows for discretion in assessing a "minor" violation. The Secretary requires an explanation of this seeming conflict before he can determine whether these State provisions are consistent with SMCRA and the regulations promulgated thereunder.

19.6 Under "Inspection for Noncompliance" as described in State Program Section 731.14(g)(4), it appears that a justification is required only for *lack* of good faith in considering civil penalties. Provisions for requiring an explanation when "good faith" is awarded should also be provided. The State system descriptions in 731.14(g)(5) and (g)(7) are unclear as to the personnel who will (1) be making the assessments and (2) holding the hearings and conferences.

Finding 20

In accordance with 30 CFR 732.15(b)(8), the Secretary finds that the Kentucky program demonstrates, in part, that the State can issue, modify, terminate, and enforce notices of violation, cessation orders and show cause orders in accordance with Section 521 of the Act and Subchapter L of 30 CFR Chapter VII. Provisions of 30 CFR Chapter VII Subchapter L are incorporated in 405 KAR 12:010E, 12:020E, and 12:030E. The description of the State's system for enforcing the civil and criminal sanctions of the State laws and regulations is contained in the narrative entitled "State Section 731.14(g)(5)." Deficiencies in the program's legislative package are discussed in Finding 2. Significant differences between the Kentucky program and the Federal requirements are as follows:

20.1 405 KAR 12:020E Section 7 is less stringent than 30 CFR 843.11(a)

because the State regulation does not require immediate cessation of mining operations or the relevant portion of the operations by the inspector if an inspector discovers a condition or practice or violation which creates an imminent danger to the public or is causing or can be expected to cause significant imminent environmental harm. The last sentence of Section 7(1) also provides that an order to abate and alleviate will be issued only "when it appears that it will be prejudicial to the interests of the people of the state to delay action until an opportunity for a hearing can be provided."

Kentucky maintains that its language is consistent with Federal requirements and that there is no reason to delete the last sentence of Section 7(1). (See Administrative Record Number KY-238.)

The Secretary believes the Kentucky program does not sufficiently ensure cessation of operations by the inspector in the field under the time frame and criteria required by the Federal regulation. In addition, the last sentence of 405 KAR 12:020E Section 7(1) introduces a "weighing test" not found in SMCRA or the Federal regulations. SMCRA and the Federal regulations do not allow a delay in issuing a cessation order for imminent danger or harm for any reason and require they be issued by the inspector in the field. Moreover, the Kentucky provision improperly introduces a mechanism which would allow a delay in issuing a cessation order until after a hearing.

20.2 405 KAR 12:020E Section 2 is inconsistent with 30 CFR 843.12(a) because the State section does not exempt violations creating an imminent danger from a notice of violation (NOV). This omission indicates that a NOV will always be issued rather than a cessation order, even when a cessation order would be required under the Federal Act and Federal rules.

20.3 405 KAR 12:020E Section 3, affirmative obligations to comply, is inconsistent with 30 CFR 843.11(c) and (e) because the State regulations lack specificity. The State regulations do not define the "other appropriate relief" which can be granted by the DNREP on the date a notice of violation or order of cessation is issued. The State regulations also fail to specify data requirements which must be set forth in a cessation order to be consistent with 30 CFR 843.11(c). Before the Secretary can find consistency with the Federal requirements, the State program must demonstrate that the "other appropriate relief" will be consistent with Federal requirements and that cessation orders or their equivalent will contain the information specified in the Federal regulations.

20.4 In the system description under State Program Section 731.14(g)(5), there is no provision to vacate a notice of noncompliance and order for remedial measures. Kentucky has stated that if a violation is issued in error, the mistake would be remedied at the hearing. The Secretary believes that the State inspectors must be empowered to issue a violation and to modify, terminate or vacate that violation consistent with 30 CFR Part 843. For there to be no procedures, except by formal hearing, to modify, terminate or vacate a violation would be unduly cumbersome and inconsistent with 30 CFR Part 843.

Finding 21

The Secretary finds that the Kentucky program demonstrates, in part, that the State can designate areas as unsuitable for surface coal mining consistent with 30 CFR Chapter VII Subchapter F. Kentucky incorporated provisions of Subchapter F in 405 KAR Chapter 24. The State's description of the proposed system for designating lands unsuitable is located in the narrative entitled "State Program Section 731.14(g)(11)" and is acceptable. The State has sufficient legislative authority to accomplish this requirement. Significant differences between the Kentucky regulations and the Federal requirements are as follows:

21.1 405 KAR 24:040E Section 2(1) is not consistent with SMCRA Section 522(e) and 30 CFR 761.11(a) because the State regulation fails to include the "Wild and Scenic Rivers System" in the list of areas where mining is prohibited.

21.2 405 KAR 24:040E Section 2(6) is inconsistent with 30 CFR 761.12(d)(2) concerning public notice of intent to mine within 100 feet of a public road or to relocate the road. The State regulation does not require that the notice be published at least two weeks before a public hearing on the relocation.

21.3 405 KAR 7:020E Section 1(57) is inconsistent with 30 CFR 762.5 because it omits sites with pending historic designation from the definition of historic lands."

21.4 405 KAR 24:030E Section 3(5), concerning petitions for an area which was previously and unsuccessfully petitioned contains the word "substantial" in the first sentence concerning new allegations of fact which is not found in 30 CFR 764.15(a)(4).

The State maintains that the word "substantial" is appropriate because it is incumbent upon the petitioner to set forth non-frivolous new allegations to prevent DNREP from being in the position of continuously processing petitions for the same area.

Since the Federal regulations of 30 CFR 764.15(a)(3) allow the regulatory authority to dismiss frivolous petition requests and since the State has indicated that this is the intent of the word "substantial" in its regulations, the Secretary considers 24:030E Section 3(1) acceptable. The Secretary assumes the State will not reject any petitions where the new facts would tend to establish that the area is unsuitable for surface coal mining.

21.5 405 KAR 24:030E Section 4(1) is not consistent with 30 CFR 764.15(a)(6) because, under the State regulation, a person who petitions that an area be designated unsuitable would not be notified of a pending permit application until the petition has been determined to be complete. That could be 30 days after the petition is received (405 KAR Section 3(1)). It is important for the petitioner to know of permit applications submitted near the same time period as the petition so that, in the event the petition is determined incomplete, the petitioner will have time to complete the petition or otherwise file another objection under 405 KAR 10:8:010E Section 10 prior to a decision on the application, as intended by 30 CFR 764.15(a)(6).

21.6 405 KAR 24:030E Section 6 is inconsistent with 30 CFR 764.15(d) concerning public availability of a petition record. The State regulation needs a provision to provide for the complete petition record to be maintained at the regulatory authority's main office and at a central location in the county or multi-county area in which the petitioned land is located. The same office used for permits would probably be acceptable.

21.7 405 KAR 24:030E Section 8(2)(c), the criteria for designating lands unsuitable, establishes that an area may be designated unsuitable for mining if an operation affecting renewable resource lands "would" result in a substantial loss or reduction of long-range productivity of water supply or of food or fiber products. The Federal requirement at 30 CFR 762.11 applies to mining that "could" affect the protected resources. The Kentucky provision is less stringent than the Federal requirement because it would require the petitioner to make a firm proof of effect on the protected resources, thus being more burdensome to the petitioner than intended by the Federal requirement.

Finding 22

In accordance with 30 CFR 732.15(b)(10), the Secretary finds that the

Kentucky program demonstrates, in part, that the State provides for adequate public participation in the development, revision and enforcement of State regulations and that the State program is, in part, consistent with the public participation requirements of SMCRA and 30 CFR Chapter VII. Provisions for public participation in the development and revision of the State program and regulations are discussed in the narrative entitled "State Program Section 731.14(g)(14)." Public participation in enforcement of the program is covered in various portions of the State program as discussed in Finding 22.2.

Deficiencies with the Kentucky legislation relative to public participation are discussed in Finding 1. Significant differences between the Kentucky program and the Federal requirements are as follows:

22.1 The Secretary finds that the Kentucky program provides for adequate public participation in the development and revision of the State program and regulations. DNREP held eleven public meetings during the development of the program submission, including the regulations, and utilized three public advisory groups (environmental and citizen organizations, coal production industry, and consumer and coal-related support industries). The State also distributed brochures and a newsletter to keep the public informed.

22.2 The Secretary finds that there are inconsistencies between State and Federal public participation requirements relating to enforcement during implementation of the program. The requirements for public participation are found in almost all parts of the Federal regulations and are discussed in various portions of the State program submission. Therefore, the Secretary's findings of deficiencies on public participation are discussed under Findings 1.2, 12.2(f), 12.2(g), 13.11, 13.47, 14.4, 14.27, 14.31, 15.1, 17.4, 17.5, 17.6, 18.13, 18.14, 18.19, 21.2, 21.5, 21.6, and 27 (administrative and judicial review).

Finding 23

In accordance with 30 CFR 732.15(b)(11), the Secretary finds that the Kentucky program demonstrates, in part, that the State can monitor, review, and enforce the prohibition against indirect or direct financial interests in coal mining operations by the employees of the State regulatory authority consistent with the requirements of Subchapter A of 30 CFR Chapter VII. The State description of the proposed system for monitoring, reviewing and enforcing the prohibition against indirect or direct financial interests in coal mining operations by the employees of the State regulatory authority is located in the narrative entitled "State Section 731.14(g)(12)." Kentucky has the legislative authority under KRS 350.460 to restrict financial interests but has not promulgated regulations consistent with the provisions of 30 CFR Part 705.

23.1 Kentucky has stated that 30 CFR Part 705 covers State employees and therefore no State regulations are needed. The Secretary does not agree with this assertion. Language in the Federal regulations refers to employees performing duties under SMCRA. As with other regulations developed under SMCRA, the State must now reference its own legislative authority and enact its own regulations to provide State regulations consistent with Federal requirements. The State will be enforcing its regulations, not the Secretary's, once it achieves primacy and must have a complete regulatory program of its own.

23.2 Since Kentucky has not yet provided implementing regulations, it is impossible to evaluate how the requirements of 30 CFR Part 705 will be implemented as described in the narrative description in State Section 731.14(g)(12).

Finding 24

In accordance with 30 CFR 732.15(b)(12), the Secretary finds that Kentucky has sufficient legislative authority to require the training, examination, and certification of persons engaged in or responsible for blasting. The State program need contain only sufficient legal provisions to allow promulgation of rules in accordance with Section 719 of SMCRA until such time as the Federal rules on blaster certification are promulgated.

Finding 25

In accordance with 30 CFR 732.15(b)(13), the Secretary finds that the Kentucky program demonstrates, in part, that the State can provide for a small operators assistance program (SOAP) consistent with the requirements of 30 CFR Part 795. The State has adequate legislative authority in KRS 350.465(2)(f) and 350.450(5)(6) to implement the SOAP program. The proposed system described in the narrative entitled "State Section 731.14(g)(16)" is also adequate. Regulations implementing 30 CFR Part 795 are contained in 405 KAR 7:080E. Significant differences between the Kentucky regulations and the Federal requirements are as follows:

25.1 405 KAR 7:080E Section 5 is not consistent with 30 CFR 795.13. Section 5(a) does not include all operations controlled by the applicant in considering eligibility for SOAP assistance. This would allow operators with many small operations to receive assistance on each operation, whereas the Federal rules would deem the operator not to be a "small operator."

25.2 405 KAR 7:080E Section 8 is less stringent than 30 CFR 795.16(b). The State section makes the determination of probable hydrologic consequences optional by using the word "may" instead of "shall."

25.3 The Kentucky program has no provision to correspond with 30 CFR 795.18 on the use and allocation of funds.

Finding 26

In accordance with 30 CFR 732.15(b)(14), the Secretary finds that the Kentucky program provides, through KRS 350.990 (7), for the protection of State employees of the regulatory authority in accordance with the protection afforded Federal employees under Section 704 of SMCRA.

Finding 27

In accordance with 30 CFR 732.15(b)(15), the Secretary finds that the Kentucky program demonstrates, in part, that the DNREP has an administrative and judicial review process in accordance with Sections 525 and 526 of SMCRA and Subchapter L of 30 CFR Chapter VII. Deficiencies in legislatiave provisions are discussed in Finding 1. Kentucky regulations related to administrative and judicial review are found in 405 KAR 7:090E. The State's description of the proposed system for administrative and judicial review is located in the narrative entitled "State Section 731.14(g)(15)" and deficiencies in this section relate to its provisions to implement the inconsistent regulatory provisions. Significant differences between the Kentucky program and the Federal requirements are as follows:

27.1 405 KAR 7:090E Section 5 is inconsistent with 30 CFR 787.11(a) and 788.16(d) concerning administrative review or regulatory authority decisions because Section 5 appears to limit hearings only to "permit issuance, denial or imposition of conditions" which may leave out decisions on revisions or renewals, applications for transfer, sale of assignment of right, etc. The Secretary requests that the State either modify its regulation or provide assurance that the hearing provision is not limited to only the cited decisions.

27.2 405 KAR 7:090E Section 3 is inconsistent with 30 CFR 787.11(b) concerning administative review procedures in that the State section does

not prohibit the informal conference officer from presiding at the formal hearing, does not identify conditions under which temporary relief can be granted (405 KAR 7:090E Section 3 appears to apply only to a cessation order), and does not identify the requirements of 30 CFR 787.11(b)(3), (4) and (5) relating to administering oaths, subpoenaing witnesses, taking evidence, recording each hearing, *ex parte* contacts, furnishing findings to all parties and specifying burden of proof. The powers and duties of the hearing authority must be demonstrated in the State program.

27.3 The provisions for an informal conference for bond release under 405 KAR 7:090E Section 4 are inconsistent with 30 CFR 807.11(e). There is no provision for publication of a notice two weeks prior to the conference or for an electronic or stenographic record.

27.4 405 KAR 10:040E Section and 7:090E are inconsistent with 30 CFR 807.11(h) concerning public hearings on bond release decisions by the regulatory authority because:

(a) There appear to be no State provisions to subpoena witnesses and materials. The Secretary requests that the State either modify its regulations or provide other clarification with regard to subpoena provisions.

(b) The Federal regulations require a verbatim record while 405 KAR 7:090E Section 3(5)(c) leaves such a requirement to the hearing officer's discretion. In addition, the State section leaves total discretion regarding transcription of the hearing to DNREP; the Federal regulations require transcripts at the motion of any party.

27.5 In 405 KAR 7:090E Section 3(1)(b), (c) and (f), the words "conference" and "hearing" are used interchangeably. This has the result of confusing the regulation inasmuch as each of the words has a separate and distinct meaning in the State regulation. "Hearing" denotes a formal administrative hearing provided for in 405 KAR 7:090E Section 3, while "conference" denotes the informal conference provided for in 405 KAR 7:090E Section 4. Use of the word "conference" in 405 KAR 7:090E Section 3 without a reference to 405 KAR 7:090E Section 4 blurs the intent of 405 KAR 7:090E Section 3.

27.6 405 KAR 7:090E Section 8 concerning intervention and consolidation of hearings is inconsistent with 43 CFR 4.1110 because:

(a) The fourth word in the first sentence should be *shall* rather than *may* with regard to the hearing officer's obligation to grant leave to intervene to any person who was not previously a party to the hearing.

(b) Persons interventing must have the right to be a *full* party.

(c) The State regulation fails to contain a permissive intervention section.

27.7 405 KAR 7:090E Sections 9(2) and 9(4) are unclear as to the type of hearing required and as to whether a record is required. It is not readily apparent whether a formal administrative hearing or an informal conference is contemplated for civil penalty assessment appeals. In order to be consistent with Section 518(b) of SMCRA, a formal administrative hearing must be clearly provided for in the State regulation.

27.8 405 KAR 7:090E Section 10 is inconsistent with Section 518(a) of SMCRA because the State regulation permits the consideration of "other relevant factors" in addition to the criteria set forth in SMCRA relative to the determination of the amount of the penalty. While other specific factors may not be inconsistent with SMCRA, the Secretary needs to know precisely what these factors are in order to determine consistency.

27.9 405 KAR 7:090E Section 11(2)(b) is inconsistent with Section 525(c) of SMCRA in that the State regulation allows for the use of "prehearing conferences or other informal conferences" (alternatives for temporary relief proceedings) as forums for abatement period extensions. Unless such abatement period extensions are given or denied in the context of a formal administrative temporary relief proceeding, the specific criteria for such relief as set forth in Section 525(c) of SMCRA will not be applied. Failure to apply these criteria is inconsistent with Section 525(c) of SMCRA.

27.10 405 KAR 7:090E Section 12(1)(a) is inconsistent with 30 CFR Subchapter L of Chapter VII because the State section does not provide for costs and expenses awards to include expert witness fees. The State regulation is thus inconsistent with 43 CFR Section 4.1295.

27.11 405 KAR 7:090E Section 12(4) appears to be inconsistent with 43 CFR 4.1294 because the phrase "shall consider the traditional practices" is unclear. Consideration of "traditional practices" may or may not be inconsistent with the Federal regulations depending upon what "traditional practices" are to be considered. The Secretary needs to know what "traditional practices" the State regulation contemplates in order to determine consistency with 43 CFR 4.1294 relative to the criteria for the awarding of costs and expenses in an administrative proceeding.

27.12 405 KAR 7:090E Section 12 is inconsistent with 43 CFR 4.1290 *et seq.* because:

(a) The time for a petitioner to file for an award is too short. 405 KAR 7:090E Section 12(b) provides that the petitioner file for an award within 20 Days of the entry of a final order. 43 CFR 4.1291 provides that the petitioner file for an award within 45 days of the entry of a final order.

(b) Awards to the permittee or the DNREP must include a finding of bad faith and harassment to be consistent with 43 CFR 4.1294.

(c) The State regulation lacks provisions consistent with 43 CFR 4.1295 relative to awards and 43 CFR 4.1296 relative to appeals of awards.

(d) The State regulation provides that an untimely petition shall result in a waiver of the right to an award (405 KAR 7:090E Section 12(b)) while the comparable Federal regulation (43 CFR 4.1291) provides only that an untimely petition may result in a waiver of the right to an award.

(e) The standard of "sound discretion" in 405 KAR 7:090E Section 12(b)(4) for the award of costs and expenses is inconsistent with 43 CFR 4.1294.

27.13 The term "order to abate and alleviate" found in 405 KAR 7:090E and 405 KAR 12:020E is undefined. The term may or may not be inconsistent with SMCRA and the Federal regulations depending upon how the term will be defined and utilized by DNREP. The term would likely be consistent with both SMCRA and the Federal regulations if it is an equivalent to the Federal imminent danger cessation order in Section 521(a)(2) of SMCRA. The Secretary requires additional information relative to the definition and usage of this term in order to determine consistency.

27.14 There are no procedural regulations comparable to 43 CFR 4.1109 (service), 4.1130 *et seq.* (discovery), 4.1155 (burden of proof in civil penalty proceedings), and 4.1171 (burden of proof in review of section 521 notices or orders).

27.15 405 KAR 7:090E Section 7, concerning mine site hearings, is inconsistent with 30 CFR 843. 15(c)(2) in that there appears to be no requirement for notifying a person who filed a report which led to a cessation order, of the date on which an informal hearing (minesite hearing) will be held.

Finding 28

In accordance with 30 CFR 732.15(b)(16), the Secretary finds that the Kentucky program demonstrates, in part,

that the State can coordinate with and provide documents and other information to the Office of Surface Mining under the provisions of 30 CFR Chapter VII. There is nothing in the Kentucky legislation which would prohibit dissemination of information to the office. Further, the State regulations on permitting in 405 KAR Chapter 8 specifically provide for permit information to be provided to the Regional Director. Further, there is nothing in 405 KAR Chapter 10 on bonding or Chapter 12 on inspections which restricts coordination with OSM. However, 405 KAR 7:060E Section 2 does not refer to the Director of OSM's approval authority concerning experimental practices under 30 CFR 785.13 as discussed in Finding 14.32.

Finding 29

In accordance with 30 CFR 732.15(c), the Secretary finds that there are no other laws or regulations in addition to those discussed in the preceding findings which would preclude implementation of SMCRA and 30 CFR Chapter VII.

Finding 30

In accordance with 30 CFR 732.15(d), the Secretary finds that the Kentucky program does not contain sufficient information to conclude that DNREP and other agencies having a role in the State program have sufficient legal, technical, and administrative personnel and sufficient funding to implement, administer, and enforce the provisions of the program and other applicable State and Federal laws. These findings are based on review of State Program Sections 731.14(e), (f), (h), (i), (j), (k), (l), and (m). The Director of the Office of Surface Mining (OSM) will provide the State with a letter concerning deficiencies in the information provided on staffing and funding. In addition, recent studies on staffing conducted by OSM, Region II will be provided to the State for its consideration.

Public and Government Agency Comments

The Secretary received numerous comments from the public and government agencies on Kentucky's program. All of these comments were reviewed and considered by the Secretary in making the decision to approve the Kentucky program, in part, and disapprove it in part.

The Secretary intends to publish in the Federal Register within the next few days, a summary of the comments received and his disposition of each significant issue they raise.

Secretary's Decision

The Secretary finds that parts of the Kentucky program submission meet the criteria for approval in Section 503(a) and (b) of SMCRA and parts do not meet these critieria. Accordingly, the Kentucky program is approved in part and disapproved in part.

A. The following parts of the Kentucky program are approved:

1. The following provisions of KRS 224 are approved:

KRS 224.071 Order for discontinuance, abatement or alleviation or activity without hearing: subsequent hearing
KRS 224.081 Notice of complaint; answer to charges; petition by aggrieved party; hearing
KRS 224.083 Hearings; reports; rights of parties; records; hearings to be public

2. The following sections of KRS 350 are approved:

350.020 Declaration of legislative policy and finding of fact
350.029 Regulations to implement interstate mining compact—Adoption—Limitations
350.035 Bureau of surface mining reclamation and enforcement
350.050 Powers of department
350.055 Publication of notice of intention to mine
350.070 Procedure for increase or decrease of acreage affected by permit
350.080 Procedure for obtaining approval of the other mining operations—Reclamation may be deferred
350.090 Method of operations and reclamation plan—Waste on permit area only
350.093 Time limits—Drift mining—Bond release
350.095 Vegetative cover requirements
350.100 Time for commencement and completion of reclamation—Deferred planting—Authority to plant different area
350.110 Partial release of bond when planting deferred—Payment in lieu of forfeiture
350.113 Planting report, requirements, contents, inspection, approval
350.117 Trees, shrubs and plants, ownership
350.120 Report on expiration of permit, contents
350.133 Mountaintop removal
350.135 Succession of one operator by another at uncompleted operation
350.151 Surface effects of underground mining—Bond
350.170 Construction of chapter
350.200 Signs to be posted at mining site, size, contents
350.210 Monuments marking permit areas
350.220 Regulation of use of explosives
350.230 Conformance to statutes and regulations required, when
350.400 Applicability
350.405 Restoration of land
350.410 Restore the approximate original contour
350.415 Soil segregation
350.420 Minimize the disturbance to hydrologic balance
350.425 Waste used as dams
350.430 Explosives
350.435 Vegetation
350.445 Steep slopes
350.455 Water impoundment on mining site
350.460 Financial interest by state employee prohibited
350.470 Review of regulations

3. The following sections of Kentucky regulations in 405 KAR are approved subject to the condition that they remain essentially identical when permanently enacted:

Chapter 7—General Provisions for Title 405, Chapter 8 through 24, in part, as follows:

405 KAR 7:020E Definitions and abbreviations, in part, as follows:

Section 1. Definitions, in part, as follows:

(1) Acid drainage
(2) Acid forming materials
(3) Acid test ratio
(4) Adjacant area
(5) Affected area
(6) Agricultural use
(7) Applicant
(8) Application
(9) Approximate original contour
(10) Aquifer
(11) Area
(12) Asset ratio
(13) Auger mining
(14) Best technology currently available
(15) Capital assets
(16) Cash
(17) Cemetery
(18) Coal
(19) Coal exploration
(20) Coal processing waste
(22) Collateral bond
(23) Combustible material
(24) Common size comparative balance sheet
(25) Common size comparative income statement
(26) Compaction
(27) Complete application
(28) Cropland
(29) Current assets
(30) Current liabilities
(31) Current ratio
(32) Day
(33) Department
(34) Developed water resources land
(35) Disturbed area
(36) Diversion

(37) Downslope
(38) Embankment
(39) Ephemeral stream
(40) Existing structure
(41) Exerimental practice
(42) Extraction of coal as an incidental part
(43) Federal lands
(44) Federal lands progrm
(45) Fish and wildlife habitat
(46) Forest land
(47) Fragile lands
(48) Fugitive dust
(49) General area
(50) Government financed construction
(51) Government financing agency
(52) Grazing land
(53) Ground water
(54) Half-shrub
(55) Head of hollow fill
(59) Hydrologic balance
(60) Hydrologic regime
(61) Imminent danger to health and safety of the public
(62) Impoundment
(63) Industrial commercial land
(65) Intermittent stream
(66) Irreparable damage to the environment
(67) Land use
(68) Liquidity ratio
(69) Monitoring
(70) Mulch
(71) Natural hazard lands
(72) Net profit
(73) Net worth
(74) Notice of noncompliance and order for remedial measures
(75) Notice of violation
(76) Noxious plants
(77) Occupied dwelling
(78) Operations
(79) Operator
(80) Outslope
(81) Overburden
(82) Pasture land
(83) Perennial streams
(84) Performance bond
(85) Permanent diversion
(86) Permit
(87) Permit area
(88) Permittee
(91) Petitioner
(93) Prime farmland
(94) Principal shareholder
(95) Probable cumulative impacts
(97) Property to be mined
(98) Public building
(99) Public office
(100) Public park
(101) Public road
(102) Quick assets
(103) Recharge capacity
(104) Reclamation
(105) Recreation land
(106) Recurrence interval
(107) Reference area
(108) Renewable resource lands
(109) Residential land
(110) Retained earnings
(111) Return on investment
(112) Road
(113) Safety factor
(114) Secretary
(115) Sedimentation pond
(117) Significant imminent environmental harm
(118) Slope
(119) Soil horizons
(120) Soil survey
(121) Spoil
(122) Stabilize
(123) Steep slope
(124) Successor in interest
(125) Subsequent order for cessation and immediate compliance
(126) Substantially disturb
(127) Surety bond
(128) Surface mining activities
(129) Surface coal mining operations
(130) Surface mining and reclamation operations
(131) Suspended solids
(132) Temporary diversion
(133) Ton
(134) Topsoil
(135) Toxic forming materials
(136) Toxic mine drainage
(137) Transfer assignment or sale of rights
(138) Underground development waste
(139) Underground mining activities
(140) Undeveloped land or no current use or land management
(141) Unwarranted failure to comply
(142) Valley fill
(143) Water table
(144) Willful violation
(145) Working capital

Section 2. Abbreviations.

405 KAR 7:040E General obligations of operators and permittees, in part, as follows:
Section 1. General requirements for permits and exploration approvals
Section 2. When permit required
Section 3. Disposal of materials
Section 4. Unsafe practices
Section 6. Hazard classifications for impoundments
Section 7. Maps and reports
Section 8. Coal exploration
Section 9. Obligation to comply with other regulations
Section 10. Approximate original contour

405 KAR 7:060E Experimental practices mining, in part, as follows:
Section 1. General
Section 3. Periodic review

405 KAR 7:080E Small operator assistance, in part, as follows:
Section 1. Scope
Section 2. Objective
Section 3. Authority
Section 4. Program services
Section 6. Filing for assistance
Section 7. Application approval and notice
Section 9. Qualified laboratories
Section 10. Applicant liability

405 KAR 7:100E Notice of citizen suits, in its entirety

405 KAR 7:110E Petitions for rulemaking, in its entirety

Chapter 8—Permits, in part, as follows:

405 KAR 8:010E General provisions for permits, in part, as follows:
Section 1. Applicability
Section 2. General permit requirements
Section 3. Permit application filing deadlines
Section 4. Preliminary requirements
Section 6. Permit fees
Section 7. Verification of application
Section 9. Submission of comments on permit applications
Section 10. Right to file written objections
Section 11. Informal conferences
Section 12. Public availability of the information in permit applications on file with the department
Section 14. Criteria for permit approval or denial
Section 18. Conditions of permits
Section 19. Department review of outstanding permits
Section 21. Permit renewals
Section 23. Administrative and judicial review

405 KAR 8:020E Coal exploration, in part, as follows:
Section 1. Exploration of less than 250 tons
Section 3. Public availability of information
Section 4. Compliance

405 KAR 8:030E Surface coal mining permits, in part, as follows:
Section 1. General
Section 3. Compliance information
Section 5. Relationship to areas designated unsuitable for mining
Section 6. Permit term information
Section 7. Personal injury and property damage insurance information
Section 8. Identification of other licenses and permits
Section 9. Identification of location of public office for filing of application
Section 10. Newspaper advertisement and proof of publication
Section 11. Environmental resources information
Section 12. General requirements for geology and hydrology
Section 14. Ground water information
Section 16. Alternative water supply information
Section 17. Climatological information
Section 18. Soil resources information
Section 19. Vegetation information
Section 20. Fish and wildlife resources information

Section 21. Prime farmland investigation
Section 22. Land use information
Section 26. MRP; blasting plan
Section 28. MRP; transportation facilities
Section 29. MRP; surface mining near underground mining
Section 30. MRP; protection of public parks and historic places
Section 31. MRP; protection of public roads
Section 32. MRP; protection of the hyudrologic balance
Section 33. MRP; diversions
Section 35. MRP; air pollution control
Section 38. MRP; transportation on public roads
405 KAR 8:040E Underground coal mining permits, in part, as follows:
Section 1. General
Section 3. Compliance information
Section 5. Relationship to areas designated unsuitable for mining
Section 6. Permit term information
Section 7. Personal injury and property damage
Section 8. Identification of other licenses and permits
Section 9. Identification of location of public office for filing of application
Section 10. Newspaper advertisement and proof of publication
Section 11. Evironmental resource information
Section 12. General requirements for geology and hydrology
Section 14. Ground water information
Section 16. Alternative water supply information
Section 17. Climatological information
Section 18. Soil resources information
Section 19. Vegetation information
Section 20. Fish and wildlife resources information
Section 21. Prime farmland investigation
Section 22. Land use information
Section 26. MRP; subsidence control
Section 27. MRP; return of coal processing waste to abandoned underground workings
Section 28. MRP; underground development waste
Section 29. MRP; transportation facilities
Section 30. MRP; protection of public parks and historic places
Section 31. MRP; relocation or use of public roads
Section 32. MRP; protection of hydrologic balance
Section 33. MRP; diversions
Section 35. MRP; air pollution control
Section 38. MRP; transportation on public roads
405 KAR 8:050E Permits for special categories of mining, in part, as follows:
Section 1. In site processing activities
Section 2. Augering
Section 4. Mountaintop removal mining
Section 5. Steep slope mining
Section 7. Variances for delay in contemporaneous reclamation requirement in combined surface and underground mining operations
Section 8. Coal processing plants or support facilities not located within the permit area or a specified mine
Chapter 10—Bond and Insurance Requirements, in part, as follows:
405 KAR 10:010E General requirements for performance bond and liability insurance, in part, as follows:
Section 1. Applicability
Section 3. Requirement to file a certificate of liability insurance
405 KAR 10:030E Form, terms and conditions of performance bonds and liability insurance, in part, as follows:
Section 1. Form of performance bond
Section 3. Escrow bonding
Section 5. Substitution of bonds
Section 6. Terms and conditions for liability insurance
405 KAR 10:050E Bond forfeiture, in part, as follows:
Section 1. General
Section 4. Determination of forfeiture amount
Chapter 12—Inspection and Enforcement, in part, as follows:
405 KAR 12:010E General provisions for inspection and enforcement, in part, as follows:
Section 1. Applicability
Section 2. Inspection and enforcement
Section 5. Penalties and sanctions
Section 6. Public participation
Section 7. Formal review
405 KAR 12:020E Enforcement, in part, as follows:
Section 1. General
Section 4. Service of notices and orders
Section 5. Suspension or revocation of permits and exploration approvals
Section 6. Informal public hearing at or near the minesite
Section 8. Inability to comply
405 KAR 12:030E Public participation in inspection and enforcement, in part, as follows:
Section 3. Citizen request for minesite access
Chapter 16—Performance Standards for Surface Mining Activities, in part, as follows:
405 KAR 16:010E General provisions, in part, as follows:
Section 1. Applicability
Section 2. Coal recovery
Section 3. Protection of underground mining
Section 4. Slide and erosion barriers
Section 5. Slides
Section 6. Permanent abandonment of operations
405 KAR 16:020E Contemporaneous reclamation, in its entirety
405 KAR 16:030E Signs and markers, in its entirety
405 KAR 16:040E Casing and sealing of drilled holes, in part, as follows:
Section 1. General requirements
Section 3. Permanent
405 KAR 16:050E Topsoil, in part, as follows:
Section 2. Removal
Section 3. Storage
Section 4. Redistribution
Section 5. Nutrients and soil amendments
405 KAR 16:060E General hydrologic requirements, in part, as follows:
Section 1. General requirements
Section 3. Discharge structures
Section 4. Acid-forming and toxic-forming spoil
Section 5. Ground water protection
Section 6. Protection of ground water recharge capacity
Section 7. Transfer of wells
Section 8. Water rights and replacement
Section 9. Discharge of water into an underground mine
Section 10. Postmining rehabilitation of sedimentation ponds, diversions, impoundments, and treatment facilities
Section 12. Discharges of accumulated water
405 KAR 16:080E Diversions, in its entirety
405 KAR 16:090E Sedimentation ponds, in part, as follows:
Section 1. General requirements
Section 2. Sediment storage volume
Section 3. Detention time
Section 4. Dewatering
405 KAR 16:100E Permanent and temporary impoundments, in its entirety
405 KAR 16:110E Surface and ground water monitoring
Section 2. Surface water
405 KAR 16:120E Use of explosives, in part, as follows:
Section 1. General requirements
Section 3. Public notice of blasting schedule
Section 5. Seismographic measurements
Section 6. Records of blasting operations
405 KAR 16:130E Disposal of excess spoil, in part, as follows:
Section 3. Rock core chimney drains
Section 5. Disposal on existing benches
405 KAR 16:140E Disposal of coal processing waste, in part, as follows:

Section 2. Site inspection
Section 3. Water control measures
Section 4. Construction requirements
Section 5. Burning coal waste
Section 6. Burned waste utilization
Section 7. Return to underground workings
405 KAR 16:150E Disposal of waste other than coal, soil, or rock, in its entirety
405 KAR 16:160E Coal processing waste dams and impoundments, in its entirety
405 KAR 16:180E Protection of fish and wildlife and related environmental values, in its entirety
405 KAR 16:190E Backfilling and grading, in part, as follows:
Section 1. General requirements
Section 3. Covering coal and acid- and toxic-forming materials
Section 4. Thin overburden
Section 5. Thick overburden
Section 6. Regarding or stabilizing rills and gullies
405 KAR 16:200E Revegetation, in part, as follows:
Section 3. Timing
Section 4. Mulching and other soil stabilizing practices
Section 5. Grazing
Section 8. Planting report
405 KAR 16:210E Postmining land use, in part, as follows:
Section 1. General
Section 3. Final release of bond from any affected area
Section 4. Alternate land use approval
405 KAR 16:220E Roads, in its entirety
405 KAR 16:250E Other facilities, in part, as follows:
Section 1. Other transportation facilities

Chapter 18—Performance standards for underground mining activites, in part, as follows:
405 KAR 18:010E General provisions, in part, as follows:
Section 1. Applicability
Section 2. Coal recovery
Section 3. Slides
Section 4. Permanent abandonment of operations
405 KAR 18:020E Contemporaneous reclamation, in its entirety
405 KAR 18:030E Signs and markers, in part, as follows:
Section 1. Specifications
Section 2. Duration of maintenance
Section 4. Perimeter markers
Section 5. Buffer zone markers
Section 6. Blasting signs
Section 7. Topsoil markers
405 KAR 18:040E Casing and sealing of underground openings, in its entirety
405 KAR 18:050E Topsoil, in part, as follows:
Section 1. General requirements
Section 2. Removal
Section 3. Storage
Section 4. Redistribution
Section 5. Nutrients and soil amendments
405 KAR 18:060E General hydrologic requirements, in part, as follows:
Section 1. General requirements
Section 3. Discharge structures
Section 4. Acid-forming and toxic-forming materials
Section 5. Underground mine entry and access discharges
Section 6. Transfer of wells
Section 8. Postmining rehabilitation of sedimentation ponds, diversions, impoundments and treatment facilities
405 KAR 18:080E Diversions, in its entirety
405 KAR 18:090E Sedimentation ponds, in part, as follows:
Section 2. Sediment storage volume
Section 3. Detention time
Section 4. Dewatering
405 KAR 18:100E Permanent and temporary impoundments, in its entirety
405 KAR 18:110E Surface and ground water monitoring, in part, as follows:
Section 2. Surface water
405 KAR 18:120E Use of explosives, in part, as follows:
Section 1. General requirements
Section 4. Seismographic measurements
Section 5. Records of blasting operations
405 KAR 18:130E Disposal of underground development waste and excess spoil, in part, as follows:
Section 3. Rock core chimney drains
Section 5. Disposal on existing benches
405 KAR 18:140E Disposal of coal processing waste, in its entirety
405 KAR 18:150E Disposal of waste other than coal, soil or rock, in its entirety
405 KAR 18:160E Coal processing waste dams and impoundments, in its entirety
405 KAR 18:180E Protection of fish and wildlife and related environmental values, in its entirety
405 KAR 18:190E Backfilling and grading, in its entirety
405 KAR 18:200E Revegetation, in part, as follows:
Section 3. Timing
Section 4. Mulching and other soil stabilizing practices
Section 5. Grazing
Section 8. Planting report
405 KAR 18:210E Subsidence control, in part, as follows:
Section 1. General requirements
Section 3. Surface owner protection
Section 4. Buffer zones
405 KAR 18:220E Postmining land use capability, in part, as follows:
Section 1. General
Section 3. Historic land use
405 KAR 18:230E Roads, in its entirety
405 KAR 18:260E Other facilities, in its entirety

Chapter 20—Special Performance Standards, in part, as follows:
405 KAR 20:010E Coal exploration, in its entirety
405 KAR 20:020E Concurrent surface and underground mining, in its entirety
405 KAR 20:040E Prime farmland (except to the extent crop production is required and to the extent there is no small area exemption for long-term surface facilities at underground mines). (See discussion of remanded and suspended regulations at "Background on State Program Approval Process.")
405 KAR 20:050E Mountaintop removal, in part, as follows:
Section 1. Performance standards
405 KAR 20:070E Offsite coal processing plants and support facilities, in part, as follows:
Section 1. Applicability
405 KAR 20:080E In situ processing, in its entirety

Chapter 24—Areas unsuitable for mining, in part, as follows:
405 KAR 24:020E Petition requirements, in its entirety
405 KAR 24:030E Process and criteria for designating lands unsuitable for surface mining operations, in part, as follows:
Section 1. General
Section 2. Lands exempt from designation
Section 3. Initial processing of permits
Section 5. Data base and inventory system
Section 7. Hearing requirements
Section 8. Criteria and decision
Section 9. Map
405 KAR 24:040E Permit application review, in part, as follows:
Section 1. General
Section 3. Assistance review
Section 4. Valid existing rights
Section 5. Exploration on land designated as unsuitable for surface coal mining and reclamation operations
Section 6. Lands designated unsuitable

4. The following sections of the program narrative:
731.14(b) Copies of other laws
731.14(d) Legal designation of one State agency as the regulatory authority
731.14e) Description of organizational structure of the regulatory authority

731.14(f) Supporting agreements among agencies. The Secretary notes that the Department for Natural Resources and Environmental Protection has elected to perform all duties in the program with its own staff and memoranda of agreement are not necessary
731.14(g)(2) Assessing fees for permit applications
731.14(g)(6) Administering and enforcing the permanent program performance standards
731.14(g)(9) Coordinating issuance of permits with other State, Federal and local agencies
731.14(g)(10) Consulting with State and Federal Agencies having responsibility for the protection or management of fish and wildlife and related environmental values and historic, cultural and archaeological resources
731.14(g)(11) Designating lands as unsuitable for surface coal mining operations
731.14(g)(13) Training, examining and certifying blasters to the extent that the State has authority to promulgate rules after Federal rules are promulgated
731.14(g)(16) Providing a small operator assistance program
731.14(h) Statistical information describing coal exploration and surface coal mining and reclamation operations in the State
731.14(k) An explanation of projected use of professional and technical personnel that are available to the regulatory authority from other agencies. The Secretary recognizes that all duties are to be performed with DNREP staff
731.14(o) Description of other programs administered by the regulatory authority
731.14(p) Other information required by the Director

B. The following parts of the Kentucky program are disapproved:

1. The following sections of KRS 350:
350.010 Definitions
350.028 Powers of department
350.032 Enforcement of subpoenas—judicial review of final orders
350.060 Permit—Application—Map—Transportation plan—Statement of consent—Fee—Bond—Mining two acres or less—Permit renewal
350.062 (Untitled)
350.085 Denial of permits and operations—Deletion of land areas
350.130 Notice of noncompliance, suspension or revocation of permit or operation—Hearing—Bond forfeiture—Denial of future permit or operations
350.250 Citizen's complaints of violation—Mandamus against officers
350.440 Placement of excess spoil
350.450 Prime farmland—Mountaintop removal—Variance upon written request of surface owner—Small operator exemption—Technical assistance for small operators—Release of portion of bond
350.465 Permanent regulatory program
350.990 Penalties

2. The following sections of Kentucky regulations in 405 KAR are disapproved:

Chapter 7—General Provisions for Title 405, Chapters 8 through 24, in part, as follows:
405 KAR 7:020E Definitions and abbreviations, in part, as follows:
Section 1. Definitions, in part, as follows:
(56) Highwall
(57) Historic lands
(58) Historically used for cropland
(64) In situ processes
(89) Person
(90) Person having interest which is or may be adversely affected or person with a valid legal interest
(92) Precipitation event
(96) Probable hydrologic consequences
(116) Self-bond
405 KAR 7:030E Applicability, in its entirety
405 KAR 7:040E General obligations of operators and permittees, in part, as follows:
Section 5. Existing structures on areas sought to be permitted
405 KAR 7:060E Experimental practices mining, in part, as follows:
Section 2. Approval procedures
405 KAR 7:080E Small operator assistance, in part, as follows:
Section 5. Eligibility for assistance
Section 8. Data requirements
405 KAR 7:090E Hearings, in its entirety

Chapter 8—Permits, in part, as follows:
405 KAR 8:010E General provisions for permits, in part, as follows:
Section 5. General format and content of applications
Section 8. Public notice of filing of permit applications
Section 13 Department review of permit applications
Section 15 Criteria for permit approval or denial regarding existing structures
Section 16. Permit approval or denial actions
Section 17. Term of permit
Section 20. Permit revisions
Section 22. Transfer, assignment, or sale of permit rights
405 KAR 8:020E Coal exploration, in part, as follows:
Section 2. Exploration of more than 250 tons
405 KAR 8:030E Surface coal mining permits, in part, as follows:
Section 2. Identification of interests
Section 4. Right of entry and right to surface mine
Section 13. Geology information
Section 15 Surface water information
Section 23. Maps and drawings
Section 24. Mining and reclamation plan (MRP); general requirements
Section 25. MRP; existing structures
Section 27. MRP; disposal of excess spoil
Section 34. MRP; impoundments and embankments
Section 36. MRP; fish and wildlife to the extent that a fish and wildlife plan is required. (For discussion of remanded and suspended regulations refer to "Background on State Program Approval Process.")
Section 37. MRP; postmining land use
405 KAR 8:040E Underground coal mining permits, in part, as follows:
Section 2. Identification of interests
Section 4. Right of entry and right to mine
Section 13. Geology information
Section 15. Surface water information
Section 23. Maps and drawings
Section 24. Mining and reclamation plan (MRP); general requirements
Section 25. MRP; existing structures
Section 34. MRP; impoundments and embankments
Section 36. MRP; fish and wildlife to the extent that a fish and wildlife plan is required. (For discussion of remanded and suspended regulations refer to "Background on State Program Approval Process.")
Section 37. MRP; postmining land use
405 KAR 8:050E Permits for special categories of mining, in part, as follows:
Section 3. Prime farmlands
Section 6. Variances from approximate original contour restoration requirements for steep slope mining

Chapter 10—Bond and Insurance Requirements, in part, as follows:
405 KAR 10:010E General requirements for performance bond and liability insurance, in part, as follows:
Section 2. Requirement to file bond
405 KAR 10:020E Amount and duration of performance bond, in its entirety
405 KAR 10:030E Form, terms and conditions of performance bonds and liability insurance, in part, as follows:
Section 2. Terms and conditions of performance bond
Section 4. Self bonding
405 KAR 10:040E Procedures, criteria and schedule for release of performance bond, in its entirety

405 KAR 10:050E Bond forfeiture
Section 2. Procedures
Section 3. Criteria for forfeiture
405 KAR 10:060E Bonding requirements for long term facilities and structures, in its entirety
Chapter 12—Inspection and Enforcement, in part, as follows:
405 KAR 12:010E General provisions for inspection and enforcement, in part, as follows:
Section 3. Timing and conduct of inspections
Section 4. Record of inspection
Section 8. Review of discretionary actions
405 KAR 12:020E Enforcement, in part, as follows:
Section 2. Notice of noncompliance and order for remedial measures
Section 3. Subsequent order for cessation and immediate compliance
Section 7. Orders to abate and alleviate
405 KAR 12:030E Public participation in inspection and enforcement, in part, as follows:
Section 1. Citizen requests for inspection
Section 2. Review of decision not to inspect or enforce
Chapter 16—Performance Standards for Surface Mining Activities, in part, as follows:
405 KAR 16:010E General provisions, in part, as follows:
Section 7. Temporary cessation of operations
405 KAR 16:040E Casing and sealing of drilled holes, in part, as follows:
Section 2. Temporary
405 KAR 16:050E Topsoil, in part, as follows:
Section 1. General requirements
405 KAR 16:060E General hydrologic requirements, in part, as follows:
Section 2. Sediment control measures
Section 11. Stream buffer zones
405 KAR 16:070E Water quality standards and effluent limitations, in its entirety
405 KAR 16:090E Sedimentation ponds, in part, as follows:
Section 5. Other requirements
405 KAR 16:110E Surface and groundwater monitoring, in part, as follows:
Section 1. Ground water
405 KAR 16:120E Use of explosives, in part, as follows:
Section 2. Pre-blasting survey
Section 4. Surface blasting requirements
405 KAR 16:130E Disposal of excess spoil, in part, as follows:
Section 1. General requirements
Section 2. Valley fills and head of hollow fills
Section 4. Hard rock spoil
405 KAR 16:140E Disposal of coal processing waste, in part, as follows:
Section 1. General requirements
405 KAR 16:170E Air resources protection to the extent it regulates air quality beyond that relating to erosion. (For discussion of remanded and suspended regulations refer to "Background on State Program Approval Process.")
405 KAR 16:190E Backfilling and grading, in part, as follows:
Section 2. General grading requirements
405 KAR 16:200E Revegetation, in part, as follows:
Section 1. General requirements
Section 2. Use of introduced species
Section 6. Standards for success
Section 7. Tree and shrub stocking for forest
405 KAR 16:210E Postmining land use, in part, as follows:
Section 2. Determining premining use of land
405 KAR 16:250E Other facilities, in part, as follows:
Section 2. Support facilities and utility installation
Chapter 18—Performance Standards for Underground Mining Activities, in part, as follows:
405 KAR 18:010E General provisions, in part, as follows:
Section 5. Temporary cessation of operations
405 KAR 18:030E Signs and markers, in part, as follows:
Section 3. Mine and permit identification signs.
405 KAR 18:050E Topsoil, in part, as follows:
Section 6. Extended Storage
405 KAR 18:060E General hydrologic requirements, in part, as follows:
Section 2. Sediment control measures
Section 7. Discharge of water into an underground mine
Section 9. Stream buffer zones
405 KAR 18:070E Water quality standards and effluent limitations, in its entirety
405 KAR 18:090E Sedimentation ponds, in part, as follows:
Section 1. General Requirements
Section 5. Other requirements
405 KAR 18:110E Surface and groundwater monitoring, in part, as follows:
Section 1. Ground water
405 KAR 18:120E Use of explosives, in part, as follows:
Section 2. Preblasting survey
Section 3. Surface blasting requirements
405 KAR 18:130E Disposal of underground development waste and excess spoil, in part, as follows:
Section 1. General requirements
Section 2. Valley fills and head of hollow fills
Section 4. Hard Rock spoil
405 KAR 18:170E Air resources protection to the extent that it regulates air quality beyond that relating to erosion. (For discussion of remanded and suspended regulations refer to "Background on State Program Approval Process.")
405 KAR 18:200E Revegetation, in part, as follows:
Section 1. General requirements
Section 2. Use of introduced species
Section 6. Standards for success
Section 7. Tree and shrub stocking for forest land
405 KAR 18:210E Subsidence control, in part, as follows:
Section 2. Public notice
405 KAR 18:220E Postmining land use capability
Section 2. Comparing premining and postmining land use
Section 4. Alternative postmining land use
Chapter 20—Special Performance Standards, in part, as follows:
405 KAR 20:030E Auger mining, in its entirety
405 KAR 20:040E Prime farmland to the extent crop production is required and to the extent that there is not a small area exemption for long term surface facilities at underground mines (See discussion of remanded and suspended regulations under "Background on State Program Approval Process.")
405 KAR 20:060E Steep slopes, in its entirety
405 KAR 20:070E Offsite coal processing plants and support facilities, in prat, as follows:
Section 2. Performance standards
Chapter 24—Areas Unsuitable for Mining, in part, as follows:
405 KAR 24:030E Process and criteria for designating lands unsuitable for surface mining operations, in part, as follows:
Section 4. Notification and request for information
Section 6. Public information
Section 8. Criteria and decision
405 KAR 24:040E Permit application review, in part, as follows:
Section 2. Permit application review
3. The following descriptive elements of the program submission:
731.14(c) Legal opinion from the Attorney General
731.14(g)(1) Narrative description for receiving notices of intention to

explore and reviewing permits for surface coal mining operations
731.14(g)(3) Implementing, administering and enforcing a system of performance bonds
731.14(g)(4) Inspecting and monitoring coal exploration and surface coal mining and reclamations, including provisions for public participation in the process
731.14(g)(5) Enforcing the administrative, civil and criminal sanctions
731.14(g)(7) Assessing and collecting civil penalties
731.14(g)(8) Issuing public notices and holding public hearings
731.14(g)(12) Monitoring, reviewing and enforcing restrictions against direct and indirect financial interest
731.14(g)(14) Providing for the public participation in the development, revision and enforcement of State regulations, the State program and permits issued under the State program
731.14(g)(15) Providing administrative and judicial review
731.14(i) A summary table of the existing and proposed State program staff
731.14(j) A description of how the staffing proposed for the state program will be adequate
731.14(l) A description of the actual capital and operating budget
731.14(m) A description of the existing and proposed physical resources

In accordance with the May 16, 1980, court order, the Secretary must affirmatively disapprove State program sections equivalent to remanded or suspended Federal regulations as discussed above under "Background on State Program Approval Process". In the June 12, 1980, revised submission Kentucky deleted many of the remanded requirements. The following provisions of the State program which are based on remanded requirements are affirmatively disapproved in accordance with the May 16, 1980, court order:

1. 405 KAR 7:090E Section 4 and 405 KAR 10:040E Section 1 are disapproved insofar as they do not provide for citizen access to the minesite for performance bond release if an informal conference is held.

A letter from DNREP advised OSM that 405 KAR 7:090E Section 4 concerning informal conferences is not the optional "informal conference" established by 30 CFR 807.11(e) and should not be affirmatively disapproved. (See Administrative Record No. KY-281.)

The Secretary finds nothing in the Kentucy regulations which indicates that the informal conference described in 405 KAR 7:090E does not apply to bond releases. 405 KAR 10:040E Section 1(3) on bond releases contains a direct reference to 405 KAR 7:090E for hearing procedures. The hearing requirements appear to allow for an informal conference similar to 30 CFR 807.11(e). Further, the State narrative for bonding systems refers to an informal conference and 405 KAR 7:090E is the only regulation pertaining to informal conferences. The State program must clearly demonstrate that there is no informal conference for bond release before the Secretary could approve 405 KAR 7:090E Section 4.

2. 405 KAR 20:040E Section 5 is disapproved to the extent that it requires crop production on prime farmland.

3. 405 KAR 20:040E is disapproved to the extent that it does not provide for an exemption from prime farmland requirements for surface facilities at underground mines actively used over extended periods but which affect a minimal amount of land.

4. 405 KAR 16:070E and 18:070E to the extent that they regulate air quality beyond that relating to erosion.

5. 405 KAR 8:030E Section 36 and 8:040E Section 36 which require a fish and wildlife plan.

6. 405 KAR 16:070E and 18:070E to the extent that they require runoff from reclaimed lands to meet the same effluent limitations as those for actively mined areas.

Effect of This Action

Partical approval and partial disapproval means that Kentucky is not now eligible to assume primary jurisdiction to implement the permanent program pursuant to SMCRA. Kentucky may submit additions or revisions to its program to correct the disapproved parts within 60 days from the date of this **Federal Register** notice. (by December 22, 1980).

If the disapproved parts of the programs are not revised within 60 days, the Secretary will take the appropriate steps to promulgate and implement a Federal program for the State of Kentucky. If the disapproved parts of the program are revised and resubmitted within the 60-day limit, the Secretary will have an additional 60 days to review the revised program, solicit comments from the public, the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies and to approve, disapprove, or conditionally approve the final Kentucky program submission.

This approval in part and disapproval in part relates only to the permanent regulatory program under Title V of SMCRA. This decision does not constitute any type of action on the implementation of Title IV of SMCRA, the Abandoned Mine Lands Reclamation Program. In accordance with 30 CFR Part 884 (State Reclamation Plans), Kentucky may submit a State abandoned mine land (AML) reclamation plan at any time. Final approval of an AML plan, however, cannot be given by the Director of OSM until Kentucky has an approved permanent regulatory program.

There are no coal bearing Indian lands in Kentucky. Coal development is anticipated on Federal lands in the State, and these will be governed by 30 CFR Part 211 until such time as a State regulatory program is approved. After the implementation of a State regulatory program, the Federal lands program will be governed by 30 CFR Part 740.

The Secretary intends not to promulgate rules in 30 CFR Part 917 until the Kentucky program has been either finally approved or disapproved following opportunity for resubmission.

Additional Findings

The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 USC 1292(d), no environmental impact statement will be prepared on this disapproval.

The Secretary has determined that this document is not a significant rule under E.O. 12044 or 43 CFR Part 14, and no regulatory analysis is being prepared.

Dated: October 16, 1980.

Joan M. Davenport,

Assistant Secretary of the Interior.

[FR Doc. 80-32872 Filed 10-21-80; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 938

Disapproval of the Permanent Program Submission From the Commonwealth of Pennsylvania Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Proposed rules; disapproval of Pennsylvania's permanent regulatory program.

SUMMARY: On February 29, 1980, the Commonwealth of Pennsylvania submitted to the Department of the Interior its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of the submission is to demonstrate the

Commonwealth's intent and the capability to administer and enforce the provisions of SMCRA and the permanent regulatory program regulations, 30 CFR Chapter VII.

After providing opportunities for public comment and a thorough review of the program submission, the Secretary of the Interior has determined that the Pennsylvania program does not have enacted laws and regulations which meet the requirements of SMCRA and the federal permanent program regulations. Accordingly, the Secretary of the Interior has disapproved the Pennsylvania program in whole. The Commonwealth of Pennsylvania has sixty days within which to correct the deficiencies in its proposed permanent regulatory program. Until its permanent regulatory program is approved or a federal program is implemented, the interim program will remain in effect in Pennsylvania.

DATE: The Commonwealth of Pennsylvania has until December 22, 1980, to submit a revised program for the Secretary's consideration.

FOR FURTHER INFORMATION CONTACT: Mr. Carl C. Close, Assistant Director, Division of State and Federal Programs, 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) 343–4225.

ADDRESSES: Copies of the Pennsylvania program and the administrative record on the Pennsylvania program are available for public inspection and copying during regular business hours at:

Pennsylvania Department of Environmental Resources, Fulton Bank Building, Tenth Floor, Third and Locust Streets, Harrisburg, Pennsylvania 17120, Telephone: (717) 787–4686.

Office of Surface Mining, Region I, 950 Kanawha Blvd., East, Charleston, West Virginia 25301, Telephone: (304) 344–2331.

Office of Surface Mining, Room 153, Interior South Building, 1951 Constitution Avenue, Washington, D.C. 20240, Telephone: (202) 343–4728.

Copies of the full text of the proposed program with modifications are also available for inspection and copying during regular business hours at the following locations:

Office of Surface Mining, Region I Office, 950 Kanawha Blvd., East, Charleston, WV 25301, Phone: (304) 342–8125.

Office of Surface Mining, Johnstown District Office, Penn Traffic Bldg., 3rd Floor, 319 Washington Street, Johnstown, PA 15901, Phone: (814) 533–4223.

Office of Surface Mining, DuBois Field Office, 107 N. Brady Street, P.O. Box 647, DuBois, PA 15801, Phone: (814) 371–1240.

Office of Surface Mining, Somerset Field Office, 651 S. Central Avenue, Morocco Building, Somerset, PA 15501, Phone: (814) 443–4844.

Office of Surface Mining, Wilkes Barre District Office, 20 N. Pennsylvania Avenue, Room 3107, Wilkes Barre, PA 18701, Phone: (717) 823–0563.

Office of Surface Mining, Clarion Field Office, Clarion State College, Clarion, PA 16214, Phone: (814) 226–4230.

Office of Surface Mining, Indiana Field Office, North 8th & Waters Streets, P.O. Box 185, Indiana, PA 15701, Phone: (412) 463–0216.

Office of Surface Mining, Washington Field Office, 75 East Maiden Street, Washington, PA 15301, Phone: (412) 228–4710.

Office of Surface Mining, Clearfield Field Office, Multi-Service Center, 950 Leonard Street, Clearfield, PA 16830, Phone: (814) 765–1503

Department of Environmental Resources, Williamsport Regional Office, 736 West Fourth Street, Williamsport, PA 17701, Phone: (717) 326–2681

Department of Environmental Resources, Meadville Regional Office, 1012 Water Street, Meadville, PA 16335, Phone: (814) 724–8557

Department of Environmental Resources, Wernersville Regional Office, State Hospital Bldg. 10, Wernersville, PA 19565, Phone: (215) 670–0301

Department of Environmental Resources, Hawk Run Water District Office, Hawk Run Treatment Plant, Hawk Run, PA 16840, Phone: (814) 342–5399

Department of Environmental Resources, Ebensburg District Office, The Prave Building, 122 S. Center Street, Ebensburg, PA 15931, Phone: (814) 472–6344

Department of Environmental Resources, Knox District Office, White Memorial Bldg., Knox, PA 16232, Phone: (814) 797–1191

Department of Environmental Resources, 10th Floor, Fulton Bank Bldg., Third & Locust Streets, Harrisburg, PA 17120, Phone: (717) 787–4686

Department of Environmental Resources, Pittsburgh Regional Office, The Kosman Building, Pittsburgh, PA 15222, Phone: (412) 565–5023

Department of Environmental Resources, Wilkes Barre/Kingston Regional Office, 90 East Union St., 2nd Floor, Wilkes Barre, PA 18701, Phone: (717) 826–2511

Department of Environmental Resources, Harrisburg Regional Office, 407 South Cameron Street, Harrisburg, PA 17101, Phone: (717) 783–2818

Department of Environmental Resources, Norristown Regional Office, 1875 New Hope Street, Norristown, PA 19401, Phone: (215) 631–2402

Department of Environmental Resources, Pottsville District Office, Motor Contracts Building, 108 S. Claude A Lord Blvd., Pottsville, PA 17901, Phone: (717) 622–8181

Department of Environmental Resources, Greensburg District Office, Armbrust Professional Bldg., R.D. #2, Greenburg, PA 15601, Phone: (412) 925–8115

SUPPLEMENTARY INFORMATION:

Introduction

This notice is organized to assist understanding of the findings underlying the Secretary's decision. It is divided into seven major parts:

A. General Background on the Permanent Program
B. General Background on the State Program Approval Process
C. General Background on the Pennsylvania Program
D. Secretary's Findings and Explanation
E. Disposition of Public Comments
F. The Secretary's Decision
G. Additional Findings

Part A sets forth the statutory and regulatory framework of the environmenal protection regulatory scheme under Surface Mining Control and Reclamation Act of 1977 (SMCRA).

Part B sets forth the general statutory and regulatory scheme applicable to all states which wish to obtain primary jurisdiction to implement the permanent program on non-Indian and non-Federal lands within their borders.

Part C summarizes the steps undertaken by Pennsylvania and officials of the Department of the Interior, beginning with Pennsylvania's program submission and leading to the decision being announced today.

Part D contains the findings the Secretary has made and the reasons for them.

Part E summarizes the significant public comments received on the Pennsylvania progam during the public comment period and discusses the Secretary's disposition of them.

Part F identifies those parts of the Pennsylvania program which have been disapproved. Procedures Pennsylvania

may follow to correct the dificiencies are presented and the effect of the decision is discussed.

Part G summarizes the Secretary's findings with regard to regulatory analysis and environmental impact of the decision.

A. General Background on the Permanent Program

The environmental protection provisions of SMCRA are being implemented in two phases—the initial program and the permanent program—in accordance with Sections 501–503 of SMCRA, 30 USC 1251–1253. The initial program has been in effect since December 13, 1977, when the Secretary of the Interior promulgated interim program rules, 30 CFR Parts 710–725 and 795, 42 FR 62639 *et seq.*

The permanent program will become effective in each state upon the approval of a state program by the Secretary of the Interior or implementation of a federal program within the state. If a state program is approved, the state, rather than the Federal government, will be the primary regulator of activities subject to SMCRA.

The federal regulations for the permanent program, including procedures for states to follow in submitting state programs and minimum standards and procedures the state programs must include to be eligible for approval, are found in 30 CFR Parts 700 and 730–865. Part 705 was published October 20, 1977 (42 FR 56064), Parts 795 and 865 (originally Part 860) were published December 13, 1977 (42 FR 62639). The other permanent program regulations were published at 44 FR 15312–15463 (March 13, 1979). Errata notices were published at 44 FR 15485 (March 14, 1979), 44 FR 49673–49687 (August 24, 1979), 44 FR 53507–53509 (September 14, 1979), 44 FR 66195 (November 19, 1979), 45 FR 26001 (April 16, 1980), 45 FR 37818 (June 5, 1980) and 45 FR 47424 (July 15, 1980). Amendments to the regulations have been published at 44 FR 60969 (October 22, 1979), as corrected at 44 FR 75143 (December 19, 1979), 44 FR 75302–75303 (December 19, 1979), 44 FR 77440–77447 (December 31, 1979), 45 FR 2626–2629 (January 11, 1980), 45 FR 25998–26001 (April 16, 1980), 45 FR 33926–33927 (May 20, 1980), 45 FR 39446–39447 (June 10, 1980), and 45 FR 52306–52324 (August 6, 1980). Portions of these regulations have been suspended pending further rulemaking. See 44 FR 67942 (November 27, 1979), 44 FR 77447–77455 (December 31, 1979), 45 FR 6913 (January 30, 1980), and 45 FR 51547–51550 (August 4, 1980).

B. General Background on State Program Approval Process

Any state wishing to assume primary jurisdiction for the regulation of coal mining under SMCRA may submit a program for consideration. The Secretary of the Interior has the responsibility to approve or disapprove the submission.

The federal regulations governing state program submissions are found at 30 CFR Parts 730–732. After review of the submission by OSM and other agencies, an opportunity for the state to make additions or modifications to the program, and an opportunity for public comment, the Secretary may approve the program, approve it conditioned upon minor deficiencies being corrected in accordance with a specified timetable set by the Secretary, or disapprove the program in whole or in part. If any part of the program is disapproved, the state may submit a revision of the program to correct the items which need to be changed to meet the requirements of SMCRA and the applicable federal regulations. If the revised program is also disapproved, SMCRA requires the Secretary of the Interior to establish a federal program in that state. The state may again request approval to assume primary jurisdiction after the federal program has been implemented.

Different criteria apply to various elements of a state program for the purpose of determining whether they can be approved by the Secretary. There are three categories of potential program elements, each with its own standard of review, as follows:

1. "State window" proposals—Pursuant to 30 CFR 731.13, a state proposed alternative to a provision of the Secretary's regulations must be in accordance with SMCRA and consistent with the Secretary's regulations. Under 30 CFR 730.5, "in accordance with" SMCRA means that the state alternative meets the minimum requirements, and includes all applicable provisions of SMCRA, while "consistent with" the Secretary's regulations means that the state proposal is no less stringent than, and meets the applicable provisions of 30 CFR Chapter VII.

2. Regulations for Inspection and Enforcement—As required by Section 518 of SMCRA, the civil and criminal penalty provisions of a state program must be no less stringent than the requirements of Section 518 and must be consistent with the federal regulations in 30 CFR Part 845 (see item 1 above for meaning of "consistent with"). However, a recent court decision (Civil Action No. 79–1144) has held that states cannot be required to establish a penalty point system like that in Part 845. Under Section 521 of SMCRA, the enforcement sanctions of a state program must also be no less stringent than those in Section 521 and must be consistent with 30 CFR Part 808 and Subchapter G (Permit Systems). State regulations which establish the procedural requirements related to civil and criminal penalties and enforcement sanctions must be the same as or similar to the procedures in Sections 518 and 521 of SMCRA and must be consistent with 30 CFR Parts 808, 843, 845 and Subchapter G.

3. Other State Program Elements—If a state provision is neither a state window alternative nor a procedure or sanction related to inspection and enforcement, then the standard to be applied in evaluating each element is whether the state provision is consistent with the corresponding provision of the federal regulations or in accordance with the relevant section of SMCRA, as set forth in 30 CFR 732.15(b) for each of the sixteen state program requirements.

State programs must contain provisions which regulate coal mining in accordance with the requirements of SMCRA and consistent with the Secretary's regulations. The requirements under SMCRA and 30 CFR Chapter VII for special bituminous coal mines in Wyoming are inapplicable in Pennsylvania.

The procedure and timetable for the Secretary's review of state programs were initially published March 13, 1979 (44 FR 15326), and codified at 30 CFR Part 732.

As a result of litigation in the U.S. District Court for the District of Columbia, the deadline for states to submit proposed programs was extended from August 3, 1979, to March 3, 1980. 30 CFR 732.11(d) required that if all required and fully enacted laws and regulations were not part of the program by November 15, 1979, the program would be disapproved. Because the submission deadline had been changed to March 3, 1980, 30 CFR 732.11(d) was amended to provide that program submissions that do not contain all required and fully enacted laws and regulations by the 104th day following program submission will be disapproved pursuant to the procedures for the Secretary's initial decision in § 732.13 (45 FR 33927, May 20, 1980). The Pennsylvania program was submitted to OSM on February 29, 1980, and the 104th day after submission was June 12, 1980.

The Secretary, in reviewing state programs, is applying the criteria of Section 503 of SMCRA (30 U.S.C. 1253) and 30 CFR 732.15. In reviewing the Pennsylvania program, the Secretary

has followed the federal regulations as cited above under "General Background on the Permanent Program," and as affected by three recent decisions of the U.S. District Court for the District of Columbia in *In Re: Permanent Surface Mining Regulation Litigation* (Civil Action No. 79–1144).

Because of the complex litigation, the court issued its initial decision in two "rounds." The Round I opinion, dated February 26, 1980, denied several generic attacks on the permanent program regulations, but resulted in suspension or remanding of all or part of twenty-two specific regulations. The Round II opinion, dated May 16, 1980, denied additional generic attacks on the regulations, but remanded some forty additional parts, sections or subsections of the regulations. The court also ordered the Secretary to "affirmatively disapprove, under Section 503 of SMCRA, those segments of a state program that incorporate a suspended or remanded regulation" (Mem. Op., May 16, 1980, p. 49). However, on August 15, 1980, the court stayed this portion of its opinion. The effect of this stay is to allow the Secretary, when requested by a State, to approve state program provisions in the three circumstances described in paragraph one below.

Therefore, the Secretary is applying the following standards to the review of state program submissions:

1. The Secretary need not affirmatively disapprove state provisions similar to those federal regulations which have been suspended or remanded by the District Court where the State has adopted such provisions in a rulemaking or legislative proceeding which occurred either (1) before the enactment of SMCRA or (2) after the date of the Round II District Court decision, since such state regulations clearly are not based solely upon the suspended or remanded federal regulations. (3) The Secretary need not affirmatively disapprove provisions based upon suspended or remanded Federal rules if a responsible State official has requested the Secretary to approve them.

2. The Secretary will affirmatively disapprove, to the extent required by the court's decision all provisions of a state program which incorporate suspended or remanded Federal rules and which do not fall into one of the three categories in paragraph one, above. The Secretary believes that the effect of his "affirmative disapproval" of a section in the state's regulations is that the requirements of that section are not enforceable in the permanent program at the federal level to the extent they have been disapproved. That is, no cause of action for enforcement of the provisions, to the extent disapproved, exists in the federal courts, and no federal inspection will result in notices of violation or cessation orders based upon the "affirmatively disapproved" provisions. The Secretary takes no position as to whether the affirmatively disapproved provisions are enforceable under state law and in state courts. Accordingly, these provisions are not being pre-empted or suspended, although the Secretary may have the power to do so under Section 504(g) of SMCRA and 30 CFR 730.11.

3. A state program need not contain provisions to implement a suspended regulation and no state program will be disapproved for failure to contain a suspended regulation. Nonetheless, a state must have the authority to implement all permanent program provisions of SMCRA upon which the Secretary bases the remanded or suspended regulations, including any provision of which a suspended or remanded regulation was based.

4. A state program may not contain any provision that is inconsistent with a provision of SMCRA.

5. Programs will be evaluated only as to those provisions other than the provisions that must be disapproved because of the court's order. The remaining provisions will be unconditionally approved, conditionally approved or disapproved, in whole or in part in accordance with 30 CFR 732.13.

6. Upon promulgation of new regulations to replace those that have been suspended or remanded, the Secretary will afford states that have approved or conditionally approved programs a reasonable opportunity to amend their programs, as appropriate. In general, the Secretary expects that the provisions of 30 CFR 732.17 will govern this process.

The regulations suspended or remanded as the result of the Round I and Round II litigation were published in the **Federal Register** on July 7, 1980 (45 FR 45604).

To codify decisions on state programs, federal programs, and other matters affecting individual states, OSM has established Subchapter T of 30 CFR Chapter VII. Subchapter T will consist of Parts 900 through 950.

Provisions relating to Pennsylvania will be found at 30 CFR Part 938 once Pennsylvania's resubmission has been approved or finally disapproved after opportunity for resubmission, or if Pennsylvania does not resubmit its program within sixty days.

C. General Background on the Pennsylvania Program Submission

On February 29, 1980, OSM received a proposed regulatory program from the Commonwealth of Pennsylvania. The program was submitted by the Pennsylvania Department of Environmental Resources, the agency which will be the primary regulatory authority under the Pennsylvania permanent program. Notice of receipt of the submission initiating the program review was published in the March 11, 1980, **Federal Register** (45 FR 15575–15576) and in newspapers of general circulation within the State (Administrative Record No. PA 1). The announcement invited public participation in the initial phase of the review process as it related to the regional director's determination of whether the submission was complete.

On April 10, 1980, a public review meeting on the Pennsylvania program and its completeness was held by the regional director in Indiana, Pennsylvania. The public comment period on completeness, which had begun March 11, 1980, closed on April 11, 1980.

On April 28, 1980, the regional director published notice in the **Federal Register** (45 FR 28165–28167) announcing that the program had been determined to be incomplete (Administrative Record No. PA 80). The notice specified the elements of the Pennsylvania program submission which were missing.

On June 9, 1980, the Pennsylvania Department of Environmental Resources submitted an amendment to its program submission containing amended Senate Bills 989 (Coal Refuse Disposal Control Act), 990 (Surface Mining Conservation and Reclamation Act), 991 (The Bituminous Mine Subsidence and Land Conservation Act), and 992 (The Clean Stream Law). All of these amended bills consist of proposed amendments to existing statutes. None of these bills have been enacted. None of the missing elements identified in the April 28, 1980, Federal Register notice have been submitted.

On June 20, 1980, the regional director published a notice in the **Federal Register** (45 FR 41656–41659) and in newspapers of general circulation within the Commonwealth that the revised Pennsylvania permanent program submission was available for public review and comment (Administrative Record No. PA 118). The notice set forth procedures for public hearings and comment period on the adequacy of the Pennsylvania program.

On July 11, 1980, public comment was invited on a tentative list of those parts

of the Pennsylvania program which might have to be disapproved under the district Court's May 16, 1980, order mentioned above, because they appeared based on suspended or remanded federal regulations (45 FR 46820–46826).

On July 14 and 15, 1980, the regional director held public hearings on the adequacy of the Pennsylvania submission in Indiana and Harrisburg, Pennsylvania, respectively. The public comment period on the adequacy of the Pennsylvania permanent regulatory program closed on July 21, 1980.

On August 2, 1980, the regional director submitted to the Director of OSM his recommendation that the Pennsylvania program be disapproved in whole, together with copies of the transcript of the public meeting and the pubic hearings, written presentations, exhibits, copies of all public comments received and other documents comprising the Administrative Record.

On August 11, 1980, OSM published in the **Federal Register** a notice of the availability of the comments on the Pennsylvania program submitted by the Environmental Protection Agency, the Soil Conservation Service, the U.S. Forest Service, the U.S. Fish and Wildlife Service, the Science and Education Administration, the U.S. Bureau of Mines, the Mine Safety and Health Administration, the Bureau of Land Management, the Appalachian Regional Commission, the Department of Energy, the National Park Service, the U.S. Army Corps of Engineers, and the Great Lakes Basin Commission (45 FR 53182).

On August 15, 1980, OSM held a public meeting in Harrisburg, Pennsylvania, to discuss the anthracite provisions of the Pennsylvania program. The public comment period on the anthracite provisions of the program was reopened until September 2, 1980 (45 FR 54372).

On September 4, 1980, the Director recommended to the Secretary that the Pennsylvania program be disapproved in whole.

The Secretary's decision to disapprove the Pennsylvania program in whole was conveyed in a letter to Governor Thornburgh on October 8, 1980 (Administrative Record No. PA 184), and in a letter to Secretary Clifford Jones, Department of Environmental Resources, on October 8, 1980 (Administrative Record No. PA 185).

Throughout the period beginning with the submission of the program, OSM has had frequent contacts with the staff of the Department of Environmental Resources. Discussions of the state program submission were held with various officials. Minutes or notes of the discussons were placed in the Administrative Record and made available for public review and comment. After the public comment period closed, no discussions were held at which new information was presented which might have influenced this decision.

All contacts between officials and staff of the Department of the Interior and the Commonwealth of Pennsylvania were conducted in accordance with the Departments guidelines for such contacts published September 19, 1979 (44 FR 54444–54445).

D. Secretary's Findings and Explanation

The discussion in this part is based on a review of the Pennsylvania program as submitted February 29, 1980, and amended June 9, 1980. The program submission includes enacted laws and regulations and various proposed amendments to those laws.

In the February 26, 1980, program transmittal letter (Administrative Record No. PA 1), Secretary Clifford Jones, Department of Environmental Resources, noted that,

> Since the law changes and the revised regulations will be perhaps the most significant factors in determining whether Pennsylvania qualifies for primacy, we believe that a meaningful review of the program cannot be undertaken until those elements of the program are available; the program submission, therefore, is not yet complete.

None of the amendments to the laws have been enacted. Pennsylvania still has not submitted proposed regulations for consideration. Also, several program elements are still missing from the Pennsylvania program. The elements missing are discussed under Part C, "General Background on the Pennsylvania Program."

In accordance with 30 CFR 732.11(d), the failure to have all required laws and regulations fully enacted requires the Secretary not to approve the Pennsylvania program. Proposed laws and regulations do not give a state full legal authority for enforcement of the environmental performance standards in accordance with Section 503(b)(4) of SMCRA. In addition, as Secretary Jones indicated, without fully enacted laws and regulations, meaningful comment and review of the Pennsylvania program by the public or the Secretary is impossible at this time.

Because Pennsylvania intends to make extensive modifications to its laws and regulations, the Secretary is disapproving the entire body of laws and regulations. The Secretary is unable to make any of the findings contained in Section 503(a) of SMCRA or 30 CFR 732.15, all of which must be made before a program can be approved.

In a letter dated October 1980, the Secretary notified Secretary Jones of his decision to disapprove the Pennsylvania program in whole (Administrative Record No. PA 185). In addition, a letter will be sent from the Director of OSM to Secretary Jones which will contain additional specific findings made with respect to each of the thirty criteria for evaluation of a state program found in SMCRA and the Secretary's regulations and the reasons for each finding. These specific findings will include discussion of the proposed statutes pending before the Pennsylvania General Assembly and the proposed program elements. If enacted, the bills would extensively amend Pennsylvania's existing program for the regulation of coal exploration and surface coal mining and reclamation operations. The conclusions expressed with respect to the bills and elements are not necessarily final. Copies of the letter will be available for public review at the addresses listed above.

All required laws and regulations should be made a part of Pennsylvania's resubmission within sixty days of the date of this publication if the Secretary is to be able to approve the Pennsylvania program. This resubmitted set of laws and regulations and all other resubmitted portions of the program will be reviewed in accordance with the procedures of 30 CFR 732.12.

E. Disposition of Comments

The comments received on the Pennsylvania program during the public comment period raised various issues. The Secretary considered these comments in evaluating Pennsylvania's program, as indicated below.

1. The U.S. Army Corps of Engineers noted that the Pennsylvania package is a series of amendments to the existing state mining laws and that the state is currently considering regulations to comply with SMCRA. The final state program will be reviewed by the Corps when it is submitted. The Secretary will afford the Corps, the public and other agencies an opportunity to review and comment on any resubmission.

2. The Cooperative Extension Service, Pennsylvania State University, U.S. Department of Agriculture, recommended adding language to read—"professional geologist, or 'professional soil scientists,' with assistance from experts in related * * *." However, the Secretary notes that there are no requirements in Sections 507(b), 515(b), 515(c) and 515(e) of SMCRA to require a professional soil scientist as an alternative (see

Administrative Record No. 97, pages 1 and 3).

3. The Cooperative Extension Service, Pennsylvania State University, U.S. Department of Agriculture, stated that it had no substantive changes to recommend. However, it noted that a data base and an inventory system, such as that provided by the Pennsylvania Information Center for Soils, could be incorporated as part of the process for review of petitions to designate lands as unsuitable for mining. The Secretary notes that while use of this particular system may have merit, the state will not be required under the Secretary's regulations to include a reference to a specific system.

4. The Department of Energy (DOE) noted that substantive review of the Pennsylvania program is severely hindered by the incomplete status of the submittal. The section-by-section comparison required under 30 CFR 731.14(c) was omitted pending completion of the state's revisions to its surface mining laws and regulations. DOE commented that it would review the state program once it is revised and resubmitted. DOE, other federal agencies and all interested persons will be given an opportunity to review and comment on any resubmission.

5. The Environmental Protection Agency (EPA) commented that the proposed state statutes do not include a 5-year term limit for permits or for the termination provisions as set forth in Section 506 (b), (c) of SMCRA. The Secretary agrees with this comment. However, Pennsylvania has stated that the term and termination of permits is to be set by regulation when promulgated (Administrative Record No. PA 77).

6. EPA also pointed out that proposed state statutes do not require the detailed information on owners, operators and dates of operation as set forth in Section 507(b)(1–5, 8) of SMCRA. In addition, the Secretary notes that requirements regarding previous infractions or statements of current or previous coal mining permits, etc., have not been addressed. Section 3.1(b) of the Pennsylvania Surface Mining Conservation and Reclamation Act alludes to previous infractions, but many specific requirements, such as information on permits suspended or revoked during the last five years prior to the date of submission of the application, are not included.

7. EPA noted that state statutes do not require information on waters affected by mining operations as set forth in Section 507(b)(10) of SMCRA. The Secretary agrees that information, such as the name of the watershed and location of the surface stream to receive surface and pit drainage, should be addressed in Pennsylvania's program submission.

8. EPA also stated that specific provisions for protection of impounded water as set forth in Section 515(b)(8) of SMCRA are not delineated in the proposed state statutes. The Secretary concurs that specific provisions to achieve the level of protection required are not adequately addressed in the Pennsylvania proposed statutes or elsewhere in the program.

9. EPA also noted that specific provisions required by Section 515(b)(10) of SMCRA for protection of water are not delineated in the proposed State laws. The Secretary agrees that specific performance standards regarding hydrologic balance are not set forth in accordance with Section 515(b)(10) of SMCRA. Section 315 of the proposed Clean Streams Law (Senate Bill 992) and Section 4.2 of the Surface Mining Conservation and Reclamation Act (Senate Bill 990) give DER the necessary authority to promulgate regulations consistent with the federal standards to insure the preservation of the prevailing hydrologic balance during and after mining operations. A review of the enacted statutes will be necessary to make a determination of the adequacy of the provisions.

10. EPA commented that permit requirements set forth in Section 516(b)(9) of SMCRA requiring operators to "minimize the disturbance of the prevailing hydrologic balance" are not included in the proposed statutes. However, the Secretary notes that the statutory authority for underground mining requirements with regard to preservation of the prevailing hydrologic balance is addressed under Section 315 of the proposed Clean Streams Law. Whether this authority is implemented in accordance with SMCRA and consistent with 30 CFR Chapter VII can only be determined when the complete program is submitted.

11. EPA also noted that while state statutes allow right-of-entry for inspection, there is no provision for right-of-entry for copying records as required by Section 517(b)(3)(B). The Secretary agrees that this provision should be included in the program submission.

12. EPA also contended that action to be taken following a complaint, which differs from a citizen suit, was not covered by the proposed Pennsylvania statutes. However, Section 18.3(b) of the Surface Mining Conservation and Reclamation Act (Senate Bill 990) appears to adequately set forth the action to be taken based upon a citizen complaint in accordance with the requirements of Section 521(a)(1) of SMCRA. A final decision on the adequacy of this provision can only be made by the Secretary on the basis of a fully enacted statutory provision, which Pennsylvania has not yet provided.

13. Finally, EPA commented that the state notice of violation (NOV) provisions do not provide for fixing a reasonable time, not to exceed 90 days, for abatement of a violation. The Secretary agrees that the proposed Pennsylvania statutes do not contain adequate requirements regarding abatement in accordance with Section 521(a)(3) of SMCRA.

14. The U.S. Fish and Wildlife Service (FWS) noted that the Pennsylvania statutes have not been passed and the implementing regulations are only in draft form and not available for review. Without those documents, FWS is unable to assess the state's program for compliance with Section 7 of the 1973 Endangered Species Act and will withold a biological opinion pending receipt of the required program documentation. The Secretary notes that, while the Pennsylvania program submission lists several state and federal agencies that the state plans to consult with during the processing of surface mine permit applications, it does not provide an adequate description of the level of involvement of these agencies in the process (See comment 26, below).

15. The U.S. Forest Service (FS) made recommendations regarding specific regulations including review of permits for tree species, use of funds to guarantee tree orders from state forest nurseries, conifer and hardwood recommendations, mixing grasses and plants, etc. The Secretary notes that, while these recommendations may have merit, they are beyond the scope of the requirements of SMCRA and the regulations promulgated thereunder. The Secretary cannot require that they be adopted. In addition, the FS recommended that a number of these changes would also apply to anthracite mining operations. However, in lieu of the state being required to demonstrate consistency with federal performance standards, Section 529 of SMCRA provides that those state standards in effect as of August 3, 1977, are applicable in the case of anthracite mining operations. Accordingly, the Secretary cannot require that these changes be made.

16. The U.S. Bureau of Mines (BOM) stated that the Pennsylvania submission, among other deficiencies, lacks a federal/state side-by-side comparison of the surface mining laws and regulations, and that the submission

was in an incomprehensible format. BOM indicated it will conduct another review of the program after resubmission, if requested. The Secretary will afford BOM such an opportunity, along with all other agencies and members of the public, if a resubmission is made.

17. The National Park Service (NPS) requested that it be notified by DER before DER approves or disapproves any application for exploration or for a surface coal mining and reclamation permit that may affect an NPS unit. The Secretary notes that Pennsylvania did not indicate in its program submission that DER would consult with NPS before issuing permits. The Secretary urges Pennsylvania to notify NPS when exploration operations will be conducted near lands managed by NPS, but under 30 CFR Chapter VII, he cannot require such notification. Before the Secretary approves Pennsylvania's program, he will have to be assured that the program includes provisions for notification of interested agencies and other public notice of planned exploration, consistent with 30 CFR Part 776. *See* comment 28, below, relating to permits for mining. In addition to the analysis found there, the Secretary notes that NPS will be able to comment on any permit application, and there will be general public notice of each application filed.

18. The NPS requested the opportunity to (1) be involved in setting bond amounts for surface mining and reclamation activities that may have an impact on NPS units, (2) be allowed to participate in inspections prior to the release of these bonds, and (3) be allowed to participate in inspections conducted in response to a petition or notice of violation that may affect a NPS unit. The Secretary notes that there are no requirements in SMCRA which necessitate NPS involvement in setting bond amounts in every instance. Under the Secretary's regulations at 30 CFR Parts 805 and 806, the state regulatory authority will set the terms and amounts of the performance bond on non-federal and non-Indians lands. All interested agencies, including NPS, can comment to the regulatory authority on what constitutes an appropriate bond amount. Under the Secretary's regulations at 30 CFR Part 807 federal agencies have an opportunity to comment on proposed bond releases for areas for which they have a concern. The Secretary's regulations do not require states to allow the NPS to participate routinely in inspections and the Secretary will not require a state to do more for NPS than the regulations require for other interested agencies and members of the public. Of course, the NPS may participate in any inspection it initiates through notification to DER of a violation of the state program by an operator.

19. The NPS requested the opportunity to participate in developing criteria for designating lands unsuitable for surface coal mining near NPS units and to be allowed to participate in protecting all resources on lands under its jurisdiction from mining in adjacent areas. The Secretary agrees the Pennsylvania did not provide a description of its proposed lands unsuitable system and provisions regarding consultation with other agencies are not adequate (*See* comment 28, below). However, the Secretary has instructed NPS not to seek criteria in state programs which would establish "buffer zones" adjacent to national parks as automatically unsuitable for coal mining, unless these lands meet one or more of the other specific criteria for designation. On June 4, 1979, the Secretary made final decisions on the Federal Coal Management Program. Included in those decisions were numerous changes in the proposed unsuitably criteria for federal lands. The Secretary chose to delete the automatic "buffer zone" language for national parks and certain other federal lands from the first criterion (43 CFR 3461.1(a)). Instead, he stated lands adjacent to a national park should only be found unsuitable if they are covered by one of the other specific criteria (43 CFR 3461.1(b)–(t)). This instruction to NPS assures that the agency's approach to state unsuitability criteria will be compatible with the Secretary's policy on federal unsuitability criteria.

20. The Soil Conservation Service (SCS) noted that there is no discussion of how prime farmland will be restored and protected after backfilliing and during the revegetation process to achieve required levels of yield. However, once enacted, Senate Bill 990 would provide that * * * "In no case shall the department grant a permit to affect prime farmland unless the application meets all relevant regulations of the United States Department of the Interior," thereby providing Pennsylvania adequate statutory authority to promulgate regulations to implement the prime farmland requirements.

21. The Appalachian Regional Commission (ARC) commented that the Pennsylvania submission was generally adequate to be approved. ARC noted that the submission included provisions for upgrading reclaimed land for water impoundments, water-oriented real estate development, recreation area development, industrial site development or solid waste disposal area development, and that variances can be granted to operators if the post-mining reclamation plan includes a higher land use, provided that the proposed use does not pose an actual or potential threat of water pollution or a hazard and does not violate any federal, state or local law. However, the Secretary notes that the variances proposed by Pennsylvania would apply to all lands, rather than only to mountaintop removal and steep slope mining as set forth in Sections 515 (c) and (e) of SMRCA and, therefore, improperly broadens the scope of the federal requirements for variances to approximate original contour.

22. The Pennsylvania Fish Commission commented that the submission lacked provisions for regional planning based on a multidisciplinary approach and provisions for cooperation between the Department of Environmental Resources (DER) and the Fish Commission as necessary to comply with SMCRA and 30 CFR Chapter VII. The Secretary notes that Pennsylvania's program submission regarding consultation does not clearly outline and address points of interaction which will take place between DER and other agencies, including the Fish Commission (See comment 26, below).

23. The League of Women voters of Pennsylvania commented that it is difficult to assess the Pennsylvania program at this time because the narrative description required by Sections 731.14(g) was not submitted. The Secretary concurs that most of 30 CFR 731.14(g) was missing from the Pennsylvania submission.

24. The Toby Creek Watershed Association commented that training for inspectors is adequate in the area of erosion and sediment control and that there are not enough inspectors for the number of mines to be inspected. The Secretary notes that the submission did not discuss the necessary staffing levels and training required to assure compliance with the applicable provisions of SMCRA.

25. Trout Unlimited commented that the Pennsylvania submission did not contain an explanation of projected use of professional and technical personnel available to the regulatory authority from other agencies, nor a summary table of the existing and proposed state program staff, showing job functions, titles and required job experience and training. The Secretary notes that while Pennsylvania has included some information in its program concerning

existing and proposed staffing, the discussion with respect to staffing necessary to assure compliance with the requirements of the SMCRA is inadequate. In addition, Pennsylvania included a summary table for only one agency in the program. This table should have shown the job functions, titles and job experience and training for professional and technical positions of the entire program staff.

26. The Pennsylvania Chapter of the Wildlife Society commented that the state's existing regulations included in the submission do not provide for an ecological evaluation of both the plant and animal communities prior to mining or any requirements to restore these communities after mining. Also, the regulations do not allow sufficient freedom for the mine operator to develop a reclamation plan utilizing native wildlife food and cover species and are entirely technique oriented rather than results oriented. The Secretary has determined that, at Pennsylvania's request, an in-depth review of the state's regulations will be deferred until Pennsylvania's revised regulations are promulgated and submitted to the Secretary.

27. The Pennsylvania Chapter of Wildlife Society also noted that the qualifications for a mine inspector and forester and other personnel do not provide for an adequate background in wildlife or fishery biology. The Secretary notes that the Department of Environmental Resources (DER) may not have to ensure that inspectors have this background if DER has an adequate procedure to coordinate or consult with other agencies in the permit and reclamation plan review process. These agencies should have the appropriate background in wildlife or fishery biology to make the necessary recommendations to the DER. However, Pennsylvania has not discussed the level DER consultation with other agencies to demonstrate that this can be accomplished (See comment 28, below).

28. Several commentors noted that the Pennsylvania program submission did not contain copies of supporting agreements between agencies having duties in the state permitting program or agreements for consultation between the regulatory authority and fish and wildlife management agencies. The Secretary notes that Pennsylvania has not addressed coordinating the issuance of permits in its program. If permit issuance is not a shared responsibility, Pennsylvania must show that the regulating authority will be able to implement effectively and enforce its permitting system, lands unsuitable system, etc., without sharing these responsibilities with such other state agencies. In addition, while Pennsylvania lists several state and federal agencies that are consulted with during the processing of surface mine applications the Secretary notes that this section does not clearly outline the procedures to be utilized during permitting to ensure that the extent of consultation required by SMCRA is achieved.

F. Secretary's Decision

Based on the Secretary's findings discussed above, the Secretary is disapproving the Pennsylvania program in whole. Because the program is not approved, the permanent program under SMCRA is not in effect in Pennsylvania. The interim program will continue on all lands in Pennsylvania until Pennsylvania has, within sixty days from the date of this notice, resubmitted its program and the Secretary has approved it. If the resubmitted program is approved, Pennsylvania will assume primary jurisdiction for implementing and enforcing the permanent program within its borders. If the resubmitted program is not approved, the Secretary will implement a federal program in Pennsylvania and the Department of the Interior will have responsibility under SMCRA for the regulation of coal mining in Pennsylvania.

G. Additional Findings

The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this disapproval in whole.

The Secretary has determined that this document is not a significant rule under E.O. 12044 or 43 CFR Part 14, and no regulatory analysis is being prepared on this disapproval in whole.

Dated: October 3, 1980.

Joan M. Davenport,

Assistant Secretary of the Interior.

[FR Doc. 80-32999 Filed 10-21-80; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 946

Partial Approval/Partial Disapproval of the Permanent Program Submission From the Commonwealth of Virginia Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Proposed rule.

SUMMARY: On March 3, 1980, the Commonwealth of Virginia submitted to the Department of the Interior its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of the submission is to demonstrate the state's intent and capability to administer and enforce the provisions of SMCRA and the permanent regulatory program regulations, 30 CFR Chapter VII. After providing opportunities for public comment and a thorough review of the program submission, the Secretary of the Interior has determined that the Virginia program only partially meets the requirements of SMCRA and the federal permanent program regulations. Accordingly, the Secretary of the Interior has approved in part and disapproved in part the Virginia program.

The Commonwealth of Virginia has sixty days within which to correct the deficiencies in its proposed program. Until its permanent program is implemented, the interim program will remain in effect in Virginia.

DATE: Virginia has until December 22, 1980 to submit revisions of the disapproved portions of the program for the Secretary's consideration.

ADDRESSES: Copies of the Virginia program and the administrative record on the Virginia program are available for public inspection and copying during business hours at:

Office of Surface Mining, Room 153, Interior South Building, 1951 Constitution Avenue, Washington, D.C. 20240, Telephone (202) 343-4728.

Office of Surface Mining, Charleston Regional Office, 950 Kanawha Blvd., East, Charleston, WV 25301, Telephone: (304) 342-8125.

Virginia Division of Mined Land Reclamation, Drawer U, 620 Powell Avenue, Big Stone Gap, VA 24219, Telephone: (703) 523-2925.

Copies of the full text of the proposed program are available for inspection during regular business hours at the following locations:

Office of Surface Mining, Lebanon District Office, Flannagan and Carroll Streets, Lebanon, VA 24266, Telephone: (703) 889-4032.

Dept. of Conservation and Economic Development, 1100 State Office Bldg., Richmond, VA 23219, Telephone: (804) 786-2121.

Buchanan County Public Library, Grundy, VA 24614, Telephone: (703) 546-1141.

Lee County Public Library, 406 Joslyn Avenue, Pennington Gap, VA 24277, Telephone: (703) 546-1141.

Scott County Public Library, Gate City, VA 24251, Telephone: (703) 386–3302.
Tazewell County Public Library, Main Street, Tazewell, VA 24651, Telephone: (703) 988–2541.
Office of Surface Mining, Richlands Field Office, Gateway Shopping Center, Highway 460, Richlands, VA 24641, Telephone: (703) 964–4022.
The Virginia State Library, 12th and Capital Streets, Richmond, VA 23219, Telephone: (804) 786–8929.
Dickenson County Public Library, Clintwood, VA 24228, Telephone: (703) 926–6617.
Russell County Public Library, Library Courthouse, Lebanon, VA 24266, Telephone: (703) 889–2881.
Wise County Public Library, Ridgefield Acres, Wise, VA 24293, Telephone: (703) 328–8061.

FOR FURTHER INFORMATION CONTACT:

Carl C. Close, Assistant Director, State and Federal Programs, 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) 343–4225.

SUPPLEMENTARY INFORMATION:

Introduction

To assist understanding of the findings underlying the Secretary's decision, this notice is organized into nine major parts.

Parts

A. General Background on the Permanent Program
B. General Background on State Program Approval Process
C. Background on the Virginia Program Submission
D. Elements upon which the Virginia Program is being Evaluated for this Decision
E. Secretary's Findings
F. Disposition of Agency and Public Comments
G. The Secretary's Decision
H. Effect of this Action
I. Additional Findings

Part A sets forth the statutory and regulatory framework under the Surface Mining Control and Reclamation Act of 1977 (SMRCA) and the permanent program requirements of 30 CFR Chapter VII.

Part B sets forth the general statutory and regulatory requirements applicable to all states which wish to obtain primary jurisdiction to implement the permanent program on non-Indian and non-federal lands within their borders.

Part C summarizes the steps undertaken by Virginia and officials of the Department of the Interior to arrive at the decision being announced today.

Part D describes the elements upon which the Secretary's findings are based.

Part E contains the findings the Secretary has made and the reasons for each finding.

Part F summarizes the substantive public comments received during the review of the Virginia program and discusses the Secretary's disposition of them.

Part G describes the portions of the Virginia program which are being approved and the portions which are being disapproved.

Part H summarizes the effect of the Secretary's findings on the current regulatory program in Virginia.

Part I summarizes the Secretary's findings with regard to regulatory analysis and environmental impact of the decision.

A. General Background on the Permanent Program

The environmental protection provisions of SMCRA are being implemented in two phases—the initial program and the permanent program—in accordance with Sections 501–503 of SMCRA, 30 U.S.C. 1251–1253. The initial program has been in effect since December 13, 1977, when the Secretary of the Interior promulgated interim program rules, 30 CFR Parts 710–725 and 795, 42 FR 62639 *et seq.*

The permanent program will become effective in each state upon the approval of a state program by the Secretary of the Interior for implementation of a federal program within the state. If a state program is approved, the state, rather than the federal government, will be the primary regulator of activities subject to SMCRA.

The federal regulations for the permanent program, including procedures for states to follow in submitting state programs and standards and procedures which the state programs must include to be eligible for approval, are found in 30 CFR Parts 700–707 and 730–865. Part 705 was published October 20, 1977 (42 FR 56064), and parts 795 and 865 (originally Part 830) were published December 13, 1977 (42 FR 62639). The other permanent program regulations were published March 13, 1979 (44 FR 15312–15463). Errata notices were published March 14, 1979 (44 FR 15485), August 24, 1979 (44 FR 49673–49687), September 14, 1979 (44 FR 53507–53509), November 19, 1979 (44 FR 66195), April 6, 1980 (45 FR 26001), June 5, 1980 (45 FR 37818), and July 15, 1980 (45 FR 47424).

Amendments to the regulations were published October 22, 1979 (44 FR 60969), as corrected December 19, 1979 (44 FR 75143), December 19, 1979 (44 FR 75302–75303), December 31, 1979 (44 FR 77440–77447), January 11, 1980 (45 FR 2626–2629), April 16, 1980 (45 FR 25998–26001), May 20, 1980 (44 FR 33926–33927), June 10, 1980 (45 FR 39446–39447), and August 6, 1980 (45 FR 52306–52324). Portions of these regulations have been suspended, pending further rulemaking. See 44 FR 67942 (November 27, 1979), 44 FR 77447–77455 (December 31, 1979), 45 FR 6913 (January 30, 1980), and 45 FR 51547–51550 (August 4, 1980).

B. General Background on State Program Approval Process

Any state wishing to assume primary jurisdiction for the regulation of coal mining under SMCRA may submit a program for consideration. The Secretary of the Interior has the responsibility to approve or disapprove the submission.

The federal regulations governing state program submissions are found at 30 CFR Parts 730–732. After review of the submission by OSM and other agencies, an opportunity for the state to make additions or modifications to the program and an opportunity for public comment, the Secretary may approve the program, approve it conditioned upon minor deficiencies, being corrected in accordance with the specified timetable set by the Secretary, or disapprove the program in whole or in part. If any part of the program is disapproved, the state may submit a revision of the program to correct the items that need to be changed to meet the requirements of SMCRA and the applicable federal regulations. If the revised program is also disapproved, SMCRA requires the Secretary of the Interior to establish a federal program in that state.

The state may again request approval to assume primary jurisdiction after the Secretary implements the federal program.

The procedure and timetable for the Secretary's review of state programs were initially published March 13, 1979 (44 FR 15326), to be codified at 30 CFR Part 732. Section 732.11(d), as published on March 13, 1979, required that states make any modifications and additions by November 15, 1979.

As a result of litigation in the U.S. District Court for the District of Columbia, the deadline for states to submit proposed programs was extended from August 3, 1979, to March 3, 1980. 30 CFR 732.11(d) required that if all required and fully enacted laws and regulations were not part of the program by November 15, 1979, the program would be disapproved. Because the submission deadline had been changed

to March 3, 1980, 30 CFR 732.11(d) was amended to provide that program submissions that do not contain all required and fully enacted laws and regulations by the 104th day following program submission will be disapproved pursuant to the procedures for the Secretary's initial decision in Section 732.13 (45 FR 33927, May 20, 1980). The Virginia program was submitted on March 3, 1980. The 104th day after March 3 was June 15, 1980. Since June 15 was not a normal business day, the deadline was extended to June 16, 1980.

The Secretary's rules for the review of state programs implement his policy that industry, the public, and other agencies of government should have a meaningful opportunity to participate in his decisions. The Secretary also has a policy that a state should be afforded the maximum opportunity possible to charge its program, when necessary, to cure any deficiencies in it.

To accomplish both of these policy objectives the Secretary determined that the laws and rules upon which the state bases its program, must be finalized at the beginning of the public comment period. By identifying the laws and rules in effect on the 104th day as the basis of his program approval decision, the Secretary assists commenters by informing them of program elements which should be reviewed. Meaningful public comment would be undermined if the program elements were constantly changing up until the day before the Secretary's decision.

The 104 day rule affords the state 3½ months following submission within which it may modify its laws and rules. In addition, after the Secretary's initial program decision, the state has additional opportunities to revise its laws and regulations.

All program elements other than laws and rules, including Attorney General's opinions, program narratives, descriptions and other information, may be revised by the state at any time prior to program approval. The Secretary will provide opportunity for public comment on those changes, as appropriate.

The Secretary, in reviewing state programs, is complying with the provisions of Section 503 of SMCRA, 30 U.S.C. 1253, and 30 CFR 732.15. In reviewing the Virginia program, the Secretary has followed the federal rules as cited above under "General Background on the Permanent Program" and as affected by decisions of the U.S. District Court for the District of Columbia in *In Re: Permanent Surface Mining Regulation Litigation* (Civil Action No. 79–1144). That litigation is a consolidation of several lawsuits challenging the Secretary's permanent regulatory program.

Because of the complex litigation, the court issued its decision in two "rounds." The Round I opinion, dated February 26, 1980, denied several generic attacks on the permanent program regulations, but resulted in suspension of remaining all or part of twenty-two specific regulations. The Round II opinion, dated May 16, 1980, denied additional generic attacks on the regulations, but remanded some forty additional parts, sections or subsections of the regulations. The court also ordered the Secretary to "affirmatively disapprove, under Section 503 of SMCRA, those segments of a state program that incorporate a suspended or remanded regulation" (Mem. Op., May 16, 1980, p. 49). However, on August 15, 1980, the court stayed this portion of its judgment. The effect of this stay is to allow the Secretary to approve state program provisions equivalent to remanded or suspended federal provisions in the three circumstances described in paragraph 1 below. Therefore, the Secretary is applying the following standards in the review of state program submissions:

1. The Secretary need not affirmatively disapprove state provisions similar to those federal regulations which have been suspended or remanded by the District Court where the state has adopted such provisions in a rulemaking or legislative proceeding which occurred either (1) before the enactment of SMCRA or (2) after the date of the Round II District Court decision, since such state regulations clearly are not based solely upon the suspended or remanded federal regulations. (3) The Secretary need not affirmatively disapprove provisions based upon suspended or remanded Federal rules if a responsible state official has requested the Secretary to approve them.

2. The Secretary will affirmatively disapprove, to the extent required by the court's decision, all provisions of a state program which incorporate suspended or remanded Federal rules and which do not fall into one of the three categories in paragraph one, above. The Secretary believes that the effect of his "affirmative disapproval" of a section in the state's regulations is that the requirements of that section are not enforceable in the permanent program at the federal level to the extent they have been disapproved. That is, no cause of action for enforcement of the provisions, to the extent disapproved, exists in the federal courts, and no federal inspection will result in notices of violation or cessation orders based upon the "affirmatively disapproved" provisions. The Secretary takes no position as to whether the affirmatively disapproved provisions are enforceable under state law and in state courts. Accordingly, these provisions are not being pre-empted or suspended, although the Secretary may have the power to do so under Section 504(g) of SMCRA and 30 CFR 730.11.

3. A state program need not contain provisions to implement a suspended regulation and no state program will be disapproved for failure to contain a suspended regulation. Nonetheless, a state must have authority to implement all permanent program provisions of SMCRA, including those provisions of SMCRA upon which the Secretary based remanded or suspended regulations.

4. A state program may not contain any provision that is inconsistent with a provision of SMCRA.

5. Programs will be evaluated only as to those provisions other than the provisions that must be disapproved because of the court's order. The remaining provisions will be approved, conditionally approved or disapproved in whole or in part in accordance with 30 CFR 732.13.

6. Upon promulgation of new regulations to replace those that have been suspended or remanded, the Secretary will afford states that have approved or conditionally approved programs a reasonable opportunity to amend their programs, as appropriate. In general, the Secretary expects that the provisions of 30 CFR 732.17 will govern this process.

A list of the regulations suspended or remanded as the result of the Round I and II litigations was published in the **Federal Register** on July 7, 1980 (45 FR 45604). A proposed list of Virginia provisions incorporating suspended or remanded federal regulations was available at a public hearing in Wise, Virginia, held on July 17, 1980, and is available at the OSM Region I office and at the Virginia Division of Mined Land Reclamation (See addresses above).

To codify decisions on state programs, federal programs, and other matters affecting individual states, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T will consist of Parts 900 through 950. Provisions relating to Virginia will be found in 30 CFR 946.

C. Background on the Virginia Program Submission

On March 3, 1980, OSM received a proposed regulatory program from the Commonwealth of Virginia. The

program was submitted by the Virginia Department of Conservation and Economic Development (DCED), the agency designated as the regulatory authority. Notice of receipt of the submission initiating the program review was published in the March 11, 1980, **Federal Register** (45 FR 15576–15578) and in newspapers of general circulation in Virginia. The announcement invited public participation in the initial phase of the review process as it related to the regional director's determination of whether the submission was complete.

On April 10, 1980, the regional director held a public review meeting in Big Stone Gap, Virginia, on the program submission and its completeness. The public comment period on completeness began on March 22, 1980, and closed April 11, 1980.

On April 10, 1980, the Virginia Department of Conservation and Economic Development, Division of Mined Land Reclamation, submitted to OSM revisions to the Virginia permanent program submission. (Administrative Record No. VA 44).

The modifications to the March 3, 1980, Virginia program submission are listed below:

1. House Bill 943 which was signed by the Governor on March 24, 1980, and House Bill 944 which was signed by the Governor on April 1, 1980. These amendments were included in the March 3, 1980, submittal, but had not yet received the approval of the Governor.

2. The Virginia Administrative Process Act, *Va. Ann. Code*, 9–6.14:1 *et seq.*, and regulations adopted under the Virginia Register Act *Va. Ann. Code*, 9–6.15 *et seq.*

On April 28, 1980, the regional director published notice in the **Federal Register** announcing that the program submission had been determined to be complete (45 FR 28167–28168).

On May 5, 1980, the Virginia Division of Mined Land Reclamation submitted to OSM further revisions to the Virginia permanent program submission (Administrative Record No. VA 65). A number of these were draft proposals intended to implement recent court decisions and changes in state statutes and federal regulations. Among other things, regulations for the issuance, administration, monitoring, and enforcement of National Pollutant Discharge Elimination System (NPDES) permits for surface coal mining operations were included. The modifications which provided new regulations not included in the March 3, 1980, submission are listed in part D below.

On May 23, 1980, after reviewing the Virginia submission, OSM Region I transmitted comments on the adequacy of the Virginia Permanent Regulatory Program to the Virginia Department of Conservation and Economic Development (Administrative Record No. VA 89).

On June 4 and 5, 1980, OSM and the Virginia Division of Mined Land Reclamation met in Charleston, West Virginia to discuss the issues raised during the regional director's and OSM Director's review of the Virginia permanent program. This meeting was open to the public (Administrative Record No. VA 128).

On June 13, 1980, a letter was received from the Virginia Division of Mined Land Reclamation which included a list of typographical errors that had been identified and would be corrected by Virginia. Also included was House Bill 948 which was passed by the Virginia 1980 General Assembly concerning right of entry (Administrative Record No. VA 94).

On June 16, 1980, interpreted to be the 104th day after the Virginia program submission, the Virginia Department of Conservation and Economic Development submitted to OSM additional modifications to the Virginia permanent program submission (Administrative Record No. VA 93). This submission included:

1. A legal opinion on the effect of the changes in the Virginia regulations from OSM regulations.

2. A supplement to the side-by-side comparison covering the 1980 amendments to Virginia's law.

3. A copy of the Virginia Conflict of Interest Law.

On June 23, 1980, the regional director published notice in the **Federal Register** (45 FR 41973–41976) and in newspapers of general circulation within the state that the Virginia program submission as modified was available for public review and comment. The notice also set forth procedures for the public hearing and comment period on the substance of the Virginia program.

On July 11, 1980, public comment was invited on a tentative list of Virginia provisions apparently based upon remanded and suspended federal rules (45 FR 46820–46826).

On July 15 and 16, 1980, OSM and the Virginia Division of Mined Land Reclamation met in Washington, D.C. to discuss issued raised during the regional director's and OSM Director's reviews of the Virginia permanent program submission. This meeting was open to the public (Administrative Record No. VA 171 and 173).

On July 17, 1980, the regional director held a public hearing on the adequacy of the Virginia submission in Wise, Virginia. The public comment period on the Virginia program ended on July 23, 1980.

On July 23, 1980, Virginia submitted a letter to OSM changing the permanent program staffing proposal as a result of a directive the Virginia Division of Mined Land Reclamation had received from the Virginia Secretary of Administration and Finance.

On August 4, 1980, the regional director submitted to the Director of OSM his recommendation that the Virginia program be approved in part and disapproved in part together with copies of the transcript of the public meeting and the public hearing, written presentations, exhibits, copies of all public comments received, and administrative record.

On August 11, 1980, OSM published in the **Federal Register** (45 FR 53180–53181) a notice of the availability of the views on the Virginia programs submitted by the Appalachian Regional Commission; the U.S. Department of Agriculture through the Forest Service, the Science and Education Administration, and the Soil Conservation Service; the U.S. Department of Energy; the U.S. Environmental Protection Agency; the U.S. Department of the Interior through the Bureau of Land Management, the Bureau of Mines, the Fish and Wildlife Service and the National Park Service; the U.S. Department of Labor through the Mine Safety and Health Administration; the U.S. Army Corps of Engineers and the Tennessee Valley Authority.

On August 22, 1980, the Director of OSM asked Virginia if there were any provisions in its program, based on suspended or remanded federal rules, which it did not want the Secretary to affirmatively disapprove under the district court order. Virginia has not replied.

On September 10, 1980, the Director recommended to the Secretary that the Virginia program be partially approved and partially disapproved.

On September , 1980 the Secretary approved in part and disapproved in part the Virginia program.

The Secretary's decision was conveyed to Virginia in a letter to Government John N. Dalton on October 3, 1980. A copy of the letter to Governor Dalton is available for review in the Virginia Administrative Record (Administrative Record No. VA 213).

The Virginia program consists of the formal submission of March 3, 1980 (Administrative Record No. VA 1), as amended on April 10, May 5, June 13

and June 16, 1980 (Administrative Record Nos. VA 44, 65, 93 and 94).

Throughout the period beginning with the submission of the program, OSM has had frequent contact with the staff of DCED. Discussions of the state program submission were held with various officials. Minutes or notes of the discussions were placed in the Administrative Record and made available for public review.

All contacts between officials or staffs of the Department of the Interior and the Commonwealth of Virginia were conducted in accordance with the Department's guidelines for such contacts published September 19, 1979 (44 FR 54444–54445).

D. Elements Upon Which the Virginia Program Is Being Evaluated for This Decision

In consideration of the matters discussed above under "General Background on State Program Approval Process," the Secretary hereby sets forth the elements of the proposed Virginia program upon which the findings and decisions below are being made.

Because of the 104-day promulgated May 20, 1980 (30 CFR 732.11(d), 45 FR 33927), only those statutory provisions and regulations that were fully enacted on or before June 15, 1980, are being considered as a basis for this decision.

The following proposed regulations were not fully enacted by June 15, 1980. Therefore, they are not being approved in this Secretarial decision and are not part of the partially approved program:

1. Regulations to revise applicability in Section V700.11(b).
2. Regulations to revise the definitions of public road and valid existing rights in Section V761.5.
3. Regulations to revise the provisions for waivers in Section V761.12(e).
4. Regulations to revise the definition of irreparable damage to the environment in Section V786.5.
5. Regulations to allow citizens to accompany an inspector on a mine site in Section V786.27(b).
6. Regulations to provide for prior notice of citizen suits comparable to 30 CFR 700.13.
7. Regulations to revise the provisions for performance bonding in Subchapter VL.
8. Regulations to revise provisions for treatment or covering of coal and acid toxic-forming materials in Sections V816.103(a) and V817.103(a).
9. Regulations to implement and define a citizen's right to accompany inspectors on inspections of a mine site in Section V842.12(b) and (c).
10. Regulation to revise the civil penalties systems in Section V845.
11. Regulations for the issuance, administration, monitoring, and enforcement of National Pollutant Discharge Elimination System (NPDES) permits for coal surface mining operations in Subchapter VN.

Items 1, 2, 3, 4, 7 and 8 were proposed by Virginia in response to regulations proposed by OSM. Since OSM's regulations are still only in proposed form, it is not appropriate to comment on Virginia's proposals at this time. When final rules are adopted, Virginia and all other states will have an opportunity to amend their programs accordingly under a separate schedule. Items 5, 6, 9, 10 and 11 are new Virginia proposals to implement existing OSM requirements. Even though these proposals cannot be considered for approval because they are not fully enacted, OSM has commented on their adequacy in order to provide guidance to Virginia and the public on resubmission.

When these proposed regulations are enacted, they may be resubmitted to remedy those aspects of the program disapproved by this decision or to amend previously approved sections, at which time the Secretary will reopen the public comment period in accordance with 30 CFR 732.13(f), or 732.17, as appropriate.

The balance of the laws, rules, and program narrative received on March 3, 1980, as amended through June 16, 1980, have been evaluated. These proposed amendments were announced to the public prior to the required public hearing and were open to public comment six days after the public hearing as well as at the hearing.

Many typographical and editorial errors were identified during the OSM review of the Virginia program. In a letter from the Virginia Division of Mined Land Reclamation which was received by OSM on June 13, 1980, Virginia identified those typographical errors which it intended to correct. However, there has been no modification to the Virginia program to provide those changes. In those places where these typographical and editorial errors create substantive deficiencies, comment has been provided.

E. Secretary's Findings

1. In accordance with Section 503(a) of SMCRA and 30 CFR 732.15, the Secretary finds that Virginia has, in part, the capability to carry out the provisions of SMCRA and to meet its purposes in the following ways:

(a) The Virginia Coal Surface Mining Control and Reclamation Act of 1979, House Bill 1514 (Virginia CSMCRA), and the regulations adopted thereunder provide, in part, for the regulation of surface coal mining and reclamation operations on non-Indian and non-federal lands in Virginia in accordance with SMCRA. Those parts not approved are analyzed in Findings 4a, 4b, 4c, 4d, 4j, 4k, 4l, 4m, 4q and 4s, below.

(b) The Virginia CSMCRA provides sanctions for violations of Virginia laws, regulations or conditions of permits concerning surface coal mining and reclamation operations, and these sanctions meet the requirements of SMCRA, including civil and criminal actions, forfeiture of bonds, suspensions, revocations, and withholding of permits, and the issuance of cease-and-desist orders by the Virginia Department of Conservation and Economic Development or its inspectors.

(c) The Virginia Department of Conservation and Economic Development has, in part, sufficient administrative and technical personnel and sufficient funds to enable Virginia to regulate surface coal mining and reclamation operations in accordance with the requirements of SMCRA. Those parts not approved are analyzed in Finding 4t, below.

(d) Virginia CSMCRA provides, in part, for the effective implementation, maintenance, and enforcement of a permit system that meets the requirements of SMCRA for the regulation of surface coal mining and reclamation operations on non-Indian and non-federal lands within Virginia. Those parts not approved are discussed in Finding 4d, below.

(e) Virginia has established, in part, a process for the designation of areas as unsuitable for surface coal mining in accordance with Section 522 of SMCRA, 30 USC 1272. Those parts not approved are discussed in Finding 4k, below.

(f) Virginia has established, for the purpose of avoiding duplication, a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with other federal and state permit processes applicable to the proposed operations.

(g) Virginia has, in part, fully enacted regulations consistent with regulations issued pursuant to SMCRA, subject to the exceptions discussed below. Those parts not approved are discussed in Findings 4b, 4c, 4d, 4j, 4k, 4l, and 4q, below.

2. As required by Section 503(b)(1)–(3) of SMCRA, 30 USC 1253(b)(1)–(3), and 30 CFR 732.11–732.13, the Secretary has, through OSM:

(a) 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 pertinent to the proposed Virginia program;

(b) Obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of the Virginia program being approved and which relate to air or water quality standards promulgated under the authority of the Clean Water Act, as amended, 33 USC 1151–1775, and the Clean Air Act, as amended, 42 USC 1857 *et seq.*; and

(c) Held a public review meeting in Big Stone Gap, Virginia on April 10, 1980, to discuss the completeness of the Virginia program submission, and held a public hearing in Wise, Virginia on July 17, 1980, on the adequacy of the Virginia program submission.

3. In accordance with Section 503(b)(4) of SMCRA, 30 USC 1253(b)(4), the Secretary finds that the State of Virginia has, in part, the legal authority and qualified personnel necessary for the enforcement of the environmental protection standards of SMCRA and 30 CFR Chapter VII. See Finding 4t.

4. In accordance with 30 CFR 732.15, the Secretary finds, on the basis of information in the Virginia program submission, including the section-by-section comparison of the Virginia law and the regulations with SMCRA and 30 CFR Chapter VII, public comments, testimony and written presentations at the public hearings, and other relevant information, that:

(4a) The Virginia program provides, in part, for Virginia to carry out the provisions and meet the purposes of SMCRA and 30 CFR Chapter VII. This finding is based upon all of the findings discussed below.

(4b) Virginia has prepared eight "state window" alternative approaches to the requirements of 30 CFR Chapter VII pursuant to 30 CFR 731.13. That section of the regulations requires that a state demonstrate:

(1) that the proposed alternative will be in accordance with the applicable provisions of the Act and consistent with the regulations of . . . (30 CFR Chapter VII) and

(2) that the proposed alternative is necessary because of local requirements of local environmental or agricultural conditions.

The Virginia state window proposals have been analyzed to determine if they qualify as true state window proposals based on local conditions. If a particular proposal was determined not to be a state window, it was nevertheless reviewed for consistency like all other regulations.

(i) *Existing Structures.* Virginia proposed that its criteria in Section V786.21(c) for permit approval or denial, as applied to existing structures, be considered under 30 CFR 731.13. The state proposed guidelines for permit review where the permit applicant requests an exemption from design criteria for an existing structure which would meet the appropriate performance standards. With this proposal, Virginia identified those standards which would be considered performance standards and those which would be considered design standards. Upon review of the proposal, the Secretary believes that the Virginia provision is more properly characterized as an explanation of the requirements of 30 CFR Chapter VII rather than a state window alternative based on local conditions. However, the Secretary has fully considered the alternative and finds that the proposal is not consistent with 30 CFR 786.21 and 30 CFR 701.11. An analysis of the proposal is contained in finding 4(d)(iv) below.

(ii) *Designating Areas Unsuitable for Surface Coal Mining Operations.* Virginia proposed that its procedures for petition and hearing requirements as applied to the process for designating land unsuitable be considered under 30 CFR 731.13. The state proposed alternatives to 30 CFR 764.13, .15, and .17 consist of three major parts. The first identifies additional information to be included in the petition to the extent that such information is available to the petitioner. The second part provides that the regulatory authority can intitiate a proceeding to designate or terminate a designation of areas as unsuitable for surface coal mining. The third part establishes a shorter time period within which a petition would be accepted if that petition is for an area on which a permit application has been filed. It also provides a shorter time limitation for holding a hearing on petitions to declare lands unsuitable for surface coal mining operations when the petition is filed during the public comment period on a permit application.

Upon review of the proposal, the Secretary believes the Virginia provision is better characterized as an explanation of the requirements of 30 CFR Chapter VII, rather than as a state window alternative based on local conditions. However, the Secretary has fully considered the proposal and finds that this proposal is, in part, inconsistent with Section 522 of SMCRA and 30 CFR 764.13, .15, and .17. An analysis of the proposal is contained in finding 4(k)(iii) below.

(iii) *Backfiling and Grading Previously Mined Areas.* Virginia has proposed an alternative to 30 CFR 816.101 and 817.101 for backfilling and grading of previously mined areas that have not been restored to the standards of SMCRA. These provisions require the elimination of the highwall in all cases. Under the Virginia proposal, which is included as Sections V816.107 and V817.107, on previously mined lands where sufficient spoil was not available to eliminate all highwalls it would be acceptable to eliminate highwalls only to the extent possible by grading and backfilling to stable slopes not exceeding 1v:2h or such lesser slopes as the regulatory authority may specify.

Virginia has proposed this alternative based on consideration of the steep topography and past mining history of southwestern Virginia. Most previously mined lands consist of an existing highwall, bench, and outslope. Virginia maintains that the past practice of placing spoil on the steep downslope has created a situation where operators remining previously affected areas may have an insufficient quantity of spoil material to return the area to the approximate original contour. This should not, it maintains, prevent remining of these lands.

Approximately 70,000 acres of previously mined lands exist in Virginia many of which were improperly reclaimed because of past mining practices. Changing economics in the coal market and low coal recovery during the initial mining operations make remining of these previously mined lands economically feasible. Since present operators may not have sufficient spoil available to completely eliminate the highwall, Virginia's alternative would require that the highwall be eliminated only to the extent possible.

Section 510 of SMCRA requires the regulatory authority before approving a mining application to find, in writing, "that reclamation as required by this Act and the State or Federal program can be accomplished." See 30 CFR 786.19. Section 515(b)(3) of SMCRA requires the elimination of all highwalls as part of the process of backfalling and grading. See, also, Section 515(d)(2) and 516(b)(10). The Department's regulations follow this statutory language and also require the elimination of all highwalls. 30 CFR 816.101, 816.102, 817.101, and 817.102. Read together, these two provisions appear to bar the approval of any permit application which does not require complete elimination of all highwalls. The legislative history of the SMCRA supports this interpretation and does not suggest that previously mined areas are subject to any broad exception to this rule.

In reviewing State program applications the Secretary must follow

the standards set in the SMCRA. Any action that he takes that is contrary to that Act is void. In adopting regulations to carry out the statutory requirements of SMCRA, the Secretary recognized that he needed flexibility to allow States to adopt alternative regulatory approaches to those found in his regulations. 30 CFR 731.13. These alternative approaches are allowed where local or state conditions are such that use of the Federal regulation is not feasible or would be expensive and the State alternative provides the same degree of environmental and procedural protection. This regulation does not, of course, give the Secretary the authority to ignore statutory provisions.

During the course of the State program review process several States in addition to Virginia have proposed alternatives to the requirements in 515(b)(3). New Mexico, for example proposed an alternative which was approved. In that case, New Mexico showed that in mining of areas with natural rock mesas return to approximate original contour would result in the retention of highwalls. New Mexico argued that because of this unique topography, only one or the other statutory standard could be met. New Mexico also proposed to tightly control any exceptions to either requirement. The Secretary has not formally published his decision on New Mexico, but has decided to approve this proposal with a minor adjustment.

As drafted, the Virginia proposal does not present an adequate rationale for the Secretary to approve it. Re-mining previously mined areas would appear to further the purposes of the Act in more narrowly defined circumstances.

Important considerations include whether:

1. Re-mining will maximize the use and conservation of the coal being recovered so that re-affecting the land in the future through surface mining will be minimized (515(b)(1)) at current and reasonably expected coal markets.

2. The land prior to mining is unproductive or unsafe.

3. Special analysis will be made to demonstrate that the final land form will be stable.

4. Material will not be placed in fills or otherwise disposed of off the pre-mined bench.

6. All available fill material reasonably available to the operator will be used to eliminate all highwalls.

These conditions would certainly help "promote the reclamation of mined areas left without adequate reclamation prior to the enactment of the Act." The possibility of approving a variation of Virginia's proposal is limited to those unique conditions left by Virginia's past mining practices.

It should not be construed in anyway to allow variations from 515(b)(3) for any unmined lands. The Secretary finds Virginia's proposal is not in accordance with the requirements of SMCRA as proposed. Virginia may submit a revised proposal as suggested by this notice. Public comment is specifically requested on Virginia's current proposal and the response in this notice.

(iv) *Topsoil Removal*—Virginia proposed an alternative to 30 CFR 816.22 and 817.22 to allow selected overburden materials to be substituted for or used as supplement to topsoil if the slope of the land containing the topsoil is greater than 60 percent and the selected overburden materials satisfy certain criteria. The state was concerned that the requirements in 30 CFR 816.22 and 30 CFR 817.22 did not allow sufficient latitude for the regulatory authority to approve topsoil substitutes and supplements in an area such as southwestern Virginia, which has very steep slopes with thin, poor soils which are difficult to remove safely prior to mining.

30 CFR 816.22(e) and 30 CFR 817.22(e) provide that selected overburden materials may be substituted for, or used as a supplement to, topsoil if the regulatory authority determines that the resulting soil medium is equal to or more suitable for sustaining revegetation than the available topsoil. The substitute material must be the best available to support revegetation. This determination is to be based on the results of chemical and physical analysis of overburden and topsoil, and must include determinations of pH, net acidity or alkalinity, phosphorous, potassium, texture class, and other analyses as required by the regulatory authority.

The Virginia proposal provides that in order for selected overburden to be an acceptable substitute, it must be analyzed to determine pH, net acidity or alkalinity, phosphorous, potassium, texture class for soil material, and other tests the regulatory authority may require. In order to be suitable, the substitute material must have a pH of greater than 5.5, a net acidity of less than 5 tons per 1,000 tons of material, or a net alkalinity, and be suitable for sustaining vegetation consistent with the standards for revegetation and the approved post mining land use.

As part of this proposal, the Virginia Department of Conservation and Economic Development has included data demonstrating that the native and unconsolidated material on these steep slope areas is insufficient both in quality and quantity. The soils usually affected by coal mining in southwestern Virginia typically occur on steep hillsides and narrow ridgetops. These soils generally have thin A-horizons and the levels of available plant nutrients are typically low to moderate. The sources of the data provided by Virginia include the United States Soil Conservation Service, Virginia Polytechnic Institute, and the State Agricultural Experiment Station.

OSM has provided in interpretive regulations published in the Federal Register, June 10, 1980 (45 FR 39447), that if the operator demonstrates through a soil survey or other data that the topsoil and unconsolidated material are insufficient and substitute materials will be used, only the substitute materials must be analyzed in accordance with 30 CFR 816.22(e)(i) and 817.22(e)(i). Because the Virginia submission does not presently include assurances that the state window proposal will be implemented consistent with the Interpretive Rules Relating to Topsoil Substitutes and Supplements, June 10, 1980, it must be disapproved at this time. It appears that this proposal could be approved if these assurances are included on resubmission.

(v) *Sediment Ponds*—In Sections V816.46(m)–(o) and V817.46(m)–(o) of its regulations, Virginia has proposed an alternative to 30 CFR 816.46(m)–(o) and 30 CFR 817.46(m)–(o). This alternative would allow the construction of sediment ponds with the combined upstream and downstream side slopes less than 1v:5h, provided that a minimum static safety factor of 1.5 is met and neither slope is steeper than 1v:2h. This alternative would also allow the use of non-toxic and non-acid producing coal processing waste in the construction of sediment structures under certain conditions.

The first part of this alternative, allowing upstream and downstream slopes to be no steeper than 1v:2h with a static safety factor of 1.5, is proposed by Virginia because of the limited areas available for construction of sedimentation ponds due to the terrain of southwestern Virginia, the increased embankment size which would be necessary to provide the necessary storage volume according to the OSM regulations, and the reduction in the amount of surface area disturbed by embankments constructed under this proposal.

The Virginia proposal included examples of typical pond construction sites which would be found in southwestern Virginia. These examples showed embankments built according to the OSM requirements requiring a 23 to 34 percent greater volume of material than if built according to the Virginia

proposal. The smaller size of the embankment allows the pond site to be smaller and the borrow area to be smaller, resulting in less area to be disturbed by the mining operation.

The Virginia proposal has retained the federal reguirement that neither the upstream nor the downstream slope of the embankment shall be steeper than 1v:2h. It has provided an additional requirement that the slope of the embankment must have a static safety factor of at least 1.5.

The federal regulations in 30 CFR 816.46(q) and 30 CFR 817.46(q) provide that if a sediment pond has an embankment that is more than twenty feet in height, as measures from the upstream toe of the embankment to the crest of the emergency spillway, or has a storage volume of twenty acre-feet or more, then additional, more stringent requirements must be met. One of these additional requirements is that the embankment shall be designed and constructed with a static safety factor of at least 1.5. Greater than twenty foot dams must also pass one hundred year storms, rather than twenty-five year storms, and comply with all safety requirements of MSHA in 30 CFR 77.216. Therefore, the Secretary finds the Virginia proposal in V816.46(m) and V817.46(m) is consistent with the federal regulations in 30 CFR 816.46(m) and (q) and 817.46(m) and (q) because this proposal requires that all structures, whether greater than or less than twenty feet in height have a static safety factor of at least 1.5.

The second part of this proposal would allow the use of non-toxic and non-acid forming coal waste in the embankment because it is often difficult to obtain suitable borrow material for embankment construction in southwestern Virginia due to the relatively thin soil cover. Obtaining sufficient borrow material for embankment construction may require large areas to be disturbed in order to obtain a sufficient volume of materials. According to the Virginia proposal, the use of coal refuse would reduce this disturbance. Water quality would be protected since only non-toxic, non-acid forming refuse would be used.

The provision to allow the use of coal waste in embankments is inconsistent with 30 CFR 816.46(o). Sections 515(b)(13) and 515(f) of SMCRA require that dams constructed of coal refuse shall comply with safety standards used by the Chief of Engineers. Regulations incorporating these requirements are contained in 30 CFR 816.91 through 816.93 and 817.91 through 817.93. Since the Virginia proposal would allow construction of dams using coal refuse without requiring compliance with these standards, the Secretary finds that the proposal is not in accordance with SMCRA. It appears that the proposal could be approved if it is modified to require compliance with 30 CFR 816.91 through 30 CFR 816.93 and 30 CFR 817.91 through 30 CFR 817.93.

(vi) *Disposal of Excess Spoil*—In Sections V816.75 and V817.75 of its regulations, Virginia provides an additional method for the disposal of excess spoil in areas other than the actual mined area. A single lift disposal area would be allowed with a "structural zone", similar to a constructed dam at the face of the fill area. This proposal is an alternative to 30 CFR 816.71 through 816.74 and 30 CFR 817.71 through 817.74.

This alternative assumes that embankment construction and disposal of spoil are different. As explained more fully below, the Virginia proposal would omit SMCRA's requirements for removal of organic matter from all areas of the site, placement of an underdrain system in all areas of the site so as to prevent infiltration of water into the spoil pile, and controlled placement of spoil and compaction. Under the alternative these basic practices would be waived for areas not considered as the structural zone of the fill. The structural zone would be designed and constructed using standard embankment and slope stability principles and the basic embankment requirements would apply only to the structural zone.

Three other specific OSM regulatory requirements are proposed to be waived by the Commonwealth of Virginia: providing a filter system for the subsurface drainage system; placement of spoil materials in horizontal lifts; and the prohibition on drainage over the outslope.

The Secretary finds the following specific alternatives that are incorporated in this method are less stringent than the requirements of the regulations and/or SMCRA insofar as they:

1. Allow drainage to be diverted over the outslope of the fill. SMCRA requirements—515(b)(22)(C); Regulation requirements 816.72(f), 817.72(f)

2. Allow spoil materials to be placed in areas where topsoil and vegetation matter have not been removed. SMCRA requirements—515(b)(22)(B); Regulation requirements 816.71(c), 817.71(c)

3. Allow unclassified spoil to be placed in other than horizontal lifts (end dumping) and without compaction. SMCRA requirements—515(b)(22)(A); Regulation requirements 816.71(f), 817.71(f)

4. Do not require an underdrain system to be constructed under the nonstructural zone to intercept springs, natural watercourses or wet weather seeps. SMCRA requirements—515(b)(22)(D); Regulation requirements 816.71(1), 817.71(1), 816.72(b)(1), 817.72(b)(1), 816.73(b)(1), 817.73(b)(1)

5. Allow unclassified spoil to be placed without any lift thickness requirements in nonstructural zone. SMCRA requirements—515(b)(22)(A); Regulation requirements 816.72(c), 817.72(c)

6. Do not specifically require a filter system to protect underdrain system. Regulation requirements 816.72(b)(2), 817.72(b)(2), 816.73(b)(2), 817.73(b)(2)

7. Do not require materials to be transported to placement areas in a controlled manner. SMCRA requirements—515(b)(22)(A); Regulation requirements 816.71(f), 817.71(f)

Withal, this proposal represents an innovative engineering approach that contains technical merit. Because, on its face, it conflicts with several requirements of SMCRA, it can only be approved if it is more stringent than SMCRA. The proposal lacks certain engineering data and justifications needed to determine its effect.

Absent additional information and justifications, the proposal violates or conflicts with regulations and SMCRA; therefore, the proposal must be denied at this time. The Secretary would suggest that the Commonwealth on resubmission apply for approval of this proposal as an experimental practice under Section 711 of SMCRA. The construction of a model, or several models, that would yield data should provide a basis for the Secretary to reconsider his decision. Virginia might also prepare plans and specifications in greater detail showing fill performance under site-specific, hypothetical situations.

This new technique could prove environmentally and economically beneficial. The Commonwealth is to be commended for advancing this innovative approach: OSM will continue working with Virginia to develop it.

(vii) *Steep Slope Mining*—In Sections V826.12(b) and (g), Virginia proposes an alternative which modifies the special performance standards required for steep slope mining in 30 CFR 826.12 and 826.15. This proposal in Section V826.12(b) would allow the requlatory authority to specify a lower or higher factor of safety than the 1.3 specified in 30 CFR 826.12(b) for all portions of the reclaimed area. The second part of this proposal in V826.12(g) would allow drainage channels or roads to be located in the uppermost portion of the

backfilled area and incorporate the highwall as an integral part of the drainage channel or road.

Virginia has justified this proposal by alleging that if the highwall is completely covered and the slope returned to its original contour, there is little likelihood that the minimum factor of safety of 1.3 can be achieved for most steep slope areas. Virginia also maintains that there will be more positive control of surface runoff by constructing ditches or roadways at the top of the backfilled spoil if these structures are properly designed and if there is no structure above the spoil slope to intercept the surface water runoff, the risk of erosion and instability increases significantly. By allowing a flatter spoil slope, it would be safer and easier to operate earth-moving equipment, improve the overall compaction of the spoil and effect a vegetation program.

The 1.3 safety factor is particularly appropriate in steep slope areas where slope failures are likely. It is an accepted value in engineering design (44 FR 15229, March 13, 1979) and provides a margin of error if field conditions are not accurately defined or if design is not properly implemented. A lower safety factor would provide less assurance of stability for future land uses and reduce protection of the environment and public health and safety. Virginia's allegation that a 1.3 factor cannot be attained above a lv:2h slope is not correct. With concurrent compaction in zoning or select materials, the required safety factor can be easily achieved. (See Lambe, T. W. and Whitman, R. V., 1969. Soil mechanics, John Wiley & Sons, Inc., New York, New York, cited at 44 FR 15215, March 13, 1979).

Retention of a portion of the highwall to facilitate roads and drainage structures is contrary to SMCRA which forbids leaving highwalls. Water in the uncompacted fill could lead to saturation and create stability problems in the backfill.

Therefore, a drainage facility or a road at the top of the backfilled highwall must be an engineered channel designed to handle anticipated flows with the small highwall segment "shaved" to blend into surrounding terrain. Under the Federal regulations terraces may also be used on the backfill to reduce runoff velocity, but in no case may highwalls be left as a part of the terrace, 30 CFR 816.102(b)(3).

In accordance with 30 CFR 731.13, the Secretary finds that this proposed alternative is not in accordance with Sections 515(d)(2) and 515(e) of SMCRA which clearly provide that the highwall must be completely covered and that backfill material must maintain stability following mining and reclamation. It also is not consistent with the 1.3 factor of safety requirement of 30 CFR 826.15.

(viii) *Haul Roads*—Virginia proposed in Sections V816.152, V816.162, V817.152, and V817.162 that if substrata materials exposed by road cuts are demonstrated to be a satisfactory topsoil substitute for establishing the vegetation, they may be used in place of topsoil or other suitable materials under Section V816.22. The state was concerned that the Federal regulations in 30 CFR 816.152 and 816.162 and 30 CFR 817.152 and 817.162 require all cut slopes of lv:5h or flatter to be covered with topsoil. Virginia provided data with the proposed topsoil alternative (Finding 4(b)(iv) above) showing that the A-horizon is not necessarily the soil stratum best suited for vegetative purposes in southwestern Virginia. The native soils on the steep slopes characteristic of southwestern Virginia are generally low to moderate in fertility and difficult to remove safely prior to surface mining activities. The native soils typically found on these steep slope areas are insufficient both in quality and quantity for restoring land capability and productivity.

OSM has provided in interpretive regulations published in the **Federal Register**, June 10, 1980 (45 FR 39446–39448) that if the operator demonstrates through analysis, soil survey or other data that the topsoil and unconsolidated material are insufficient and substitute materials will be used, only the substitute materials must be analyzed in accordance with 30 CFR 816.22(e)(1) and 30 CFR 817.22(e)(1). Although this proposal is generally acceptable and the substantive finding would be similar to that for the topsoil alternative [Finding 4(b)(iv)], the Secretary must affirmatively disapprove this proposal because of the decision of the District Court of the District of Columbia in *In Re: Permanent Surface Mining Regulation Litigation*. 30 CFR 816.150–176 and 30 CFR 817.150–176 were remanded by the district court. Accordingly, all portions of State programs relating to these regulations must be disapproved.

(c) Pursuant to the requirements of 30 CFR 732.15(b)(1), the Secretary finds that the Virginia Department of Economic Development has, in part, authority under Virginia laws and regulations to implement, administer, and enforce all applicable requirements consistent with 30 CFR Chapter VII, subchapter K, and the Virginia program includes provisions adequate, in part, to do so. Special provisions comparable to 30 CFR Parts 820, 822, and 825 for anthracite mines and operations in alluvial valley floors are not applicable to or included in the Virginia law or regulations.

Virginia incorporates provisions corresponding to Sections 515 and 516 of SMCRA in Subchapter 19, Virginia Coal Surface Mining Control and Reclamation Act of 1979 as amended, Sections 45.1–242 and 45.1–243, and in the Virginia Coal Surface Mining Regulations, Subchapter VK. Part 8.6 of the program submission contains a discussion of Virginia administrative and enforcement procedures for the performance standards. Except for the following items, the Secretary finds that the Virginia program, law, and regulations meet the requirements of 30 CFR 732.15(b)(1):

(i) The difference between 30 CFR 817.48 (Hydrologic balance: acid-forming and toxic-forming material) and the Virginia regulations contained in Section V817.48 in that Virginia has included only "acid-forming and toxic-forming spoil." 30 CFR 817.48 incudes "acid-forming and toxic-forming *underground development waste and* spoil." Virginia has omitted the four italicized words, thereby altering the Federal requirements and making the Virginia regulations less stringent.

(ii) The difference between 30 CFR 817.59 (coal recovery) and the Virginia regulations contained in Section V817.59 in that Virginia has changed the phrase "best technology currently available" of the Federal regulation to "best appropriate technology currently available" in the Virginia regulations. This alteration could limit the regulatory authority's ability to require that certain technology be utilized to ensure environmental integrity in coal recovery. The addition of "appropriate" alters the meaning of this section so that it is less stringent.

Pursuant to the requirements of 30 CFR 732.15(b)(2), the Secretary finds that the Virginia Department of Conservation and Economic Development has, in part, the authority under Virginia laws and regulations and the Virginia program includes, in part, provisions to implement, administer and enforce a permit system consistent with 30 CFR Chapter VII, Subchapter G.

Virginia incorporates provisions corresponding to Sections 506, 507, 508, 510, 511 and 513 of SMCRA and Subchapter G of 30 CFR Chapter VII in Virginia CSMCRA as amended in Section 45.1–234, 45.1–235, 45.1–236, 45.1–237, 45.1–238 and 45.1–239 and Subchapter VG of the Virginia regulations. Part 8.1 of the program submission contains discussion of the system for permitting. The Virginia

modification which was received by OSM on May 5, 1980, included proposed regulations V786.27(b) pertaining to permit provisions for right of entry.

The Virginia statute and regulations are consistent with the federal law and regulations except for the following items:

(i) In Section V771, which corresponds to 30 CFR 771, Virginia has included an additional part, V771.23(c), which does not have a corresponding federal part. This provision would allow permit applicants to comply with the permit application requirements of Section V778 through V780 and V782 through V785, which require specific data to be submitted with the permit application, by reliance upon accurate data, as approved by the regulatory authority, already in the possession of the applicant or the regulatory authority. This information pertains to permit application requirements for (1) legal, financial, compliance and related information, (2) information on environmental resources, and (3) the reclamation and operation plan. Under the proposal such data could be incorporated by reference into a permit, provided that the incorporated information is made available to the public for inspection.

Existing data can be used to satisfy the requirements of V778 through V780 and V782 through V785 if it can be shown that they are relevant to that particular permit area. In most cases this can be done by collecting some data so that reasonable predictions or modeling can be done. Therefore, the Secretary finds that Section V771.23(c) is consistent with the federal requirement.

(ii) In Section V783.15(a)(3) of the Virginia regulations "known uses" has been used instead of "the uses" in 30 CFR 783.15(a) of the federal regulations. In order to protect uses of ground water, it is necessary that the term "known uses" be interpreted to mean all potential uses, even though the ground water may not be being used for such purpose currently. If Virginia assures that a thorough investigation of all uses of ground water and its function in the hydrologic balance will be conducted, the Secretary could accept the term "known uses".

(iii) In Section V782.13 of the Virginia regulations the words "property to be mined" have been substituted in place of the following in 30 CFR 782.13 which concerns required information for underground mining permit application:

—782.13(a)(2) "areas to be affected by surface operations and facilities and every legal or equitable owner of records of the coal to be mined."

—782.13(a)(3) "areas to be affected by surface operations or facilities and the holders of record of any lease hold interest in the coal to be mined."

—782.13(a)(4) "areas to be affected by surface operations and facilities and any purchaser of record under a real estate contract of the coal to be mined."

The Secretary finds this change inconsistent with the federal requirement. Virginia has identified this change as an editorial error which it plans to correct and make consistent with 30 CFR 782.13 (See Administrative Record No. VA 94). No correction has yet been submitted by Virginia.

(iv) Section V786.21(c) of the Virginia regulations establishes guidelines for permit review where the permit applicant requests an exemption from the design criteria for existing structures. OSM recognizes the need for coal mine operators and regulatory authorities to know which of the regulations are performance standards and which are design standards. The Virginia proposal has attempted to consolidate that information in one place in the Virginia regulations.

The Virginia proposal provides a listing of existing structures and the standard those structures must meet in order for them to comply with the performance standards of the Virginia CSMCRA and Subchapter VK of the Virginia regulations. If these standards are not met, the structure would be subject to the modification or reconstruction requirements of Section V701.11(e) which corresponds to 30 CFR 701.11.

For the purposes of this proposal and evaluating the performance standards applicable to the existing structures, the regulations of Subchapter K of the federal regulations and the provisions of Sections 515 and 516 of SMCRA were divided by Virginia into the following categories: (1) performance standards, (2) design criteria, (3) operating standards, (4) reclamation standards, and (5) general standards.

Of the twenty two performance standards contained in the Virginia proposal, fourteen meet federal requirements. These are the provisions of V786.12(c)(1), (3), (4), (6), (10), (11), (14), (15), (17), (18), (19), (20), (21) and (22). The eight others do not meet the full performance standards as required in 30 CFR Parts 816 and 817 and Sections 515 and 516 of SMCRA.

The federal regulations in 30 CFR 701.11(d) provide an exemption from reconstruction requirements if the applicant can demonstrate, and the regulatory authority finds, (1) that the existing structure complies with performance standards in the initial program, which were at least as stringent as the comparable standards for the permanent program, (2) that the existing structure complies with a more stringest permanent program performance standard, and (3) in the case of a new performance standard in the permanent program with no comparable standard in the initial program, the existing structure complies with the permanent program performance standards. In essence, if the existing structure complies with permanent program performance standards, the applicant need not reconstruct the structure in order to comply also with permanent program design requirements.

As a part of its proposal, Virginia has not clearly stated that any and all performance standards in its law and regulations must be met. Neither has Virginia clearly provided that structures which were in violation during the interim program will not be subject to grandfather provisions and allowed to remain without meeting the requirements of 30 CFR 701.11(d). The Secretary suggests that at a minimum the state regulations be amended to include:

(a) The words "performance and" before the word "design" in Section V701.11(e)(1)(iii) at line 7, and Section V701.11(c)(1)(iv) at line 5.

(b) The statement "structures that are in violation during the interim program, 30 CFR Subchapter B, will not be subject to grandfather provisions" in Section V786.21(c).

(c) The statement "all other performance standards in Virginia law and regulations must be met" in Section V786.21(c).

Because of these deficiencies in this Virginia proposal, the Secretary finds the provisions of V786.21(c) of the Virginia regulations inconsistent with the federal requirements.

(v) The Virginia regulations have omitted the requirement of 30 CFR 786.27(b) that permittees allow a citizen to accompany an inspector on a mine site when the inspection is in response to an alleged violation reported to the regulatory authority by that person. The Secretary finds the Virginia regulations deficient insofar as they do not provide for this requirement. The proposed regulation V786.27(b), submitted on May 5, 1980, appears to correct the deficiency.

(vi) Section V784.19(p) of the Virginia regulations omits the requirement of 30 CFR 784.16(e) that the plan for coal processing waste dams and embankments include a stability analysis of each structure if the structure is twenty feet or higher or

impounds more than twenty acre feet. Virginia has indicated that this omission is a typographical error which will be corrected, but these corrections have not been received (See Administrative Record No. VA 93).

4e

Pursuant to the requirements of 30 CFR 732.15(b)(3), the Secretary finds that the Virginia Department of Conservation and Economic Development has the authority to regulate or to prohibit coal exploration consistent with 30 CFR Parts 776 and 815 (coal exploration), and that the Virginia program includes provisions adequate to do so. The Virginia program incorporates provisions corresponding to Section 512 of SMCRA and 30 CFR Parts 776 and 815 in Virginia CSMCRA 45.1–233 and regulations Sections V776 and V815. Part 8.1 of the program submission includes a discussion of coal exploration notifications and approvals.

4f

Pursuant to the requirements of 30 CFR 732.15(b)(4), the Secretary finds that the Virginia Department of Conservation and Economic Development has the authority under Virginia laws and regulations to require that persons extracting coal incidental to government-financed construction maintain information on site consistent with 30 CFR Part 707.12. The Virginia program incorporates provisions corresponding to Section 528 of SMCRA and 30 CFR Part 707 in Virginia CSMCRA 45.1–253 and the Virginia surface mining regulations Part V707.

4g

Pursuant to the requirements of 30 CFR 732.15(b)(5), the Secretary finds that the Virginia Department of Conservation and Economic Development has the authority under Virginia laws and regulations to enter, inspect, and monitor all coal exploration and surface coal mining and reclamation operations on non-Indian and non-federal land within Virginia consistent with the requirements of Section 517 of SMCRA (inspections and monitoring) and 30 CFR Chapter VII, Subchapter L (inspections and enforcement). Provisions corresponding to Section 517 of SMCRA and Subchapter L of 30 CFR Chapter VII for inspection and monitoring are found in Virginia CSMCRA Section 45.1–244 and Virginia proposed surface mining regulations Subchapter VL (inspection and enforcement). Part 8.4 of the program submission contains a description of the inspection program to be carried out by the Virginia Department of Conservation and Economic Development.

4h

Pursuant to the requirements of 30 CFR 732.17(b)(6), the Secretary finds that the Virginia Department of Conservation and Economic Development has the authority under Virginia laws and regulations and the Virginia program includes provisions for implementation, administration and enforcement of a system of performance bonds and liability insurance, or other equivalent guarantees, consistent with 30 CFR Chapter VII, Subchapter J. The performance bond and liability insurance provisions of Sections 507(f), 509, 510 and 519 of SMCRA and 30 CFR Chapter, VII, Subchapter J are incorporated in Sections 45.1–235(G), 45.1–241, 45.1–238, 45.1–247 of the Virginia CSMCRA and in Subchapter VJ of the Virginia regulations.

Several regulations in 30 CFR Chapter VII, Subchapter J, were suspended or remanded as a result of the litigation over the permanent program regulations (*In Re: Permanent Surface Mining Regulation Litigation*, Civil Action No. 79–1144). However, Virginia submitted proposed regulations on bonding corresponding to those sections suspended or remanded. The proposed Virginia bonding regulations were not taken into consideration by the Secretary in making this findind as they have not yet been enacted. As a result of this litigation, those sections of the Virginia bonding regulations based on suspended or remanded federal regulations cannot be approve. New regulations were published by OSM on August 6, 1980 (45 FR 52306–52324). These new regulations will be used as the basis to determine the adequacy of the corresponding Virginia regulations. Prior to resubmission Virginia should review the final OSM regulations and consider modifying its proposed regulations in accordance with the new federal regulations.

4i

Pursuant to the requirements of 30 CFR 732.15(b)(7), the Secretary finds that the Virginia Department of Conservation and Economic Development has the authority under Section 45.1246 of the Virginia CSMCRA and provides in Part V845 of the Virginia regulations for civil and criminal sanctions for violations of Virginia law, regulations and conditions of permits and exploration approval, including civil and criminal penalties, in accordance with Section 518 of SMCRA (30 U.S.C. 1268) and consistent with 30 CFR Part 845. Part 8.5 of the program submission discusses the system for enforcing civil and criminal sanctions of State laws.

On February 26, 1980, the U.S. District Court for the District of Columbia issued its first round decision in the litigation over the permanent program regulations (*In Re: Permanent Surface Mining Regulation Litigation*, Civil Action No. 79–1144). In that decision, the court held that the Secretary could not require a point system for assessing civil penalties. On May 16, 1980, in its second round decision in this litigation, the court answered the Secretary's request for clarification regarding the round one decision remanding the penalty point system. The court stated that the Secretary may not require the states to develop a system to assess penalties at least as stringent as those imposed under the civil penalty system set forth in the federal regulations. The Secretary has interpreted the court's decision concerning penalty systems such that the states and need develop only a penalty system incorporating: (1) the four criteria in Section 518(a) of SMCRA, (2) the procedural requirements of 30 CFR 845.17 through 845.20, (3) the requirement of 30 CFR 845.12 that all cessation orders must be assessed, and (4) the requirement of 30 CFR 845.15(b) that a minimum of $750.00 per day be assessed for all cessation orders issued for failure to abate a violation.

Based on the district court's ruling, the Secretary finds that the Virginia alternative penalty point system appears acceptable. Virginia submitted proposed regulations to modify V845 to provide a means of assessing civil penalties which would not rely on a point system (See Administrative Records No. VA 65). These proposed regulations would appear to be acceptable if resubmitted as fully enacted regulations because the assessment would still be based on the consideration of the four statutory criteria; history, seriousness, negligence, and good faith in correcting the violation.

4j

Pursuant to the requirements of 30 CFR 732.15(b)(8), the Secretary finds that the Virginia Department of Conservation and Economic Development has, in part, the authority under Virginia laws and the Virginia program contains, in part, provisions to issue, modify, terminate and enforce notices of violation, cessation orders and show cause orders in accordance with Section 521 of SMCRA (30 U.S.C. 1271) and with 30 CFR Chapter VII, Subchapter L. The authority to issue, modify, terminate and enforce notices of violation, cessation orders and show

cause orders is contained in Section 45.1–245 of the Virginia CSMCRA and in Chapter 19, Subchapter VL of the Virginia regulations. Except for the following, the Virginia program, law, and regulations meet the requirements of 30 CFR 732.15(b)(8):

(i) The Virginia program in Section 8.4 has failed to show clearly who may be an "authorized representative" of the Director of the Department of Conservation and Economic Development and, therefore, who would be authorized to issue notices of violation and cessation orders as provided in V843 of the Virginia regulations. It is necessary that the field inspector be an "authorized representative" so that violations may be cited immediately in the field as required by SMCRA. For example, this provision is necessary in the event that the inspector encounters any condition, practice, or violation which he determines to be imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources so that he may immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the condition, practice, or violation. The Secretary finds Section 8.4 unacceptable insofar as it does not define who may be an "authorized representative," or provide that the field inspector will be an authorized representative of the Director.

4k

Pursuant to the requirements of 30 CFR 732.15(b)(9), the Secretary finds that the Virginia Department of Conservation and Economic Development has, in part, the authority under Virginia laws and regulations to provide for designation of areas as unsuitable for surface coal mining consistent with 30 CFR Chapter VII, Subchapter F. Section 45.1–252 of the Virginia CSMCRA and Chapter I, Subchapter VF of the Virginia regulations are consistent with 30 CFR Chapter VII, Subchapter F, except for the following:

(i) 30 CFR 764.15(b)(2) provides that the regulatory authority shall, within three weeks after the determination that a petition is complete, notify the general public of the receipt of the petition and request submissions of relevant information by a newspaper advertisement placed once a week for two consecutive weeks in the locale of the area covered by the petition in the newspaper of largest circulation in the state, and in any official state register of public notice. V764.15(b)(2) provides that the newspaper advertisement shall be placed once a week for two consecutive weeks in the locale of the area covered by the petition, in a newspaper of general circulation in the locale. Mining in Virginia is confined to the southwest portion of the state. The Secretary recognizes the problems in that the newspaper of largest circulation in Virginia may not reach the residents of the southwest and other portions of the state. Conversely, the newspaper of general circulation in the locale would not provide notification to a large portion of Virginia residents. Knowledge of a permit would be expected to be of high interest to those in the coal shipping areas of Virginia and residents of the state outside of the coal producing areas of the state. Therefore, the Secretary finds that Virginia should provide that the newspaper advertisement be placed in a newspaper of general circulation of the locale and in the newspaper of largest circulation in Virginia.

(ii) 30 CFR 764.17(a) provides that the hearing held in regard to the petition shall be legislative and fact-finding in nature without cross-examination of witnesses. Section V764.17(a) provides that the hearing officer is empowered to administer oaths and may at his discretion allow cross-examination and rebuttal of witnesses. The Secretary has noted that nothing prevents the state regulatory authorith from providing additional procedural safeguards in unusual circumstances and, therefore, providing for elements of an adjudicatory type hearings in those situations (See first round decision of February 26, 1980, *In Re: Permanent Surface Mining Regulation Litigation*, Civil Action No. 79–1144). However, under normal circumstances an adjudicatory type hearing cannot be required and the hearing must be legislative and fact-finding in nature. Therefore, Virginia should use adjudicatory type hearings only in unusual circumstances. The Secretary intends to monitor this as an element of oversight.

(iii) Virginia proposed three major changes to its regulations governing petitions to designate lands unsuitable for surface coal mining operations in Section V764.13, V764.15, and V764.17. In V764.13, the Virginia proposal directs a petitioner to supply substantially more information than required under SMCRA or 30 CFr 764.13. The additional information is proposed to assist the regulatory authority in making its findings. Section V764.13(d) allows the Virginia Division of Mined Land Reclamation to initiate a petition. In V764.15 and V764.17(a) the time limit is restricted for filing a petition in response to a permit application and the time limit for holding a hearing for a petition filed in response to a permit application is reduced.

The information that a petitioner needs to provide is specified at 30 CFR 764.13(b) for designation and 30 CFR 764.13(c) for termination. These information requirements provide a very low threshold for the petitioner's burden to present a petition. In its submission, Virginia stated that the additional information is designed to guide petitioners and will be required only to the extent it is available to the petitioner.

The ambiguous language used by Virginia in achieving this purpose in its regulation does not clearly indicate that this additional information requirement is only a guide. On its face this constitutes a requirement which, if not met, would be reason for not considering the petition.

The Secretary supports the intentions of Virginia to provide additional guidance to petitioners so that it might be better able to supply those kinds of information needed by the regulatory authority for consideration in its findings on the on the petition. The Secretary finds this part of the Virginia proposal inconsistent with SMCRA and the federal regulations only insofar as the requirement for additional information is not optional. Virginia indicated at the meeting July 15 and 16, 1980, in Washington, D.C., that clarification would be provided to show that the additional information requirement was for guidance and the failure to provide this additional information would not result in the rejection of the petition (See Administrative Record No. VA 171 and 173). This clarification has not been provided at this time.

The second part of the Virginia proposal would allow the state and its agencies, including the Division of Mined Land Reclamation, to act as petitioners. This part of the proposal is to clarify that the state is a proper petitioner.

Under 30 CFR 764.13 and "person" with an interest which is or may be adversely affected may file a petition. In 30 CFR 700.5, the word "person" is defined to include ". . . any agency, unit, or instrumentality of . . . of . . . state or local government . . ." The Secretary finds that this part of the Virginia proposal is consistent with SMCRA and the federal regulations and, therefore, acceptable.

The third part of the Virginia proposal restricts time limitations in the process for designating lands unsuitable when a permit application is involved. This proposal has two components. Section V764.15(a)(7) allows the filing of a petition to designate an area, including a permit application area, at any time up to the end of the public comment period on that permit application. The public comment period would not extend to the informal conference as is provided in 30 CFR 764.15(a)(7). Secondly, in V764.17(a) when a petition to designate lands unsuitable for surface coal mining operations is filed during the public comment period on a permit application, the hearing on the petition must be held within three months rather than 10 months as required by 30 CFR 764.17(a).

As explained by the Secretary in the **Federal Register**, March 13, 1979 (44 FR 15002), the establishment of the petition cutoff date was the result of a balancing of interests on a national level. Environmental groups wanted as much time as possible to file petitions while regulatory authorities and operators wanted an early cutoff to prevent harassment and provide easier administration. Virginia has presented no justification for its proposal that is unique to Virginia except to state that it would save money and would be easier to handle administratively. This reasoning would apply to any state government and was considered in the drafting of the federal regulations. Therefore, the Secretary finds this provision unacceptable.

Virginia could accomplish its objectives within the framework of the existing regulations. Under these regulations, an informal conference could be held as soon as the day following the comment period, provided that proper notification was given. However, when informal conferences are held, a decision on the permit application must be made within sixty days [30 CFR 786.23(b)(2)(i) and V786.23(b)(2)(i)], unless a petition to designate lands unsuitable for mining is filed.

Virginia states that the basis for its proposal to shorten the ten month time limit for holding a public hearing on a petition to three months if the petition was filed during the public comment period on a permit application is the large number of small operators who will be adversely impacted by delays in permitting. Virginia considers that the three month provision places a more stringent requirement on the Division of Mined Land Reclamation (DMLR).

While it is agreed that the time between filing of a complete petition and the public hearing should not be unduly long, reduction of this period from a maximum of ten months to a maximum of three is not a more stringent standard. It may impose more of an administrative burden on the DMLR to meet this compressed schedule, but it will also result in a shorter time for petitioners to prepare testimony. It is, therefore, a less stringent standard than the federal regulation. The intent of the ten month maximum time period is to allow all parties sufficient time to prepare for the hearing. It seems likely that the complexity of issues, volume of petitions and staff capability may require some hearing schedules to go beyond a three month limit. In addition, proposals that the time to consider petitions be reduced have been previously considered and rejected by OSM (44 FR 15003, March 13, 1979). Therefore, the Secretary finds this provision unacceptable.

It should be noted, however, that the ten month time limit is a maximum and there is nothing in the regulations to preclude the DMLR from holding the hearing on any petition at any time within the ten month period. It would be permissible for Virginia to adopt a policy to direct that the petitions be processed as rapidly as possible and that hearings on such petitions may be held within three months of receipt. This should allow regulatory authority flexibility to provide sufficient consideration of a petition regardless of the complexity.

41

Pursuant to the requirements of 30 CFR 732.15(b)(10), the Secretary finds that the Virginia Department of Conservation and Economic Development has the authority under Virginia laws and the Virginia program contains, in part, provisions for public participation in the development, revision and enforcement of the Virginia regulations and program. The modification to the Virginia program which was received by OSM on May 5, 1980, contained proposed regulations which are not fully enacted and cannot be considered as the basis of the Secretary's findings (*See* part D., above). The Virginia CSMCRA and Chapter I, Virginia Coal Surface Mining Regulations provide the authority and the Virginia program is consistent with the public participation requirements of SMCRA and 30 CFR Chapter VII except for the following:

(i) 30 CFR 842.12(b) provides that the indentity of any person supplying information to the office relating to a possible violation or imminent danger or harm shall remain confidential, if requested by that person. Section V842.12(b) has changed the "person" to "citizen" in this section. Both the federal and the Virginia regulations define "person" to include individuals, corporations, associations, etc., but "citizen" is not defined and could exclude out-of-state persons, corporations, associations, etc. from remaining confidential. Therefore, the Secretary finds V842.12(b) is inconsistent with 30 CFR 842.12(b).

(ii) The Virginia regulations do not contain provisions to allow a citizen to accompany the inspector during an inspection which is conducted as a result of information provided to the regulatory authority by the citizen as is provided in 30 CFR 842.12. Therefore, the Secretary finds V842.12 of the Virginia regulations unacceptable. The Virginia modifications received by OSM on May 5, 1980, contained proposed regulations V842.12(b)(c) which if resubmitted as fully enacted regulations would appear to correct this deficiency.

(iii) The Virginia regulations omitted provisions requiring notice of citizen suits as is provided in 30 CFR 700.13. Therefore, the Secretary finds the Virginia regulations inconsistent with the federal regulation insofar as there is no provision for notice of citizen suits. The Virginia modification received by OSM on May 5, 1980, contained proposed regulations in Part V790 which if resubmitted as fully enacted regulations would appear to correct this deficiency.

4m

Pursuant to the requirements of 30 CFR 732.15(b)(11), the Secretary finds that the Virginia Department of Conservation and Economic Development has, in part, the authority under Virginia laws, and the Virginia program includes provisions to monitor, review and enforce the prohibition against indirect or direct financial interests in coal mining operations by employees of the Virginia Department of Conservation and Economic Development consistent with 30 CFR Part 705. The prohibitions against fiancial interests in coal mining operations are contained in Sections 45.1–231 and 45.1–232 of the Virginia CSMCRA, part V705 of the Virginia regulations, and in Section 8.12 of the Virginia program description. Except for the following, the Virginia program, law and regulations meet the requirements of 30 CFR Part 705:

(i) Section 45.1–231 of Virginia CSMCRA prohibits conflicts of interest for members of the Board of Conservation and Economic Development. However, Section 45.1–232 allows up to three members of the

Board representing the coal industry to have financial interests in coal mining. 30 CFR Part 705 exempts from its coverage members of state multi-interest boards, and thereby allows otherwise forbidden financial interests on such boards. It is not clear in Virginia's submission that any other special interests besides coal mining are required to be represented on the Board, and it is therefore impossible to determine if the Board is truly a "multi-interest" board. Absent such demonstration the Secretary finds that Section 45.1–232 of Virginia CSMCRA is inconsistent with Section 517(g) of SMCRA and 30 CFR Part 705. This issue is discussed further in response to comment 67.

4n

Pursuant to the requirements of 30 CFR 732.15(b)(12), the Secretary finds that the Virginia Department of conservation and Economic Development has the authority under Section 45.1–256 of the Virginia CSMCRA to require the training, examination, and certification of persons engaged in or responsible for blasting and the use of explosives in accordance with Section 719 of SMCRA. Under 30 CFR 732.15(b)(12) the state is not required to implement regulations governing such training, examination and certification until six months after federal regulations for these provisions have been promulgated. Federal regulations have not been promulgated at this time. However, when OSM issues final rules on this subject, Virginia will be required to have regulations consistent with them.

4o

Pursuant to the requirements of 30 CFR 732.15(b)(13), the Secretary finds that the Virginia Department of Conservation and Economic Development has the authority under Section 45.1–235 of the Virginia CSMCRA and Part V795 of the Virginia regulations to provide for a small operator assistance program consistent with Section 507(c) of SMCRA and 30 CFR Part 795. Part 8.16 of the Virginia program narrative describes the Virginia small operator assistance program.

4p

Pursuant to the requirements of 30 CFR 732.15(b)(14), the Secretary finds that the Virginia Department of Conservation and Economic Development has the authority under Section 45.1–257 of the Virginia CSMCRA to provide for protection of employees of the Virginia Department of Conservation and Economic Development in accordance with the protection afforded federal employees under Section 704 of SMCRA.

4q

Pursuant to the requirement of 30 CFR 732.15(b)(15), the Secretary finds that the Virginia Department of Conservation and Economic Development has, in part, the authority under Sections 45.1–249, 45.1–250 and 45.1–251 of the Virginia CSMCRA and the Virginia Administrative Process Act, *Va. Ann. Code* 9–6:14:12 et seq. and Subchapter VL of the Virginia regulations provide, in part, for administrative and judicial review of state program actions in accordance with Sections 525 and 526 of SMCRA and 30 CFR Chapter VII. The Virginia statutes and regulations are consistent with SMCRA and federal regulations except for the following:

(i) Section 45.1–251A of the Virginia CSMCRA provides that judicial review under this section includes the right of any party to request a jury trial *de novo*. The Secretary finds the provision for jury trial *de novo* unacceptable unless certain conditions are met. The Secretary's position that *de novo* review of administrative decisions was unacceptable was challenged in the first round of the permanent program litigation. *In Re: Permanent Surface Mining Regulation Litigation*, Civil Action No. 79–1144, in the District Court for the District of Columbia. As a result of that litigation, the Office of Surface Mining modified its position on *de novo* review and stated that such reviews would be acceptable if the *de novo* review procedures: (1) insure preservation of the administrative record, including all exhibits and transcripts of all testimony taken at the proceeding; (2) guarantee that the party to a *de novo* review proceeding has the right to use any evidence contained in the administrative record whenever such evidence cannot otherwise be practicably obtained; (3) insure that any money paid into escrow is held until there is a final, binding resolution of the controversy; (4) demonstrate that the provision for trial *de novo* will not result in undue delay so as to undermine the effectiveness of the enforcement program; (5) make trial *de novo* review available to any party to the administrative proceeding, including the regulatory authority and any intervening parties; (6) insure that review by trial *de novo* is not available to a person who has failed to appear at or waived his right to an administrative hearing, and (7) provide for representation of the regulatory authority by a licensed attorney at law at every stage of the judicial review proceeding. These conditions have not been provided in the Virginia law and regulations, therefore, the Secretary finds the Virginia provision for jury trial *de novo* unacceptable.

(ii) Section 518(b) of SMCRA provides that any hearing under this section shall be of record and shall be subject to 5 U.S.C. 554. The Virginia Administrative Process Act states that the presiding hearing officer is empowered to oversee an accurate verbatim recording of the evidence, but does not require that all hearings be of record. In addition, the Virginia program submission does not contain this requirement. The Secretary finds the Virginia Administrative Process Act is less stringent than SMCRA because it does not mandate a record of the hearing on civil penalties.

(iii) Section 45.1–249E of the Virginia CSMCRA empowers the Board to adopt regulations governing the awarding of costs, expenses, and attorney fees to any party and the assessing of these costs against any other party. Section 45.1–251C authorizes the assessing and awarding of costs, expenses, and attorney fees during judicial review of agency action. To this extent, the Secretary finds that both of these sections appear consistent with Section 525(e) of SMCRA. However, both of the above sections exempt the state from their operation, with the result that attorney fees, etc., may not be assessed against the state. This is inconsistent with the requirements of Section 525(e), which expresses no limitation on the awarding of costs against governmental entities. In addition, 30 CFR 732.15(b)(10) and 840.15 require public participation provisions in each state program consistent with 43 CFR Part 4. The preamble to the permanent regulations is clear that the availability of costs and expenses is an integral part of public participation in administrative and judicial review, under state programs, and inclusion of such provisions is required [See 44 FR 14965; 15297 (March 13, 1977)]. The Secretary finds that the Virginia provision is unacceptable insofar as it limits the awarding of costs, expenses, and attorney fees against the state.

(iv) 30 CFR 840.15 requires public participation in enforcement of a state program consistent with 43 CFR Part 4. The Virginia Administrative Process Act governs the general conduct of administrative hearings including those authorized in Section 45.1–249 of the Virginia CSMCRA. Although the Virginia Administrative Process Act empowers the hearings officer to govern the conduct of the hearing, (*Va. Ann. Code*, 9–6.14:12), Virginia has submitted

no procedural regulations which are the same or similar to the intervention and discovery rules in 43 CFR Part 4. The Secretary finds that the lack of such procedural regulations allowing public access to this phase of the enforcement process is inconsistent with 43 CFR Part 4 as it is applicable to state programs.

4r

Pursuant to the requirements of 30 CFR 732.15(b)(16), the Secretary finds that the Virginia Department of Conservation and Economic Development has the authority under Virginia laws, and the Virginia program contains provisions to cooperate and coordinate with and provide documents and other information to the Office of Surface Mining under the provisions of 30 CFR Chapter VII. This authority is provided by Virginia CSMCRA and Chapter I, Virginia Coal Surface Mining Reclamation Regulations, Parts V700 through V845.

4s

Pursuant to the requirements of 30 CFR 732.15(c), the Secretary finds that the Virginia CSMCRA and regulations adopted thereunder and other laws and regulations of Virginia do not contain provisions that would interfere with or preclude implementation of the provisions of SMCRA and 30 CFR Chapter VII, except that the Virginia legislature and several counties have passed statutes and ordinances allowing coal companies to deed their coal haulroads to counties as "public roads." OSM requested that Virginia submit copies of these laws and ordinances for review with the proposed Virginia permanent regulatory program; however, these have not been submitted. OSM has obtained copies of the law and ordinances and has determined that they would allow the haulroad requirements of SMCRA to be circumvented. Haulroads which otherwise would be required to be a part of the permitted area of the surface coal mining operation arguably elude the requirements of SMCRA and 30 CFR Chapter VII because as "county owned" roads the state might not require they be included as a part of the permitted area. The construction and upgrading of roads to haul coal or gain access to the mine site is included within the definition in Section 701(28) of SMCRA of "surface coal mining and reclamation operations." The Secretary finds that state law and policy allowing the coal haulroad requirements of SMCRA to be circumvented in Virginia's program is unacceptable.

4t

Pursuant to the requirements of 30 CFR 732.15(d), the Secretary finds that the Virginia Department of Conservation and Economic Development and other agencies having a role in the program have, in part, sufficient legal, technical, and administrative personnel and funds to implement, administer, and enforce the provisions of the program, the requirements of 30 CFR 732.15(d) and other applicable state and federal laws except for the following:

(i) Section 9.2 of the Virginia program narrative, states that since May 1979, the number of geographical inspection areas has been reduced from nine to six, "due largely to the fact that a lesser number of mines are now permitted as a result of the release of those mines less than two acres in size which were previously permitted." Based on the current average number of inspections per area (pages 9–14), this reduction in geographical areas requires fifteen fewer inspectors. This reduction in proposed staffing is attributable to mines affecting less than two acres no longer being permitted.

The Office of Surface Mining is aware of up to two hundred underground mines, allegedly affecting two acres or less, that are unpermitted. The determination of affected area for underground mining operations includes not only the land visibly disturbed on the surface but also that area disturbed beneath the surface of the land (mine workings). It has not been demonstrated in the Virginia program submittal that such affected area determinations are applied by Virginia to those mines claiming to be two acres or less. If, in fact, Virginia does not include the underground workings in determining the affected area, then the total number of inspectable units, as reported by Virginia, may be significantly deflated. This would result in an underestimation of inspection staffing needs.

Statistical information, as provided in Tables 9–1 and 9–2 of Section 9.2 of the Virginia narrative, contains insufficent information concerning inspectable units on which to base a decision for inspection staffing approval. It is not apparent in either the statistical table or the program narrative that preparation, loading, coal waste disposal, or other auxiliary facilities are considered in the total number of inspectable units. Without this specific information it is impossible to determine accurately the adequacy of Virginia's proposed staffing.

Compounding the above concern is the fact that Virginia, by administrative record correspondence of July 23, 1980, notified the OSM Region I Director of a position ceiling imposed on VDMLR by the Virginia Secretary of Administration and Finance which affects inspection staffing by necessitating a reduction in the number of inspectors from fifty to forty. Based on the above concerns, the Secretary finds that the inspection staffing plan proposed by Virginia is unacceptable.

To evaluate adequately an inspection staffing plan which is resubmitted, the Secretary believes he will need, at a minimum, the following information:

(1) A description of the methods and criteria used in determining jurisdiction of all surface coal mining operations and the methods and criteria used to determine the affected areas of all surface coal mining operations, especially underground coal mining operations. This description should enable the Secretary and the public to evaluate Virginia's basis for its proposal on the number of inspectors.

(2) An accurate count of current and projected surface underground coal mining operations which claim to be two acres or less.

(3) An accurate breakdown of surface coal mining operations which include surface mines, underground mines, preparation, coal waste disposal and loading facilities. This information must be updated to reflect the present numbers of all these inspectable units.

F. Disposition of Agency and Public Comments

1. One commenter pointed out that Virginia law Section 45.1–242E does not contain the same limitations on the granting of experimental practices as does Section 711 of SMCRA. Since Virginia CSMCRA requires the Secretary's approval of all experimental practices, the limitations of SMCRA are retained. Therefore, the Secretary will not require a change in the Virginia program.

2. One commenter noted the absence of any provision in the Virginia statute which authorizes citizens to file petitions for rulemaking as provided in Section 201(g) of SMCRA. In addition, the commenter remarked that the Virginia statute does not require a response by the state to petitions for rulemaking within ninety days. The Secretary notes, however, that Section V700.12 of the Virginia regulations provides that any person can initiate a proceeding for the issuance, amendment, or repeal of any regulation under SMCRA. This provision is consistent with 30 CFR Chapter VII. A recommendation on the petition must be made to Virginia's Board of Conservation and Economic

Development within 90 days, and the Board must consider the petition at its next regular quarterly meeting. The Secretary has found that the time limit for response by the state is consistent with the federal requirement, since an initial complete review and tentative disposition must be made within 90 days, and since the Board will have no earlier opportunity to make the final decision that the meeting at which it must be considered under V700.12.

3. Several comments were made that the wording of CSMCRA, Section 45.1–244–A, would restrict state inspector enforcement activities by not granting expressed right of entry to any area disturbed by coal surface mining activities. This provision only allows entry to and across permitted areas and does not expressly grant entry to areas disturbed off the permit, or to coal surface mining activities not under permit. The Secretary notes that the wording of this section is consistent with Section 517 of SMCRA. In addition, Virginia has passed new legislation under CSMCRA, Section 45.1–209–1, which allows right of entry to non-permitted operations to determine whether they fall within the jurisdiction of CSMCRA.

4. A comment was received that CSMCRA, Section V45.1–245.D, does not grant the inspector the authority to issue a notice of violation (NOV) or cessation order (CO) in the field upon observation of a violation. CSMCRA, Section V45.1–245.A and .B, requires the "authorized representative of the Director" to issue an NOV or CO upon observation of violation. However, as discussed in Finding 4j(i) above, "authorized representative of the Director," is not clearly defined to include field inspectors.

5. One commenter was concerned that the substitution of the word "occurs" for the word "continues" in the CSMCRA, Section 45.1–246.N, could weaken the intent of the federal law. Clarification of this wording was provided by Virginia at a public meeting conducted on June 4, and 5, 1980, in Charleston, West Virginia and in a June 12, 1980, Attorney General's opinion (See Administrative Record Nos. VA 128 and VA 93). Virginia's interpretation is that there is no difference in the meaning of the Virginia Act and SMCRA and the Secretary agrees.

6. One commenter expressed concern that CSMCRA, Section 45.1–246.1, limits the jurisdiction for a citizen's suit against the federal government to the Virginia circuit court of the county or city in which the mining operation at issue is located. This comment appears erroneous. Section 520(a) of SMCRA clearly gives citizens a separate federal cause of action beyond any rights set forth in CSMCRA 45.1–246.1.

7. Several comments were made that Virginia's definition of public roads in V761 was too imprecise and could result in widespread abuse.

Several stated that many mining operations could use the Virginia definition to claim an exemption as a two-acre or less operation, especially with the current practice of deeding haulroads to the county in which the operation is located so as to circumvent federal and state jurisdiction. The definition of public roads in V761 applies only to Subchapter VF, and would not affect the general applicability of CSMCRA. In any event, the Secretary suspended the analogous federal definition (44 FR 67942) and no state equivalent is required for a program to be eligible for approval. Further discussion of the two-acre exemption and the practice of deeding haulroads to counties is found in Findings 4s and 4t above.

8. One commenter stated that the Virginia definition of "a person having an interest which is or may be adversely affected" in V700.5 appears more restrictive than holdings under *Sierra Club v. Morton, 405 U.S. 727 (1972) and SCRAP II* 412 U.S. 669. Virginia has added the words "in fact" to the phrase "is or may be adversely affected." The secretary believes this definition is similar to and therefore consistent with the federal definition and the decisions rendered under *Sierra Club v. Morton* and *SCRAP II* because it will not reduce the class of people entitled to participate as a result of their interests, and therefore will not require any change.

9. One commenter stated that the word "aesthetic" (sic) should be deleted from the definition of persons who may be adversely affected by surface mining in Section V700.5. Since "esthetic" is included in the definition of persons having an interest which is or may be adversely affected as found in 30 CFR 700.5, the Secretary will not require a change in the Virginia program because the Virginia definition is consistent with the federal definition.

10. The same commenter objected to the use of the word "aesthetic" in the definition of fragile lands under V762.5. This definition is identical to the definition in 30 CFR 762.5; the Virginia provision is consistent with that regulation.

11. One comment was received on V700.11(b) that the exemtion for two-acre mining sites should be more clearly defined and that the statement ". . . at or near the mine site . . .," in the definition for surface coal mining operations should be deleted and a more precise statement submitted. The Secretary finds the Virginia definitions are similar to and consistent with the definitions in 30 CFR 7000.11.

12. One commenter noted that the Virginia submission failed to explain why there was no corresponding section to 30 CFR 700.13, Notice of Citizen Suits. Virginia has submitted proposed regulations, Part 790, which pertain to notice of citizen suits. However, these regulations have not been enacted and therefore cannot be considered at this time. For further discussion on this issue, see Finding 41 above.

13. One commenter expressed an opinion that the definition of "valid existing rights" under V761 seemed to negate some of the situations covered under SMCRA. The Virginia definition is identical to the definition of valid existing rights at 30 CFR 761.5(a)(2)(i) as orginally promulgated on March 13, 1979 (44 FR 15342). However, the portion of this regulation which requires that an operator must have obtained all permits necessary for mining prior to August 3, 1977, as part of the test to establish a valid existing right, was challenged during litigation on the permanent program regulations. The court held, in the Round I opinion, that a good faith effect to obtain all permits should suffice for meeting this test, so as not to unduly burden an operator who has applied for all permits but failed to receive one through bureaucratic delay. The Virginia definition of valid existing rights is disapproved, as noted below, to the extent it requires that all permits must have been obtained prior to August 3, 1977.

14. One commenter stated that the definitions in 30 CFR 762.5 are not included in Virginia's program. This comment appears erroneous. The definitions are in V762.5 of the Virginia regulations and are consistent with 30 CFR Chapter VII.

15. A comment was submitted that in Virginia Section V741.13(b) requires only two copies of a permit application to be filed with the regulatory authority and 30 CFR Part 740 requires nine. The Secretary will not require any changes in the program because 30 CFR Part 740 deals with Surface Coal Mining Operations On Federal Lands and does not apply to any state program.

16. Another commenter noted that the Virginia regulations contained no counterparts for 30 CFR 741.18 and 741.19 pertaining to public participation in the permit review process and availability of permit information. The Secretary will not require any changes in the program because 30 CFR Part 740 deals with Surface Coal Mining

Operations On Federal Lands and does not apply to any state program.

17. Several commenters expressed concern with Virginia Part V764 which regulates the designation of lands unsuitable. Specific areas of concern were:

a. *V764.13.* This section requires the petitioner to provide additional information beyond that required by 30 CFR 764.13 of the federal regulations.

b. *V764.13(d).* This section would allow the Division of Mined Land Reclamation or any other branch of state government to initiate procedures to designate lands unsuitable or to terminate an existing designation.

c. *V764.17.* Unlike 30 CFR 764.17 this section would reduce the time for holding a public hearing on a petition from ten months to three months in the case of a petition submitted during a public comment period on a permit application.

d. *V764.15(a)(7).* Unlike 30 CFR 765.14(a)(7) this section would allow the filing of a petition between the close of the public comment period on a permit application and the end of an informal conference.

e. *V764.15(b)(2).* This section omits the federal requirement of 30 CFR 764.15(b)(2) to advertise the receipt of a petition in the newspaper of largest circulation in the state.

f. *V764.17(a).* Unlike 30 CFR 764.17(a), this section would allow the administering of oaths, cross examination, and rebuttal of witnesses.

All of these comments relate to program changes required by the Secretary, with the exception of b which the Secretary finds consistent with SMCRA and 30 CFR Chapter VII. Further discussion of these issues is found in Finding 4k above.

18. One commenter stated that the procedures for petitioning lands unsuitable under V764 were incomplete because no waiver for copying fees was included for an impecunious petitioner, similar to that provided for small operations in part 8.16.1 of the Virginia program which addresses the data base and inventory system. The Secretary will not require a change in the Virginia program because pursuant to 30 CFR 764.23, states may charge a reasonable fee for copying. Any waiver for copying fees is at the discretion of the regulatory authority.

19. One commenter objected to the required under V778.14(c) that a permit applicant list all violations received on past permits when a new permit is sought. Since this requirement is consistent with 30 CFR 778.14(c), the Secretary will not require a change in the program.

20. Several commenters indicated the Virginia groundwater permit requirements in V779.15 were not appropriate. Since this section is consistent with 30 CFR 779.15, the Secretary will not require a change in the Virginia program.

21. One commenter did not agree with Virginia's inclusion of Section V779.18 which allows the regulatory authority to request climatological data. Since the Virginia section is identical to 30 CFR 779.18, the Secretary will not require a change in the Virginia program.

22. One commenter said that Virginia should promulgate regulations under V779.19 to require a map delineating existing vegetative communities. Since 30 CFR 779.19 does not make this specific requirement, the Secretary cannot require it. The federal regulation provides the regulatory authority the option to determine what materials are necessary to describe adequately the vegetation of the area to be disturbed. Virginia regulation V779.19 is consistent with 30 CFR 779.19.

23. Several commenters stated that by using the phrase "if available" in Section 779.21, Virginia does not make the soil map requirement for permits mandatory, as in 30 CFR 779.21. The District Court of the District of Columbia has remanded 30 CFR 779.21; therefore, it is not necessary for a state program to meet this requirement at this time (*In Re: Permanent Surface Mining Regulation Litigation*, Civil Action No. 79–1144). (D.D.C. 1980)

24. One commenter objected to Virginia's requirement to remove preparation plant buildings and silos after their use. Sections V780.11 and V784.11 of the Virginia regulations require a narrative explaining how the removal of coal handling, storage, cleaning, and transportation areas and structures will be a part of the reclamation and operation plan in the permit application. This is consistent with 30 CFR 780.11 and 784.11. In addition the reclamation requirements for the permanent cessation of mining in Section V816.132 and V817.132 are consistent with the requirements of 30 CFR 816.132 and 817.132. The Secretary will, therefore, not require a change in the state program.

25. One commenter stated that the effluent limitations are often incompatible with the requirement for restoring approximate original contour. He recommended either relaxing the effluent standards or requiring the watershed to be shaped and designed and revegetated or managed with ponds, terraces, etc., in a manner that will achieve the standards. All operations are required to use "best technology" preventive measures to reduce sedimentation and meet effluent limitations e.g. 30 CFR 816.45 and 817.45. Virginia regulations are consistent with 30 CFR, Chapter VII in this regard and, therefore, the Secretary will not require a change in the state program.

26. One commenter stated that the high number of maps required under V780.14 constituted a costly and time consuming requirement. The Secretary finds that V780.14 is consistent with 30 CFR 780.14.

27. Several commenters stated that professional geologists should not be authorized under Section V780.14 to certify maps, plans, and cross sections, unless they are registered or licensed. The Secretary will not require a change in the state program because the Virginia regulation is consistent with 30 CFR 780.14.

28. One commenter suggested that Virginia Section V780.15(1) should require a more critical air quality monitoring program. Since Section V780.15(1) is consistent with 30 CFR 780.15(a)(1) the Secretary will not require a change in the state program.

29. One commenter stated that considerable thought should be given to the method of calculating reclamation costs for performance bonding. The regulatory authority in Section V805.11 has the responsibility for calculating reclamation restoration and abatement costs for such bonding based on the estimated cost to the regulatory authority if it had to perform this work itself. V805.11 is consistent with 30 CFR 805.11 and the Secretary will therefore require no change in the program.

30. Virginia Polytechnic Institute and State University commented that the standards for pond construction found in V816.46 and V817.46 could represent "over-engineering" for sediment ponds which would be constructed in remote areas. The Secretary is disapproving V816.46(o) and V817.46(o) and V816.46(m) and V817.46(m) of the Virginia regulations to the extent they allow the use of waste in sediment pond dams (See Finding 4b(v)). The Secretary finds the remaining provisions of V816.46 and V817.46 consistent with the federal regulations and therefore no change is required. 30 CFR 816.46(b)(c)(d) and (h) were suspended as a result of litigation (*In Re: Permanent Surface Mining Regulation Litigation*, Civil Action No. 79–1144). Virginia suspended its corresponding regulations in V816.46(b)(c)(d) and (h) (See Administrative Record No. VA 123).

31. One commenter recommended that Virginia's term "property to be mined" in V782.13(a) be amended to conform

with 30 CFR 782.13(a). The words "property to be mined" have been inserted in place of the following corresponding federal sections:

30 CFR 783.13(a)(2) "areas to be affected by surface operations and facilities and every legal or equitable owner of record of the coal to be mined."

30 CFR 782.13(a)(3) "areas to be affected by surface operations or facilities and the holders of record of any lease hold interest in the coal to be mined."

30 CFR 782.13(a)(4) "areas to be affected by surface operations and facilities and any purchaser of record under a real estate contract of the coal to be mined."

The Secretary agrees with this comment and has disapproved this Virginia provision (See Finding 4d(iii)).

32. One commenter suggested that Virginia Section V783.14(a), which requires chemical analyses of geologic strata, should be related to cost-benefit. Virginia's wording is consistent with 30 CFR 783.14(a); therefore, the Secretary will not require a change in the state program.

33. One commenter was concerned with Virginia Section V783.14(a), which modifies the phrase in 30 CFR 783.14(a), "stratum to be affected," to "stratum within the overburden." This wording only applies to those areas in which overburden will be removed down to the level of the coal; therefore, Virginia's wording is consistent.

34. One commenter stated that the phrase "the uses of the water" which appears in 30 CFR 783.15(a)(3) has been modified in Virginia Section V783.15(a)(3) to read "known uses of the water" and this modification alters the intent of the federal regulations. The Secretary agrees with this comment and has disapproved this provision of the Virginia regulations (See Finding 4d(ii), above).

35. A commenter pointed out that Virginia regulations do not contain requirements for stability analysis for coal processing waste dams and embankments as required in 30 CFR 784.16. This omission occurred when Virginia regulations failed to include 30 CFR 784.16(e). The Secretary agrees with this comment and has disapproved this Virginia provision (See Finding 4d(vi), above).

36. One commenter stated that a subsidence control plan, required by 30 CFR 784.20 or Virginia Section V784.20, should have a waiver provision if the land over the underground workings is owned by the permittee or operator. 30 CFR 784.20 does not provide for such a waiver; therefore, to be consistent, Virginia cannot provide such a waiver. Further explanation was provided on March 13, 1979 (44 FR 15074–15076 and 15272–15276).

37. One commenter said that Virginia Section V786.19(c) fails to require DMLR to assess specifically the cumulative impacts of mining on the hydrologic balance. The requirement for cumulative assessment in V786.19(c) is consistent with 30 CFR 786, the Secretary will therefore require no change in the state program.

38. Several commenters expressed concern over the alternative for preexisting structures, and contend that the Virginia alternative is vague and creates confusion between design standards and performance standards. The Secretary agrees with this comment and has disapproved this alternative (See Finding 4d(iv), above).

39. One commenter noted that the Virginia regulations fail to establish time frames for permit processing in Section V786.23 as required by 30 CFR 786.23. The Secretary will not require a change in the Virginia program because the Virginia regulations are identical to the federal regulations concerning when an informal conference is held and otherwise require permit processing within a reasonable time, in accordance with Section 510(a) of SMCRA.

40. Several commenters noted that the Virginia Program omits reference to 30 CFR 786.27(b)(2) concerning permit terms which allow right of entry to citizens. The Secretary agrees with this comment and has disapproved this Virginia provision (See Finding 4d(v), above).

41. Several commenters stated that the Virginia regulations in Sections V788.14, V788.16, and V788.18 do not establish procedures or standards for public participation in the revision or renewals of permits in the transfer, sale, or assignment of rights as required by 30 CFR 788.14, 788.16, and 788.18. The Secretary will not require changes in the state program because the Virginia regulations provide for public notice and participation consistent with 30 CFR 788.14, 788.16, and 788.18.

42. One commenter stated that small operator assistance available under V795 should be available to contractors who have no direct connection to a large operator, other than working on his permit area. The operators referred to by this commenter are not permittees, as required in 30 CFR Part 795, but contractors. The Virginia regulations pertaining to small operator assistance are consistent with the federal regulations and the Secretary will therefore require no change in the program.

43. A commenter suggested that the five-year minimum period of liability under V805.13 should be shortened significantly. The Secretary does not agree with this comment since the five-year minimum period of liability is mandated by Sections 509(b) and 515(b)(20) of SMCRA.

44. Two commenters stated that V816.22(e)(3), as proposed by Virginia regarding topsoil removal on slopes greater than sixty percent, is not acceptable until language is added to ensure that the substitute materials used are the best available for sustaining vegetative growth. These regulations would exempt the required testing of native topsoil on areas with greater than sixty percent slope. The Secretary agrees with this comment and has disapproved this regulation (See Finding 4b(iv), above).

45. A commenter stated that Section V816.65(d) omits the word "fly" in its requirement on fly rock. Virginia has identified this omission as a typographical error which will be corrected (See Administrative Record No. VA 94). Until the appropriate revision is effected, the Secretary has disapproved this provision.

46. Several comments stated that the Virginia proposed alternative regulation for the disposal of excess spoil, V816.75, is inconsistent with SMCRA and the federal regulations in the following manner:

—Allows spoil materials to be placed in areas where topsoil and vegetative matter have not been removed.

—Does not require an underdrain system to be constructed under the nonstructural zone to intercept springs, or wet weather seeps.

—In the nonstructural zone, allows unclassified spoil to be placed without lift thickness requirements.

—Does not specifically require a filter system to protect the underdrain system.

The Secretary agrees with this comment and has disapproved this alternative (See Finding 4b(vi), above.

47. Several commenters stated that the Virginia proposed alternative regulations V816.107 and V817.107, concerning backfilling and grading on previously mined lands, are inconsistent with the SMCRA and the federal regulations since complete elimination of highwalls is not required. The Secretary agrees with this comment and has disapproved this alternative (See finding 4b(iii), above).

48. Two commenters stated that the Virginia regulations for haulroads, V816.153, V816.162, V817.152, and V817.162, are not adequately justified and that the discussion of erosion should have considered the use of

mulch. The federal regulations governing haulroads, on which Virginia regulations are modeled, have been remanded by the District Court of the District of Columbia. The adequacy of haulroad regulations will, therefore, not be addressed until new federal regulations are promulgated.

49. Several commenters stated that Virginia regulation V816.46(o) is inconsistent with 30 CFR 816.46(o) because the Virginia regulation allows the use of coal processing waste in the construction of sedimentation ponds, provided such waste is both non-toxic and non-acid forming. The Secretary agrees with this comment and has disapproved this provision (See Finding 4b(v), above).

50. Several commenters stated Virginia has substituted, in V817.59, the phrase "best appropriate technology currently available" for the phrase "best technology currently available" found in 30 CFR 817.59. The Secretary agrees with this comment and has disapproved the provision (See Finding 4c(ii), above).

51. One commenter suggested that the requirement to return backfilled slopes to the approximate premining slopes should be replaced with a requirement to "step down" or terrace the backfill to enhance erosion and sediment control, allow homesites, enhance visual amenities, and promote agriculture. The Secretary is not persuaded by this comment since it is inconsistent with the basic requirements in Section 515 of SMCRA and 30 CFR 826. Limited variances from restoring premining slopes are available under 30 CFR 826.15 if demonstrated to be needed for alternate postmining land uses, watershed improvement, etc. (See Finding 4b(vii), above).

52. One commenter stated that the inspector's right of entry should be restricted and allowed only after proper presentation of credentials and during regular working hours. The Secretary agrees in part. Presentation of credentials is already required by Section V840.12(a). Restricting inspections to regular working hours is contrary to 30 CFR 840.11(d)(1) which requires inspections to be conducted on an irregular basis.

53. One commenter stated that Virginia's regulations did not provide citizen discovery rights at administrative proceedings consistent with 43 CFR 4.1130 *et seq.*, as required by 30 CFR 840.15. The Secretary agrees with this comment and will require Virginia to provide discovery rights to citizens (See Finding 4q(iv), above).

54. A commenter objected that the Virginia regulatory package does not contain provisions concerning the award of costs and expenses consistent with 43 CFR 1290 *et seq.*, as required by 30 CFR 840.15. Although the state is empowered to award costs and expenses, the provision does not apply to the state itself and the Secretary, therefore, finds it inconsistent with SMCRA Section 525(e) and 43 CFR Part 4 (See Finding 4q(iii), above).

55. Two commenters stated that Virginia does not provide provisions for the intervention of citizens in administrative proceedings consistent with 43 CFR 4.1110 as required by 30 CFR 840.15. Under Virginia Code 96.14:12(c), hearing officers are given the right to regulate the hearings, which presumably would include intervention issues. However, it is equally clear that Virginia has no regulations assuring citizen intervention pursuant to 43 CFR 4.1110. Therefore, the Secretary finds unacceptable the absence of this necessary provision (See Finding 4q(iv), above).

56. Two commenters stated that the use of the phrase "except for good cause shown" found in Section V842.11 of the Virginia regulations, would provide a discretionary excuse for the regulatory authority to not act on a citizen complaint. OSM questioned this language during its review and requested clarification from Virginia at a public meeting held on June 4 and 5, 1980, at Charleston, West Virginia. Virginia explained that this phrase was not intended to limit inspections conducted as a result of citizens' complaints, but rather to require the inspector to conduct an immediate inspection or show good cause why not. The Secretary finds this language consistent with the intent of 30 CFR 842.11.

57. Two commenters were concerned that by exchanging the word "person", as found in 30 CFR 842.12, with "citizen", in Virginia regulation Section V842.12, corporations or out-of-state residents could be excluded from requesting inspections or requesting confidentiality during a complaint. The Secretary agrees with this comment and has disapproved this provision (See Finding 4l(i), above).

58. One commenter objected to Virginia regulation V842.14 which allows the Director of DCED thirty days instead of fifteen to render a decision on a citizens' complaint of a failure to make an adequate inspection. 30 CFR 842.12 specifically addresses the time in which the Director of OSM must respond to an alleged failure to conduct a *federal* inspection. While the time period allowed by Virginia is not identical to the federal requirement, it is similar. The Secretary notes that the effect of this on overall citizen participation is nil because of the Secretary's oversight authority. Clearly, if more than 10 days passed without an inspection, the Secretary would have an obligation to act.

59. One commenter stated that Virginia's statute does not provide for the informal review of citizen's complaints. Agencies may promulgate regulations to regulate their internal procedures in accordance with their statutory purposes. Virginia has included informal review for citizens complaints under V842.15.

60. One commenter objected to Virginia regulation V843.14(b), which allows a show cause order to be served to any person who appears to be in charge of a coal exploration or surface coal mining and reclamation operation as opposed to service by certified mail or hand delivery to the operator or his designated agent. The Secretary finds that V843.14(b) is consistent with 30 CFR 843.14(b) because the two provisions are identical.

61. One commenter stated that, if the Director of DCED has the authority to review indepedently and modify a hearing officer's decision of permit revocation, then minimal Administrative Procedures Act protections must be provided. Under V843.13(e), the right to present arguments under Director Review is preserved. In addition, the requirements of Virginia's Administrative Process Act would apply to any agency action in a contested case.

62. One commenter stated that V843.16 should contain a section which allows the operator an expedited hearing on cessation orders with an immediate ruling. Expedited relief hearings are included in this section by reference to CSMCRA, Section 45.1–249.

63. One commenter objected to the omission in the Virginia regulations of injunctive relief provisions consistent with 30 CFR 843.19. Injunctive relief is granted under CSMCRA, Section 45.1–245E.

64. Two commenters stated that Virginia's point system under V845.13 for determining the assessment of civil penalties was inconsistent with 30 CFR 845.13. Pursuant to a recent court decision, states are not required to implement a point system which is identical to OSM's. States need only consider the four criteria discussed in Section 518(i) of SMCRA.

65. Two commenters stated that Virginia's program should impose criminal penalties in order to prevent direct or indirect conflicts of interest of state employees. A state does not have to provide a criminal penalty system

against direct or indirect financial interests since 30 CFR 705.19 gives the Director of OSM the authority to impose penalties against state employees with conflicts of interest if a state has no such authority.

66. One commenter stated that Virginia's program was deficient in that it did not project coal production from surface mining activities or explain in full the anticipated decline in underground mine development and expansion between 1979 and 1984. Section 30 CFR 731.14(b)(8) requires, as part of the state program submission, "projections, if available from existing studies, of the annual coal production and geographic distribution of coal exploration and surface coal mining and reclamation operations, for the next three to five years . . ." The commenter should note the qualifying phrase "if available from existing studies . . ." The state does not have to generate new data, if it is currently unavailable.

67. One commenter raised both constitutional and statutory objections to mixed state boards where conflicts of interest could arise. The Secretary has interpreted his rules to permit members of multi-interest boards, established by a statute, to have interests in coal companies other than a company, if any, involved in the particular proceeding before the board. At this time state programs can also allow members of such boards to have these interests in coal companies. However, the Secretary has proposed to amend his rules on this subject. See 44 FR 52098–52101, September 6, 1979. The Secretary considers this to be an important issue, and intends to make a final decision on conflicts of interest of board and commission members in the near future. The Department is currently evaluating various alternatives, ranging on the one hand, from leaving the present rules and interpretations unchanged to, on the other hand, a blanket prohibition against conflict of interest by any person performing any function, even an advisory one. Between these two extremes lies the possibility of exempting only members of boards which are exclusively advisory in nature. Until the regulation is changed, it remains the standard for judging the adequacy of State program submissions. For the purposes of State program approval, the objection now raised are untimely and should have been within 60 days after the rule was adopted. Section 526 of SMCRA. If the Secretary changes the rules, or his interpretation of the present rules, states will be required to amend their programs as necessary to make them consistent with the new requirements.

68. The Fish and Wildlife Service stated that Part 8.1.1 of the Virginia Program pertaining to permitting failed to describe the requirements for permit renewal, and that permits should be re-assessed prior to renewal to determine impact on endangered and threatened species. Part V788.3 of the Virginia regulations specifically address permit renewal and procedures for permit review and modification. There is no specific requirement in 30 CFR Part 788 which requires a state to conduct an impact assessment pertaining specifically to endangered or threatened species prior to renewal. Therefore, the Secretary will not require changes in the state program.

69. One commenter stated that the Virginia program narrative at pages 84 and 8–10 do not specify which division (VDMLR) officials would be responsible for investigating the applicant's performance and compliance history. There is no requirement imposed on the states in 30 CFR 731.14 to specifically identify the officials responsible for the compliance review.

70. One commenter objected to the lack of an adequate explanation of why citizens would not be allowed to accompany inspectors during inspections conducted pursuant to a citizen's complaint as provided in 30 CFR 842.12. The absence of this provision is basis for disapproval. Virginia has proposed regulations which would remedy this (See Finding 41(ii), above).

71. One commenter stated that the Virginia submission should address the anticipated costs of reviewing the permit application as well as the level of the fees to be assessed. A detailed analysis of permitting costs is not required by 30 CFR 731.14 for program approval. Therefore, the Secretary will not require changes in the state program.

72. One commenter stated that Virginia failed to provide a copy of Virginia's conflict of interest implementing regulations. The Virginia conflict of interest law, which was submitted as part of Virginia's program, is operative without specific implementing regulations.

73. One commenter stated that Virginia's narrative is deficient because it does not provide procedures for processing administrative requests, procedures for show cause hearings, or procedures in accordance with Section 554 of the Federal Administrative Procedures Act (APA). Show cause and other administrative review proceedings are handled pursuant to the Virginia Administrative Process Act which provides procedures similar to those required under SMCRA. Compliance with Section 554 of the federal APA is not required in state programs. The processes for all required state administrative actions have been provided in the Virginia program.

74. A commenter stated that Virginia's proposed inspection staffing plan is inadequate to meet SMCRA's mandate. This is primarily due to the fact that Virginia has failed to include, in their inspectable units count, mines claiming to be less than two acres and coal preparation and loading facilities. The Secretary agrees with this comment and has disapproved the inspection staffing (See Finding 4t(i), above).

75. A major landowner in southwest Virginia commented that as a landowner they should have the right to reshape the land during mining to suit a more productive use. The Secretary will not require any changes in the Virginia program because exceptions from regrading to approximate original contour are provided when certain alternate land uses are anticipated and planned after mining. In order for the Virginia program to remain consistent with SMCRA and the federal regulations, it is necessary that highwalls be eliminated and that the land be restored to the approximate original contour unless an alternative land use plan has been approved.

76. One commenter stated that Section 8.3 of the Virginia narrative regarding performance bond release procedures should include provisions for prolonged bonding or a new estimate probability of likely reclamation based on work done to date. Section 8.3 of the program narrative sufficiently references the Virginia regulations, Part V800, which governs bonding. Part V800 is consistent with 30 CFR Part 800 and specifies that bonds shall remain in effect until all requirements of SMCRA and the regulations are met *and* for a minimum period of five years.

77. One commenter stated that the bonding regulations, Part V800, are inadequate because no provision is included which requires a minimum bond per acre for the permit area. The Secretary finds that Part V800 is consistent with 30 CFR Part 800 because the requirements for the minimum amounts of the bond are identical.

78. The EPA commented that the format, conditions, and requirements of DMLR permits are not discussed in the proposed state program, including conditions and requirements of the permit process and a copy of the permit format. The Virginia program has included in Part 8.0, a narrative description, including a Flow Chart of

the system for receiving applications for surface and underground mining permits. The Secretary finds that Subchapter VG of the Virginia regulations implement permitting provisions is consistent with the provisions of Subchapter G of 30 CFR Chapter VII.

79. The EPA expressed concern that DCED may at any time, without EPA concurrence, revise the following air and water quality provisions which may be enjoined, suspended, or remanded by court order or decision, including but not limited to the appeal in the case of *Virginia Surface Mining and Reclamation Association, Inc. et al. v. Andrus et al.* (Civil Action No. 78-0224-B, W.D. VA 1979)

Section 816.46(u)—Sedimentation Pond Regrading

Section 817.46(u)—Sedimentation Pond Regrading

Section 816.71—Disposal of Excess Spoil

Section 817.71—Disposal of Excess Spoil

Section 824.11(a)—Mountaintop Removal

Part 843—Federal Enforcement

Part 845—Civil Penalties

30 CFR 732.17 governs the procedures for amendments to approved state programs. Pursuant to 30 CFR 732.17(b)(3), any change in the state law and regulations from those contained in the approved state program would constitute an amendment. All amendments must be approved by the Director of OSM following the procedures required in 30 CFR 732.12, 732.13, and 732.15. 30 CFR 732.15 requires the written concurrence and views of EPA.

80. The EPA commented that in Section 8.0 of the program narrative where approval of the DMLR is required with respect to specific facets of the environmental baseline studies, the approval should be provided in writing. This approval is a part of the pre-application conference. Because approval granted at this point is subject to the formal application review procedures and all requirements for final permit approval which is in writing, the Secretary will not require a change in the Virginia program.

81. The EPA commented that it is not clear in Section 8.0 of the program narrative who requests the pre-application conference—the Division of Mined Land Reclamation or the operator. It is the operator who would request the pre-application conference because only the operator would normally know when preparation for a permit application must begin.

82. The EPA made the following comments with respect to Virginia's proposed NPDES program:

—The Virginia program does not address specifically or by reference, in the narrative Sections 8.4 or 8.5 a system for enforcing violations pertaining to NPDES conditions on water quality standards.

—Virginia has no provision in Section 8.4 of its program for describing compliance sampling and evaluation.

—Virginia's program procedures and systems pertaining to funding, manpower, and organizational structure were insufficient in detail to permit a sound determination of adequacy with regard to the administration of the NPDES Program for coal mines.

—The Virginia program does not contain adequate regulations for an NPDES Program and EPA is not in a position, at this time, to evaluate the program until the specific elements of an NPDES Program are developed. There are also relevant consolidated EPA permit regulations for which there were no comparable state regulations.

—The reference to the use of the NPDES application Short Form C. on page 8-89 of the Virginia program should be deleted since EPA has published a new consolidated permit application form.

—The relationship between the SMCRA application form and the NPDES application form is not clear from the information provided in Section 8.1 of the program narrative, and it is not clear what type of NPDES application form was to be used.

The proposed regulations submitted by Virginia (Part V900) which pertain to the NPDES Program have not been enacted and, therefore, have not been considered by the Secretary in making his findings at this time.

83. The EPA commented that a system of tracking DMLR inspection and enforcement actions should be included as a part of the Virginia program narrative. 30 CFR 731.14(g)(4) requires states to submit narrative description, e.g. flow charts, or other appropriate documents of the proposed system for inspecting and monitoring coal exploration and surface coal mining and reclamation operations. Virginia has submitted this information in Part 8.4 of its program. The regulations do not require a tracking system for inspection and enforcement actions so it need not be included. Virginia does provide sufficient narrative and regulation references to satisfy the requirements of 30 CFR 731.14(g)(4).

84. EPA recommended that Virginia expand Section 8.9 of the program narrative, which concerns coordinating the issuance of permit with federal and other agencies, to include methods for resolution of objections. Section 8.9 of the Virginia program narrative describes how the issuance of permits will be coordinated with other local, state, and federal agencies. Submission of a methodology for resolving objections arising from this coordination is not required by 30 CFR 731.14(g)(9).

85. EPA commented that Virginia should include in its program copies of forms it proposes to use in the implementation of its program, such as permit application forms, inspection report forms, and notice of violation and cessation order forms. Inclusion of forms DMLR intends to use in its program is not required by 30 CFR 731.14.

86. The Department of energy noted that Virginia has omitted a section corresponding to 30 CFR 770.12 of the federal regulations pertaining to coordination of the review and issuance of permits with the requirements under other laws. The purpose of 30 CFR 770.12 is to provide information to states on what must be included in the state program. The Virginia program adequately describes its system for coordinating permit review with other federal or state permit process applicable to a given proposed mining operation.

87. The SCS commented that in addition to their Clintwood, Virginia, office the State (Central), Lee, and Tazewell SCS offices should be included as sources for consultation in Section 8.11.1 of the Virginia program. The inclusion of the SCS office in Clintwood as a source available for consultation is sufficient and consistent with federal regulations. It is assumed that the SCS Clintwood office will serve as a focal point for coordination with other SCS offices.

88. The U.S. Forest Service commented that its involvement with respect to its responsibility for National Forest Lands should be specified in the basic state plan. Resolution of the Forest Service role in administering mining operations on federal lands will be based on the existing BLM-FS memorandum of understanding for federal coal leases, resolution of the issue regarding the leasing of federally owned land for the mining of privately owned coal, and the final rules for 30 CFR 211 covering federal coal. The precise form of the relationship between the Forest Service and the state will evolve after the state permanent regulatory program is approved, at which time a cooperative agreement can be developed between OSM and the state enabling the Virginia DMLR to

obtain primacy for operations on federal lands.

89. The National Park Service (NPS) requested the opportunity to participate in developing criteria for designating lands unsuitable for surface coal mining near NPS units and to be allowed to participate in protecting all resources on lands under its jurisdiction from mining in adjacent areas. The regulatory authority is obligated, in V761.12 of the Virginia regulations, to request approval from any park agency which may be adversely affected by surface coal mining operations. Additionally, Virginia has listed the NPS in Part 8.11.1 of its program as a consultation source for the designation of lands unsuitable.

The Secretary has instructed NPS not to seek criteria in state programs which would establish "buffer zones" adjacent to national parks as automatically unsuitable for coal mining, unless these lands meet one or more of the other specific criteria for designation. On June 4, 1979, the Secretary made final decisions on the Federal Coal Management Program. Included in those decisions were numerous changes in the proposed unsuitability criteria for federal lands. The Secretary chose to delete the automatic "buffer zone" language for national parks and certain other federal lands from the first criterion (43 CFR 3461.1(a)). Instead, he stated lands adjacent to a national park should only be found unsuitable if they are covered by one of the other specific criteria (43 CFR 3461.1(b)–(t)). This instruction to NPS assures that that agency's approach to state unsuitability criteria will be compatible with the Secretary's policy on federal unsuitability criteria.

90. The National Park Service commented that Virginia should use OSM's definition of fragile and historic lands found in 30 CFR 762.5. The corresponding Virginia definition found in V762.5 of the Virginia regulations is consistent with the definition in 30 CFR 762.5.

91. The Fish and Wildlife Service commented that it was its biological opinion that Virginia's program is unlikely to jeopardize the continued existence of endangered or threatened species or adversely modify their critical habitats provided Virginia incorporated certain provisions in its program. Subsequently in a memorandum of September 15, 1980, the Director of the Fish and Wildlife Service notified OSM that the opinion on the Virginia program had been modified and Virginia's program is not likely to jeopardize the continued existence of listed species or critical habitat. Accordingly, no revision of the Virginia program is required based on FWS's comments.

92. The SCS commented that Section V785.17 of the Virginia regulations does not provide specific procedures for coordination between SCS and DMLR for permit reviews on areas including prime farmlands. The Secretary will not require any changes in the state program because the requirements for coordination and consultation with the Secretary of Agriculture found in V785.17 are consistent with 30 CFR 785.17 and specifically address SCS participation.

93. the Appalachian Regional Commission commented that although the implementation of the Virginia bonding and enforcement program was somewhat vague, the program was complete enough for the state to assume primacy. Furthermore, ARC was particularly interested in the Virginia provisions for higher alternate land uses. The Secretary agrees with these comments and finds the provisions of the Virginia program concerning bonding and enforcement consistent with the requirements of SMCRA and 30 CFR Chapter VII. Provisions for higher alternate land uses in the Virginia program are modeled after provisions provided in the federal regulations.

94. The Department of Energy commented that Virginia's steep slope mining performance standards found in V826.12(b) and (g) were inconsistent with the corresponding OSM requirements for adequate factors of safety. The Secretary agrees with this comment and has disapproved V826.12(b) and (g) of the Virginia regulations (See Finding 4b(vii), above).

95. The Bureau of Mines submitted a detailed review of the Virginia program which identified differences between the Virginia Act and regulations and SMCRA and regulations. The specific Virginia sections identified as different were:

Act
45.1–231
45.1–232
45.1–241
45.1–244
Regulations
V764.13(b)(1)
V764.17(a)
V816.65(d)
V816.75(d)
V817.22
V817.23(b)(2)
V817.42(b)
V817.46(o)
V817.116(a)
V817.116(b)(2)(ii)

The Bureau also commented that the narrative portion of the Virginia program is, in general, in full compliance with the requirements of 30 CFR 731.14. The differences noted by the Bureau were previously identified by OSM. Those which necessitated revision or modification were communicated to the Commonwealth of Virginia. Those which were not correct in the state's submission have been discussed in the findings above.

96. One commenter stated that attorney's fees should be allowed against citizens only when they have acted in bad faith. Virginia addresses this at V789.1.

97. One commenter noted that Virginia does not provide a regulation which allows the establishment of additional criteria determining unsuitability. Since 30 CFR 762.12 provides that the regulatory authority may establish additional criteria for unsuitability, the Secretary cannot require that Virginia have a counterpart to 30 CFR 762.12.

98. One commenter stated that Virginia does not provide a regulation equivalent to 30 CFR 786.27(b)(1) which sets forth in the permit that a permittee will allow entry for the inspection of monitoring equipment and general rights of entry. Virginia has provided for the necessary rights of entry consistent with 30 CFR 786.27(b)(1) in its statute and regulations. (See Section 45.1–244(A)(3) of CSMCRA and Section V786.27(b) of the Virginia regulations).

99. One commenter stated that Virginia had no counterpart to 30 CFR 840.13 pertaining to civil penalties. Most of the requirements of this section of the federal regulations have been enjoined by the District Court for the District of Columbia. Therefore, the Secretary cannot require compliance with the substantive requirements of 30 CFR 840.13.

G. The Secretary's Decision

The Virginia program is approved in part and disapproved in part. As indicated above under the Secretary's findings, certain program parts meet the criteria for state program approval in 30 CFR 732.15 and certain program parts do not meet the criteria. Partial approval means that Virginia may revise and resubmit the disapproved portions of the program within 60 days of the effective date of the decision. The resubmission will then be reviewed and approved or disapproved under procedures in 30 CFR Part 732. Until the entire program is approved, however, the state will not assume primary jurisdiction to implement and enforce the permanent program under SMCRA.

The following program parts are approved:

I. The Virginia Coal Surface Mining Control and Reclamation Act of 1979 (CSMCRA), as amended, with the following exceptions:

(a) Sections 45.1–231 and 232 regarding applicability of the conflict of interest provisions to the Board (See Finding 4m(i)).

(b) Section 45.1–249E and 251C pertaining to assessing of costs (See Finding 4q(iii)).

(c) Section 45.1–251A allowing jury trial *de novo* (See Finding 4q(i)).

II. Other state statutes affecting the regulation of coal exploration and surface coal mining operations with the following exceptions:

(a) The Virginia Administrative Process Act to the extent:

(1) It does not require hearings to be of record (See Finding 4q(ii)).

(2) It does not allow intervention by "any person who is or may be adversely affected" or provided that discovery rights are available to intervenors (See Finding 4q(iv)).

(b) State statutes and county ordinances which allow haulroads to be deeded to the county to the extent such haulroads are then automatically deemed not to constitute part of the permit area. (See Finding 4s).

III. Regulations pursuant to the Virginia CSMCRA with the following exceptions:

(a) V764.15(b)(2) pertaining to newspaper advertisements for petitions (See Finding 4k(i)).

(b) V764.17(a) pertaining to adjudicatory hearings (See Finding 4k(ii)).

(c) V782.13(a)(2)–(4) pertaining to the identification of interests (See Finding 4d(iii)).

(d) V783.15(a)(3) because "the uses" has been changed to "known uses" (See Finding 4d(ii)).

(e) V784.16(f) pertaining to the requirement to include stability analysis of certain structures (See Finding 4d(vi)).

(f) V817.59 because "appropriate" has been added to the phrase "best technology currently available" (See Finding 4c(ii)).

(g) V842.12(b) pertaining to confidential information (See Finding 4l(i)).

(h) Virginia state window provisions which include the following:

(1) V786.21(c) pertaining to existing structures (See Finding 4b(i)).

(2) V764.13(b) pertaining to additional information requirements for petitions (See Finding 4b(ii)).

(3) V764.15(a) pertaining to time limits for filing a petition (See Finding 4b(ii)).

(4) V764.17(a) pertaining to time limits for holding a public hearing (See Finding 4b(ii)).

(5) V816.107 and V817.107 pertaining to backfilling and grading of previously mined areas (See Finding 4b(iii)).

(6) V816.22(e) and V817.22(e) pertaining to topsoil substitutes and supplements (See Finding 4b(iv)).

(7) V816.46(m) and V817.46(m) pertaining to sediment pond construction to the extent they allow the use of waste in sediment pond dams (See Finding 4b(v)).

(8) V816.46(o) and V817.46(o) pertaining to the use of coal waste in sediment pond construction (See Finding 4b(v)).

(9) V816.75 and V817.75 pertaining to the disposal of excess spoil (See Finding 4b(vi)).

(10) V826.12(b) pertaining to the requirement of a minimum static safety factor of 1.3 for the backfilled area on steep slopes (See Finding 4b(vii)).

(11) V826.12(g) pertaining to drainage channels or roads in the uppermost portion of the backfilled area (See Finding 4b(vii)).

(12) V816.152(c) and V817.152(c) pertaining to topsoil substitutes and supplements on road cuts (See Finding 4b(viii)).

(13) V816.162(c) and V817.162(c) pertaining to topsoil substitutes and supplements on road cuts (See Finding 4b(viii)).

(i) Regulations of 30 CFR Chapter VII which have been omitted as follows:

(1) 30 CFR 700.13 pertaining to citizen suits (See Finding 41(iii)).

(2) 30 CFR 786.27(b)(2) pertaining to citizens rights to accompany inspectors as a permit condition (See Finding 4d(v)).

(3) 30 CFR 842.12(c) pertaining to citizens rights to accompany inspectors (See Finding 41(ii)).

(j) Regulations which incorporate suspended or remanded federal regulations:

(1) V701.5, V779, V780, V783, V784: The definition of "mine plan area" and the use of the term in Parts V779, V780, V783 and V784 are disapproved to the extent of the Court's order regarding requirements of information outside the permit area.

(2) V701.11(e)(1)(i)(ii): The regulations are disapproved insofar as they read to retain discretion in the regulatory authority to grant an exemption from reconstruction of existing structures after making the findings in V786.21.

(3) V761.5(a)(2)(i): The definition of "valid existing rights" is disapproved insofar as a good faith effort to obtain all permits before 8/3/77 should be sufficient to qualify for a valid prior existing right.

(4) V761.11(c), V761.12(f)(1): The words "or a statutory or regulatory responsibility for" in V761.12(f)(1) are disapproved and both of these regulations are disapproved insofar as they would apply to privately owned places listed on the National Register of Historic Places in addition to publicly owned places.

(5) V779.20, V780.16, V783.20, V784.14: These regulations are disapproved insofar as they require a permit application to contain a study of fish and wildlife and a fish and wildlife reclamation plan.

(6) V779.21, V783.21: These regulations are disapproved to the extent they require a soil survey for lands other than those which a reconnaissance inspection suggest may be prime farmland.

(7) V786.5: The words "or has not been" in the definition of *irreparable harm to the environment* are disapproved.

(8) V805.13(d): The regulations are disapproved insofar as exception is granted from requirements specified as those "of Part V816."

(9) V806.12(e)(6)(iii), V806.12(g)(7)(iii): The regulations are disapproved to the extent they require cessation of operations upon the insolvency of a surety.

(10) V807.11(e): The regulation is disapproved insofar as there is no provision for citizens' access to the mine site.

(11) V808.12(c): The regulation is disapproved insofar as it indicated bond liability in the permit area was limited to hydrologic balance.

(12) V816.103(a)(1), V817.103(a)(1): These regulations are disapproved insofar as they do not allow for treatment as an alternative to covering of acid and toxic-forming material.

(13) V816.115, V817.115, V823.11(c), V823.15(b), V823.15(c): These regulations are disapproved insofar as they exceed the statutory authority which requires only that restored lands be "capable" of supporting the designated use.

(14) V816.116(b), V817.116(b): These regulations are disapproved insofar as they improperly extend an operator's five-year period of responsibility for revegetation.

(15) V816.133(c)(4) and (9), B817.133(c)(4) and (9): These regulations are disapproved insofar as an operator is only required to demonstrate a "reasonable likelihood" of attaining a post mining use that is higher or better than the previous use.

IV. Proposed systems and processes described by the Virginia program narrative with the following exceptions:

(a) Section 8.4 of the program requiring clarification of who may be an

"authorized representative" (See Finding 4j(i)).

(b) Section 9.2 of the program pertaining to staffing (See Finding 4t(i)).

H. Effect of This Action

Virginia is not eligible to assume primary jurisdiction to implement the permanent program. Virginia may submit additions or revisions to its proposed program to correct those parts of the program being disapproved within sixty days of this decision. Virginia should submit approvable regulations and additional information as identified in the Secretary's findings.

If no revised submission is made within sixty days, the Secretary will take appropriate steps to promulgate and implement a federal program for the Commonwealth of Virginia. If the disapproved portions of the state regulatory program are revised and resubmitted within the sixty day limit, the Secretary will have an additional sixty days to review the revised program, solicit comments from the public, the Administrator of the Environmental Protection Agency, the Secretary of Agriculture and heads of other federal agencies concerned with or having special expertise pertinent to the proposed state program and to approve, disapprove, or conditionally approve the final Virginia program submission.

This approval in part and disapproval in part relates at this time only to the permanent regulatory program under Title V of SMCRA. The partial approval does not constitute approval or disapproval of any provisions related to the implementation of Title IV of SMCRA, the abandoned mined lands reclamation program. In accordance with 30 CFR Part 884 (State Reclamation Plans), Virginia may submit a state Abandoned Mine Lands (AML) reclamation plan at any time. Final approval of an AML plan, however, cannot be given by the Director of OSM until the state has an approved permanent regulatory program.

There are no coal bearing Indian lands in Virginia. In the event that surface mining and reclamation operations on federal lands are proposed, however, the initial federal lands program will be governed by regulations in 30 CFR Part 211. When a state regulatory program is approved, the federal lands program, if one is necessary, will be governed by 30 CFR Part 740.

The Secretary will not promulgate rules in 30 CFR Part 946 until the Virginia program has been either finally approved or disapproved following opportunity for resubmission.

I. Additional Findings

The Secretary has determined that pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this approval in part.

The Secretary has determined that this document is not a significant rule under E.O. 12044 or 43 CFR Part 14, and no regulatory analysis is being prepared on this approval in part.

Dated: October 15, 1980.

Joan M. Davenport,

Assistant Secretary of the Interior.

[FR Doc. 80-32793 Filed 10-21-80; 8:45 am]

BILLING CODE 4310-05-M

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

36 CFR Ch. IX

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: Pennsylvania Avenue Development Corporation.

ACTION: Semiannual agenda of significant regulations under development or review.

SUMMARY: Pursuant to Section 2 of Executive Order 12044, the Pennsylvania Avenue Development Corporation is not planning to issue or review any significant regulations prior to March 30, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Mary M. Schneider, Attorney, Office of General Counsel, Pennsylvania Avenue Development Corporation, 425 13th Street, N.W., Suite 1148, Washington, D.C. 20004, (202) 566-1078.

Dated: October 6, 1980.

W. Anderson Barnes,

Executive Director.

[FR Doc. 80-32823 Filed 10-21-80; 8:45 am]

BILLING CODE 7630-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL-1639-5]

Approval and Promulgation of Implementation Plans; Georgia: Alternate Compliance Schedules for Volatile Organic Compound (VOC) Sources

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA today proposed to approve the Georgia implementation plan revisions that the State submitted on April 14, 1980, relating to alternate compliance schedules for volatile organic compound (VOC) sources. The revisions that EPA is taking proposal action on today consist of alternate compliance schedules for the General Motors automotive assembly plants in Atlanta and Doraville, and the Ford Motor Company assembly plant in Hapeville. The compliance schedules for the General Motors plants and the Ford Motor Company plant are included as part of operating permits for each plant respectively.

The issuance of the permits by the State represents implementation of Georgia's VOC regulations which EPA approved on September 18, 1979 (44 FR 54047). The regulations are part of Georgia's control strategy designed to attain the ozone standard in the Metropolitan Atlantic area by December 31, 1982.

DATES: To be considered, comments must be submitted on or before November 21, 1980.

ADDRESSES: Written comments should be addressed to Melvin Russell of EPA Region IV's Air Programs Branch (see address below). Copies of the material submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 204060;

Library, Environmental Protection Agency, Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30365;

Air Protection Branch, Environmental Protection Division, Georgia Department of Natural Resources, 270 Washington Street, SW, Atlanta, Georgia 30334.

FOR FURTHER INFORMATION CONTACT: Mr. Melvin Russell, Air Programs Branch, EPA Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30365, 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: The Georgia Environmental Protection Division submitted to EPA State Implementation Plan (SIP) revisions consisting of operating permits for the General Motors automotive assembly plants in Atlanta and Doraville, and the Ford Motor Company assemply plant in Hapeville. The permits include alternate compliance schedules for these three VOC sources. The issuance of the permits with compliance schedules are necessary in order for the State to implement its VOC regulations and ensure reasonable further progress toward attaining the National Ambient

Air Quality Standard (NAAQS) for ozone, as stated in Georgia's 1979 nonattainment SIP submittal, and approved by EPA in 44 FR 54047, September 18, 1979.

The Ford Motor Company's Atlanta Assembly Plant, located at 340 S. Central Avenue, Hapeville, Georgia, was issued a permit to operate on April 14, 1980 (Permit No. 3711-060-7453-0). The permit requires the source to meet the conditions of the following compliance schedule:

Permit No. 3711-060-7453-0

Prime Operations

1. By October 31, 1980, the Permittee shall submit permit to construct applications for the modification of process operations of the existing electrocoating prime system necessary to comply with Rule 391-3-1-.02(2)(t)1.(i) of the Georgia Rules for Air Quality Control.

2. By January 31, 1981, the Permittee shall issue purchase orders for electrocoating materials necessary to comply with Rule 391-3-1-.02(2)(t)1.(i). Copies of such purchase orders shall be submitted to the Division by February 10, 1981.

3. By March 31, 1981, the Permittee shall begin process modifications of the electrocoating prime system. Written notification that such process modifications have commenced shall be made by April 10, 1981.

4. By December 31, 1981, the Permittee shall limit the emissions of volatile organic compounds (VOC) from the electrocoating prime system to 1.2 pounds per gallon excluding water and shall demonstrate compliance with this emission limitation by the submittal of acceptable analyses by same date.

5. By April 30, 1983, the Permittee shall submit applications for permit to construct for the installation of emission control systems and/or the modification of process equipment necessary to comply with Rule 391-3-1-.02(2)(t)1.(ii) of the Georgia Rules for Air Quality Control.

6. By December 31, 1983, the Permittee shall enter into binding contracts or purchase orders for the installation of emission control systems and/or the modification of process equipment necessary to comply with Rule 391-3-1-.02(2)(t)1.(ii). Copies of the primary contracts or purchase orders shall be submitted to the Division by January 10, 1984.

7. By January 31, 1984, the Permittee shall begin on-site construction of emission control equipment and/or the modification of process equipment necessary to comply with Rule 391-3-1-.02(2)(t)1.(ii). Written notification that such construction has commenced shall be made by February 10, 1984.

8. By December 31, 1985, the Permittee shall limit the emissions of VOC from regulated spray prime application, flashoff area, and oven operations to 2.8 pounds per gallon of coating excluding water delivered to the coating applicator. The Permittee shall demonstrate compliance with this emission limitation by same date by the submittal of acceptable analyses of the coatings and test reports, if required, indicating efficiencies of emission control systems.

Topcoat and Final Repair Operations

9. The Permittee shall submit yearly progress reports to the Division within ten (10) days after the end of calendar years 1980, 1981, 1982, and 1983, describing the progress being made by suppliers to develop topcoat and final repair paints which comply with Rules 391-3-1-.02(2)(t)1.(iii) and (iv) of the Georgia Rules for Air Quality Control.

10. By April 30, 1984, the Permittee shall submit applications for permit to construct for the installation of emission control systems and/or the modification of process equipment necessary to comply with the topcoat and final emission limitations per Rules 391-3-1-.02(2)(t)1.(iii) and (iv).

11. By December 31, 1984, the Permittee shall enter into binding contracts or purchase orders for the installation of emission control systems and/or the modification of process equipment necessary to comply with Rules 391-3-1-.02(2)(t)1.(iii) and (iv). Copies of the primary contracts or purchase orders shall be submitted to the Division by January 10, 1985.

12. By January 31, 1985, the Permittee shall begin on-site construction of emission control equipment and/or the modification of process equipment necessary to comply with Rules 391-3-1.02(2)(t)1.(iii) and (iv). Written notification that such construction has commenced shall be made by February 10, 1985.

13. By December 31, 1986, the Permittee shall limit the emissions of VOC from regulated topcoat application, flashoff area, and oven operations to 2.8 pounds per gallon of coating excluding water delivered to the coating applicator and from regulated final repair application, flashoff area, and oven operations to 4.8 pounds per gallon of coating minus water delivered to the coating applicator. The Permittee shall demonstrate full compliance with Rules 391-3-1-.02(2)(t)1.(iii) and (iv) by same date by the submittal of acceptable analyses of the coatings and test reports, if required, indicating efficiencies of emission control systems.

Testing Requirements and Equivalency

14. The Permittee will be allowed to use the arithmetic average of the VOC contents (lbs. VOC/gallon of coating excluding water) of all requlated topcoat colors in use at the plant to determine compliance with any VOC emission limitation referred to in conditions (9) thru (13) above. If a new topcoat color is introduced into the plant after compliance with an emission limitation has been demonstrated, the Permittee will be required to perform additional sampling and analyses as specified by the Division to determine if compliance is being maintained.

15. After demonstrating final compliance with the VOC emission limitation(s) under Rule 391-3-1-.02(2)(t) of the Georgia Rules for Air Quality Control, the Permittee will be required to perform additional sampling, analyses, and testing at dates specified by the Division to verify that compliance with the emission limitation(s) is being maintained.

16. Coating transfer efficiencies above the baseline (to be specified by the Division) can be used for determining compliance with a VOC emission limitation if such transfer efficiencies are approved by the Division.

17. The Permittee shall use methods and procedures approved by the Division to perform all sampling and analyses of coatings and testing of emission control systems that are required by conditions of this permit.

General Motors Corporation's Atlanta Assemly plant located at 3900 Motors Industrial Way, Doraville, Georgia was issued a permit to operate on April 14, 1980 (Permit No. 3711-044-7449-0). The permit requires the GM Doraville plant to comply with the following compliance schedule:

Permit No. 3711-044-7449-0

Prime Operations

1. By May 1, 1980, the Permittee shall submit permit to construct applications for the installation of an electrocoating (electrophoretic) prime system necessary to comply with Rule 391-3-1-.02(2)(t)1.(i) of the Georgia Rules for Air Quality Control.

2. By July 1, 1980, the Permittee shall begin on-site construction of the electrocoating prime system. Written notification that such construction has commended shall be made July 11, 1980.

3. By September 1, 1981, the Permittee shall complete construction of the electrocoating prime system. Written notification that such construction has

been completed shall be made by September 11, 1981.

4. By December 31, 1981, the Permittee shall limit the emissions of volatile organic compounds (VOC) from the electrocoating prime system to 1.2 pounds per gallon excluding water and shall demonstrate compliance with this emission limitation by the submittal of acceptable analyses by same date.

5. By December 31, 1981, the Permittee shall limit the emissions of VOC from regulated spray prime application, flashoff area, and oven operations to 3.0 pounds per gallon of coating excluding water delivered to the coating applicator. Acceptable analyses demonstrating compliance shall be submitted to the Division by January 31, 1982.

6. By December 31, 1987, the Permittee shall limit the emissions of VOC from regulated spray prime application, flashoff area, and oven operations to 2.8 pounds per gallon of coating excluding water delivered to the coating applicator and shall demonstrate compliance with this emission limitation by the submittal of acceptable analyses by same date.

Topcoat and Final Repair Operations

7. By April 15, 1980, the Permittee shall limit the emissions of volatile organic compounds (VOC) from regulated topcoat application, flashoff area, and oven operations to 5.8 pounds per gallon of coating excluding water delivered to the coating applicator. Acceptable analyses demonstrating compliance with the emission limitation shall be submitted to the Division by same date.

8. By September 30, 1980, the Permittee shall submit a final topcoat control plan and schedule for the implementation of specified steps which will result in compliance with Rule 391–3–1–.02(2)(t)1.(iii) of the Georgia Rules for Air Quality Control.

9. By December 31, 1982, the Permittee shall limit the emissions of VOC from regulated topcoat applicaiton, flashoff area, and oven operations to 5.0 pounds per gallon of coating excluding water delivered to the coating applicator. Acceptable analyses demonstrating compliance with this emission limitation shall be submitted to the Division by January 31, 1983.

10. By March 31, 1985, the Permittee shall submit applications for permit to construct for the installation of emission control systems and/or the modification of process equipment necessary to comply with the topcoat and final repair emission limitations per Rules 391–3–1–.02(2)(t)1.(iii) and (iv) of the Georgia Rules for Air Quality Control.

11. By September 30, 1986, the Permittee shall enter into binding contracts or purchase orders for the installation of emission control systems and/or the modification of process equipment necessary to comply with Rules 391–3–1–.02(2)(t)1.(iii) and (v). Copies of the primary contracts or purchase orders shall be submitted to the Division by October 10, 1986.

12. By December 31, 1986, the Permittee shall begin on-site construction of emission control equipment and/or the modification of process equipment necessary to comply with Rules 391–3–1–.02(2)(t)1.(iii) and (iv). Written notification that such construction has started shall be made by January 10, 1987.

13. By December 31, 1987, the Permittee shall limit the emissions from VOC from regulated topcoat application, flashofff area, and oven operations to 2.8 pounds per gallon of coating excluding water delivered to the coating applicator and from regulated final repair application, flashoff area, and oven operations to 4.8 pounds per gallon of coating minus water delivered to the coating applicator. The Permittee shall demonstrate full compliance with Rules 391–3–1–.02(2)(t)1.(iii) and (iv) by same date by the submittal of acceptable analyses of the coatings and test reports, if required, indicating efficiencies of emission control systems.

Testing Requirements and Equivalency

14. The Permittee will be allowed to use the arithmetic average of the VOC contents (lbs VOC/gallon of coating minus water) of all regulated topcoat colors in use at the plant to determine compliance with any VOC emission limitation referred to in conditions (7) thru (13) above. If a new topcoat color is introduced into the plant after compliance with an emission limitation has been demonstrated, the Permittee will be required to perform additional sampling and analyses as specified by the Division to determine if compliance is being maintained.

15. After demonstrating final compliance with the VOC emission limitation(s) under Rule 391–3–1–.02(2)(t) of the Georgia Rules for Air Quality Control, the Permittee will be required to perform additional sampling, analyses, and testing at dates specified by the Division to verify that compliance with the emission limitation(s) is being maintained.

16. Coating transfer efficiencies above the baseline (to be specified by the Division) can be used for determining compliance with a VOC emission limitation if such transfer efficiencies are approved by the Division.

17. The Permittee shall use methods and procedures approved by the Division to perform all sampling and analyses of coatings and testing of emission control systems that are required by conditions of this permit.

General Motors Corporation's Atlanta Assembly Plant located at McDonough Boulevard and Sawtell Avenue, Atlanta, Georgia was issued a permit to operate on April 14, 1980 (Permit no. 3711–060–7451–0). The permit requires the GM Lakewood Assembly Plant, McDonough Boulevard and Sawtell Avenue, Atlanta, Georgia to comply with the following compliance schedule:

Permit No. 3711–060–7451–0

Car Assembly

Prime Operations

1. By March 1, 1981, the Permittee shall submit permit to construct applications for the installation of an electrocoating (electrophoretic) prime system necessary to comply with Rule 391–3–1–.02(2)(t)1.(i) of the Georgia Rules for Air Quality Control.

2. By June 1, 1981, the Permittee shall begin on-site construction of the electrocoating prime system. Written notification that such construction has commenced shall be made by June 11, 1981.

3. By November 15, 1982, the Permittee shall complete construction of the electrocoating prime system. Written notification that such construction has been completed shall be made by November 25, 1982.

4. By December 31, 1982, the Permittee shall limit the emissions of volatile organic compounds (VOC) from the electrocoating prime system to 1.2 pounds per gallon excluding water and shall demonstrate compliance with this emission limitation by the submittal of acceptable analyses same date.

5. By December 31, 1982, the Permittee shall limit the emissions of VOC from regulated spray prime application, flashoff area, and oven operations to 3.0 pounds per gallon of coating excluding water delivered to the coating applicator. Acceptable analyses demonstrating compliance shall be submitted to the Division by January 31, 1983.

6. By December 31, 1987, the Permittee shall limit the emissions of VOC from regulated spray prime application, flashoff area, and oven operations to 2.8 pounds per gallon of coating excluding water delivered to the coating applicator and shall demonstrate compliance with this emission limitation by the submittal of acceptable analyses by same date.

Topcoat and Final Repair Operations

7. By April 15, 1980, the Permittee shall limit the emissions of VOC from regulated topcoat application, flashoff area, and oven operations to 5.8 pounds per gallon of coating excluding water delivered to the coating applicator. Acceptable analyses demonstrating compliance with this emission limitation shall be submitted to the Division by same date.

8. By September 30, 1980, the Permittee shall submit a final topcoat control plan and schedule for the implementation of specified steps which will result in compliance with Rule 391-3-1-.02(2)(t)1.(iii) of the Georgia Rules for Air Quality Control.

9. By December 31, 1981, the Permittee shall limit the emissions of VOC from regulated topcoat application, flashoff area, and oven operations to 5.0 pounds per gallon of coating excluding water delivered to the coating applicator. Acceptable analyses demonstrating compliance with this emission limitation shall be submitted to the Division by January 31, 1982.

10. By March 31, 1985, the Permittee shall submit applications for permit to construct for the installation of emission control systems and/or the modification of process equipment necessary to comply with the topcoat and final repair emission limitations per Rules 391-3-1-.02(2)(t)1.(iii) and (iv) of the Georgia Rules for Air Quality Control.

11. By September 30, 1986, the Permittee shall enter into binding contracts or purchase orders for the installation of emission control systems and/or the modification of process equipment necessary to comply with Rules 391-3-1-.02(2)(t)1.(iii) and (iv). copies of the primary contracts or purchase orders shall be submitted to the Division by October 10, 1986.

12. By December 31, 1986, the Permittee shall begin on-site construction of emission control equipment and/or modification of process equipment necessary to comply with Rules 391-3-1-.02(2)(t)1.(iii) and (iv). Written notification that such construction has commenced shall be made by January 10, 1987.

13. By December 31, 1987, the Permittee shall limit the emissions of VOC from regulated topcoat application, flashoff area, and oven operations to 2.8 pounds per gallon of coating excluding water delivered to the coating applicator and from regulated final repair application, flashoff area, and oven operations to 4.8 pounds per gallon of coating minus water delivered, to the coating applicator. The Permittee shall demonstrate compliance with Rules 391-3-1-.02(2)(t)1.(iii) and (iv) by same date by the submittal of acceptable analyses of the coatings and test reports, if required, indicating efficiencies of emission control systems.

Truck Assembly

Prime Operations

14. By March 31, 1980, the Permittee shall begin on-site construction of the electrocoating prime system and new spray prime system. Written notification that such construction has commenced shall be made by April 10, 1980.

15. By November 1, 1980, the Permittee shall complete on-site construction of the electrocoating prime system and spray prime system. Written notification that such construction has been completed shall be made by November 11, 1980.

16. By December 31, 1980, the Permittee shall limit the emissions of VOC from the electrocoating prime system to 1.2 pounds per gallon excluding water and shall demonstrate compliance with this emission limitation by the submittal of acceptable analyses by same date.

17. By December 31, 1980, the Permittee shall limit the emissions of VOC from the spray prime application, flashoff area, and oven operations to 3.4 pounds per gallon of coating excluding water delivered to the coating applicator. Acceptable analyses demonstrating compliance with this emission limitation shall be submitted by January 31, 1981.

18. By December 31, 1986, the Permittee shall limit the emissions of VOC from the spray prime application, flashoff area, and oven operations to 2.8 pounds per gallon of coating excluding water delivered to the coating applicator and shall demonstrate compliance with this emission limitation by the submittal of acceptable analyses by same date.

Topcoat and Final Repair Operations

19. By December 31, 1982, the Permittee shall limit the emissions of VOC from regulated topcoat application, flashoff area, and oven operations to 3.6 pounds per gallon of coating excluding water delivered to the coating applicator. Acceptable analyses demonstrating compliance with this emission limitation shall be submitted to the Division by January 31, 1983.

20. By September 30, 1980, the permittee shall submit a final topcoat control plan and schedule for the implementation of specified steps which will result in compliance with Rule 391-3-1-.02(2)(t)1.(iii) of the Georgia Rules for Air Quality Control.

21. By March 31, 1984, the Permittee shall submit applications for permit to construct for the installation of emission control systems and/or the modification of process equipment necessary to comply with the topcoat and final repair emission limitations in Rules 391-3-1-.02(2)(t)1.(iii) and (iv) of the Georgia Rules for Air Quality Control.

22. By December 31, 1985, the Permittee shall enter into binding contracts or purchase orders for the installation of emission control systems and/or the modification of process equipment necessary to comply with Rules 391-3-1-.02(2)(t)1.(iii) and (iv). Copies of the primary contracts or purchase orders shall be submitted to the Division by January 10, 1986.

23. By September 30, 1986, the Permittee shall complete on-site construction of emission control equipment and/or modification of process equipment necessary to comply with Rules 391-3-1-.02(2)(t)1.(iii) and (iv). Written notification that such construction has been completed shall be made by October 10, 1986.

24. By December 31, 1986, the Permittee shall limit the emissions of VOC from regulated topcoat application, flashoff area, and oven operations to 2.8 pounds per gallon of coating excluding water delivered to the coating applicator and from regulated final repair application, flashoff area, and oven operations to 4.8 pounds per gallon of coating minus water delivered to the coating applicator. The Permittee shall demonstrate compliance with Rules 391-3-1-.02(2)(t)1.(iii) and (iv) by same date by the submittal of acceptable analyses of the coatings and test reports, if required, indicating efficiencies of emission control systems.

Testing Requirements and Equivalency

25. The Permittee will be allowed to use the arithmetic average of the VOC contents (lbs VOC/gallon of coating minus water) of all regulated topcoat colors in use at the plant to determine compliance with any VOC emission limitation referred to in conditions (7) thru (13) and (19) thru (24) above. If a new topcoat color is introduced into the plant after compliance with an emission limitation has been demonstrated, the Permittee will be required to perform additional sampling and analyses as specified by the Division to determine if compliance is being maintained.

26. After demonstrating final compliance with the VOC emission limitation(s) under Rule 391-3-1-.02(2)(t) of the Georgia Rules for Air Quality Control, the Permittee will be required to perform additional sampling, analyses, and testing at dates specified by the Division to verify that compliance

with the emission limitation(s) is being maintained.

27. Coating transfer efficiencies above the baseline (to be specified by the Division) can be used for determining compliance with a VOC emission limitation if such transfer efficiencies are approved by the Division.

28. The Permittee shall use methods and procedures approved by the Division to perform all sampling and analyses of coatings and testing of emission control systems that are required by conditions of this permit.

The Georgia SIP revisions being proposed today are necessary to ensure implementation and enforcement of Georgia's VOC regulations. The VOC regulations are an integral part of Georgia's plan to attain the ozone standard in the Metropolitan Atlanta area. Approval and subsequent implementation of these SIP revisions will result in an overall improvement of air quality in the Atlanta area and will provide reasonable further progress toward attaining the ozone standard.

EPA proposes to approve the permits submitted by the State because they ensure expeditious compliance with the State's RACT regulations for VOC. The permits will also enable the State to demonstrate reasonable further progress toward attainment as required by the 1977 Clean Air Act, Section 172(b)(3). The public is invited to participate in this rulemaking by submitting written comments on the proposed revisions (see addresses above). After reviewing all relevant comments received together with all other information available to him, the Administrator will take action on the proposed revisions to the Georgia State Implementation Plan (SIP).

(Secs. 110, 172, Clean Air Act (42 U.S.C. 4710 and 7502))

Dated: August 29, 1980.

John A. Little,

Acting Regional Administrator.

[FR Doc. 80-32905 Filed 10-21-80; 8:45 am]

BILLING CODE 6560-26-M

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40 CFR Part 52

[A-9-FRL 1639-4]

Approval and Promulgation of Implementation Plans; Maricopa County Urban Planning Area Nonattainment Area Plan and Regulations in the State of Arizona

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: On June 11, 1979, October 30, 1979, and May 28, 1980 (44 FR 33433, 62296, and 45 FR 35841) the Environmental Protection Agency (EPA) published Notices of Proposed Rulemaking for the Maricopa County Urban Planning Area Nonattainment Area Plan (NAP). Revisions which affect the NAP have been submitted to EPA by the Governor's designee, consisting of volatile organic compound and new source review rules.

As a result of these revisions, only minor deficiencies remain in the Maricopa County NAP. Therefore, EPA is proposing in this notice to conditionally approve the Maricopa County NAP with respect to Part D. Upon final rulemaking action, conditional approval would be sufficient to lift the current prohibition on construction of certain new or modified sources in the Maricopa County Urban Planning Nonattainment Area.

The EPA invites public comments on these revisions, the identified issues, the suggested corrections and associated proposed deadlines, and whether the revisions or certain portions of revisions should be approved, conditionally approved, or disapproved, especially with respect to the requirements of Part D of the Clean Air Act.

DATES: Comments must be submitted on or before November 21, 1980.

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

Copies of the proposed revisions, the NAP, and EPA's associated Evaluation Reports are contained in document file NAP-AZ-01 and are available for public inspection during normal business hours at the EPA Region IX Office at the above address and at the following locations:

Maricopa Association of Governments, 1820 West Washington Street, Phoenix, AZ 85007;

Arizona Department of Health Services, 1740 West Adams Street, Phoenix, AZ 895007;

Public Information Reference Unit, Room 2404 (EPA Library), 401 "M" Street, SW., Washington, D.C. 20460.

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

SUPPLEMENTARY INFORMATION:

Background

New provisions of the Clean Air Act, amended in August 1977, Pub. L. No. 95-95, require states to revise their SIPs for all areas that do not attain the National Ambient Air Quality Standards (NAAQS).

On April 4, 1979 (44 FR 20372), EPA published a General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas. In addition, EPA published Supplements to the General Preamble on July 2, August 28, September 17, and November 23, 1979 (44 FR 38583, 50371, 53761, and 67182). The General Preamble supplements this notice by identifying the major considerations that will guide EPA's evaluation of the plan submittal.

The Maricopa County Urban Planning Area is currently designated as nonattainment for carbon monoxide (CO), ozone (O_3), and total suspended particulates (TSP).

On February 23, 1979, the Governor's designee submitted the NAP for Carbon Monoxide and Ozone for the Maricopa County Urban Planning Area to EPA as a revision as a revision to the State Implementation Plan (SIP). EPA evaluated the submitted plan with respect to the Clean Air Act requirements and published a notice of proposed rulemaking in the **Federal Register** on June 11, 1979 (44 FR 33433). On July 3, 1979, the Governor's designee submitted a revision to the SIP which supplemented and superseded portions of the plan submitted on February 23, 1979 concerning ozone. EPA evaluated the submitted revision with respect to the Clean Air Act requirements and published a notice of proposed rulemaking in the **Federal Register** on October 30, 1979 (44 FR 62296). On March 21, 1979, the Governor's designee submitted revisions to Arizona's Inspection Maintenance Program (I/M). EPA evaluated the I/M Program with respect to the Clean Air Act requirements and published a notice of final rulemaking in the **Federal Register** on August 11, 1980 (45 FR 53145). On November 13, 1979, the Governor's designee submitted the NAP for Total Suspended Particulates for the Maricopa County Urban Planning Area to EPA as a revision to the SIP. EPA evaluated the submitted plan and published a notice of proposed rulemaking in the **Federal Register** on May 28, 1980 (45 FR 35841). On April 1, 1980, the Governor's designee submitted amendments to Arizona's Rules and Regulations for Air Pollution Control. EPA evaluated the NAP-related New Source Review (NSR) portions of the amendments along with Pima County's NSR rules and proposed to conditionally approve the two sets of rules in the **Federal Register** on July 23, 1980 (45 FR 49112).

Those notices provide a description of each revision, summarize the applicable Clean Air Act requirements, compare

each revision to those requirements, identify deficiencies, and suggest corrections. Those notices should be consulted for necessary background information concerning today's proposed rulemaking action.

Proposed Revisions

Volatile Organic Compound Rules

On June 23, 1980, the Governor's designee submitted to EPA Rule 34, *Organic Solvents*, for inclusion in the SIP. This regulation supersedes rules previously discussed in the June 11, 1979 **Federal Register** notice under Criterion 14.

Sections 172(a)(2) and (b)(3) of the Clean Air Act require that minimum levels of control technology be provided for in the NAP. Since Maricopa County's ozone NAP demonstrates attainment of the standard by December 31, 1982, the plan must, at a minimum, contain legally-adopted, enforceable regulations which reflect the application of reasonably available control technology (RACT) for those major stationary source categories for which EPA has published a Control Techniques Guideline (CTG) document by January, 1978. In addition, the plan is required to contain a commitment to adopt RACT regulations for source categories to be covered by future CTG documents.

The CTGs provide information on available air pollution control techniques and contain recommendations of what EPA calls the "presumptive norm" for RACT, based on EPA's current evaluation of the capabilities and problems general to an industry. The State may develop case-by-case RACT requirements, independent of EPA's recommendation, for any source or group of sources. Therefore, the basis for EPA's decision to approve a regulation as satisfying the Clean Air Act requirement for RACT consists of (1) the applicable CTG document, (2) any material submitted by the State justifying that the regulation satisfies the requirements of the Act for RACT (based on the economic and technical circumstances of a particular being regulated), and (3) public comment on the submitted regulation and supporting material.

On June 11, 1979, (44 FR 33433), EPA published a Notice of Proposed Rulemaking which indicated that this requirement had not met for Maricopa County, since adequate regulations had not been submitted for solvent metal cleaning, cutback asphalt, and the surface coating of cans, large appliances, and metal furniture. Each of these source categories was addressed in a CTG document published by EPA prior to January, 1978 (i.e., Category I CTGs). On June 23, 1980, the State of Arizona submitted Rule 34, which was adopted by the Maricopa County Bureau of Air Pollution Control for each of these source categories.

Rule 34 has been evaluated to determine whether it satisfies the requirements of Section 110 of the Clean Air Act, and 40 CFR Part 51, and would therefore be approvable for inclusion in the SIP. Revised Rule 34 will strengthen the SIP, and it is consistent with Section 110 of the Clean Air Act, EPA policy, and 40 CFR Part 51. Therefore, it is proposed that Rule 34 be approved for inclusion in the SIP.

It is proposed that Rule 34 is adequate to fulfill the requirements for RACT for degreasing, and the surface coating of cans, coils, large appliances, and metal furniture. Rule 34 also satisfies the requirement for RACT for cutback asphalt, except for the exemption allowing the use of cutback asphalts during December, January, and February. In response to this minor deficiency, EPA proposes to approve this portion of the NAP with the condition that the State submit the following regulations by November 1, 1980: (1) Information showing that the ambient temperatures during application are typcially below 50° F for these three months or (2) an amended regulation without the exemption.

As stated above, the NAP must contain a commitment to adopt RACT regulations for source categories to be covered by future CTG documents. In order to meet this requirement, the State must sumit the following regulations by January 1, 1981: Petroleum refinery leaks, gasoline tank trucks, perchloroethylene dry cleaning, pharmaceutical manufacture, graphic arts, pnematic rubber tire manufacture, flatwood paneling, floating-roof tands, and the surface coating of miscellaneuous metal parts and products.

New Source Review Rules

On July 17, 1980, the Governor's designee submitted revisions to Arizona's New Source Review (NSR) rules as follows: R9–3–301, *Installation Permits*, R9–3–306, *Operating Permits*, and R9–3–320, *Revised Definitions of New Major Source and Major Alteration*. These rules supplement and supersede portions of Arizona's NSR rules submitted on April 1, 1980 and previously discussed in the July 23, 1980 **Federal Register** notice (45 FR 49112) under Criterion 9. The State rules have been adopted in a legally enforceable manner as required by Section 172(b)(10) of the Act. As provided in Rule R9–3–1101, *Jurisidiction*, of the Arizona State Rules and Regulations submitted on January 4, 1979, the State has jurisdiction over permitting new major sources in Maricopa County since the County has not yet adopted new source review regulations. The rule was proposed for approval in the **Federal Register** on January 10, 1980 (45 FR 2054).

EPA's criteria for approval of a new source permitting program are contained in Section 173, which also references essential portions of Sections 171 and 172. EPA has established guidance based on Section 173 in: (1) EPA's Emission Offset Interpretative Ruling in the January 16, 1979 **Federal Register** (44 R 3274), and (2) EPA's proposed amendments to regulations for New Source Review and the Emission Offset Interpretative Ruling in the September 5, 1979 **Federal Register** (44 FR 51924).

The Arizona State NSR rules generally follow the January 16, 1979 Emission Offset Interpretative Ruling. EPA has therefore evaluated Arizona's NSR rules in comparison to the January 16, 1979 Interpretative Ruling rather than the September 5, 1979 proposal. EPA's review indicates that Arizona's NSR rules are not fully consistent with January 16, 1979 criteria. The State rules differ from EPA's in the definition of major modification and significance levels, LAER and offset application, statewide compliance, and the absence of a secondary emissions definition. These and other deficiencies are described in the Evaluation Report. EPA has determined that the deficiencies in the NSR rules are minor deficiencies with respect to Section 173.

EPA recently published two final rulemaking notices on the September 5, 1979 proposed amendments to EPA's NSR regulations and the Emission Offset Interpretative Ruling. These notices, published in the **Federal Register** on May 13, 1980 (45 FR 31307) and August 7, 1980 (45 FR 52676), amend EPA's NSR requirements. The State is required to comply with the August 7, 1980 requirements by May 7, 1981.

EPA therefore proposes to approve and incorporate into the SIP the State NSR rules with the following condition. The rules must be revised and submitted as an SIP revision by May 7, 1981. In revising its NSR rules, the State must address the deficiencies noted in EPA's Evaluation Report in addition to any new deficiencies which result from EPA's promulgation of final NSR regulations on August 7, 1980.

Proposed Actions

This notice proposes to approve the submitted volatile organic compound

(VOC) rules under Section 110 of the Clean Air Act since they provide additional control measures and therefore strengthen the SIP. In addition, specific rules have been evaluated to determine whether they require a level of control which reflects RACT. Since the rules contain only minor deficiencies with respect to Part D RACT requirements, EPA proposes to conditionally approve this portion of the NAP. This proposed action supersedes any proposed action included under Criterion 14 (VOC RACT) of the June 11, 1979 notice.

The State NSR rules provide for the issuance of permits for the construction of new or modified stationary sources in certain areas of the State, including Maricopa County. The rules contain minor deficiencies with respect to Part D requirements. Thus, this notice proposes to conditionally approve the State's NSR rules and the permit program portion of the Maricopa County NAP. This proposed action supersedes any proposed action under Criterion 9 (Permit Program) in the previous notices.

As a result of these revisions, only minor deficiencies remain in the Maricopa County NAP. Therefore, EPA is proposing in this notice to conditionally approve the Maricopa County NAP with respect to Part D. Upon final rulemaking action, conditional approval would be sufficient to lift the current prohibition on construction of certain new or modified sources in the Maricopa County Urban Planning Nonattainment Area. This prohibition is required by the Clean Air Act and is discussed in detail in the July 2, 1979 Federal Register (44 FR 38471).

Public Comments

Under Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove revisions to the SIP submitted by the State. The Regional Administrator hereby issues this notice setting forth the SIP revisions described above, as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office.

The EPA Region IX Office specifically invites public comment on whether to conditionally approve the items identified in this notice as deficiencies. EPA is further interested in receiving comments on the specified deadline for the State to submit the corrections, in the event of conditional approval.

Comments received on or before November 21, 1980, will be considered. Comments received will be available for public inspection at the EPA Region IX Office and at the locations listed in the addresses section of this notice.

The Administrator's decision to approve, conditionally approve, or disapprove the proposed revisions will be based on the comments received and on a determination whether the revisions meet the requirements of Section 110(a)(2) and Part D of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

EPA believes the available period for comment is adequate because:

(1) The plan has been available for inspection and comment since May 1, 1979;

(2) The issues involved in the revisions submitted on April 1, June 23, and July 17, 1980 are limited in scope and are sufficiently clear to allow comments to be developed in the available 30-day period; and

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

EPA has determined that this action is "specialized" and therefore, not subject to the procedural requirements of Executive Order 12044.

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

Dated: September 18, 1980.

Sheila M. Prindivilla,

Acting Regional Administrator.

[FR Doc. 80-32906 Filed 10-21-80; 8:45 am]

BILLING CODE 6560-26-M

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40 CFR Part 81

[A-4-FRL-1640-3]

Designation of Areas for Air Quality Planning Purposes; Alabama: Proposed Redesignation for Morgan County

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On July 14, 1980, the Alabama Air Pollution Control Commission submitted to EPA eight quarters of TSP data from the Morgan County area. This data shows no violations of the primary or secondary TSP 24-hour standards. EPA is today proposing to approve the state's request for redesignation of Morgan County from secondary nonattainment for TSP to an attainment classification.

DATE: To be considered, comments must be submitted on or before November 21, 1980.

ADDRESSES: The Alabama submittal may be examined during normal business hours at the following EPA offices:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Library, Environmental Protection Agency, Region IV, 345 Courtland Street NE, Atlanta, Georgia 30365

In addition, the Alabama revision may be examined at the offices of the Alabama Air Pollution Control Commission, Division of Air Pollution Control, 645 South McDonough Street, Montgomery, Alabama 36130. Comments should be addressed to Mr. Jerry Preston, EPA, Region IV, Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Preston, Air Programs Branch, EPA, Region IV, 345 Courtland Street NE, Atlanta, Georgia 30365, 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: On March 3, 1978, EPA promulgated a nonattainment status designation for a portion of Morgan County, Alabama. This designation was for a secondary nonattainment area for particulates around the vicinity of Decatur, Alabama.

EPA policy for Section 107 redesignation criteria was issued on June 12, 1978, and stated that for redesignation of a nonattainment area by use of monitoring data, that data must be below the standard for the pollutant measured for a reporting period of no less than eight quarters.

The TSP data submitted by the Alabama Air Pollution Control Commission on July 14, 1980 showed no violations of the 24-hour secondary standard. The eight quarters of data submitted were from July 1, 1978 to June 30, 1980. All data has been documented, shown to be representative, and has been subjected to an accepted quality assurance program.

Action

Based on the above statements, EPA is proposing to approve the redesignation of the area in Morgan County from nonattainment to attainment for the TSP secondary standard.

(Sec. 107, Clean Air Act (42 U.S.C. 7407))

Dated: October 2, 1980.

John A. Little,

Acting Regional Administrator.

[FR Doc. 80-32902 Filed 10-21-80; 8:45 am]

BILLING CODE 6560-26-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA 5914]

National Flood Insurance Program; Proposed Corporate Limits and Zone Designation for the City of Valdosta, Ga.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed corporate limits and zone designation described below.

The proposed corporate limits and zone designation will be 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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Map and other information showing the detailed outlines of the flood-prone areas and the proposed corporate limits and zone designation are available for review at the Mayor's Office, City Hall, Valdosta, Georgia.

Send comments to: The Honorable Ernest Nijem, Mayor, City of Valdosta, P.O. Box 1125, Valdosta, Georgia 31601.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW., Washington, D.C. 20410 (202) 755–6570 or toll free line (800) 424–8872 or (800) 424–8873.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed corporate limits and zone designation (100-year flood) for the City of Valdosta, Georgia, in accordance with Section 110 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 67.4(a) (presently appearing at its former Section, 24 CFR 1917.4(a)).

The proposed corporate limits and zone designation, 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. The proposed corporate limits and zone 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.

The proposed 100-year flood corporate limits and zone for selected locations are:

Source of flooding	Location	Zone
Dukes Bay Drainage Canal South.	East of Southern Railway, south of Dampier Street.	A

(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 Federal Insurance Administrator)

Issued: September 5, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-32536 Filed 10-21-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. 5911]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below 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).

DATES: 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) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 890, 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(a).

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.

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)
California	San Jose (City), Santa Clara County.	Alamitos Creek	100 feet west of intersection of Mt. Carmel Drive and Camden Avenue.	*251
			Intersection of Winterset Way and Mt. Carmel Drive	#1
			Approximately 500 feet northeast of intersection of Borgwood Court and Portswood Circle.	*322
		Arroyo Calero	Approximately 100 feet downstream from center of Harry Road	*319
		South Babb Creek	Approximately 250 feet north of intersection of Mt. Wilson and Mt. Stanley Drives.	#1
		Berryessa Creek	Intersection of Cropley and Morrill Avenues	#1
		Calabazas Creek	100 feet upstream from center of Rainbow Drive	*273
		Canoas Creek	Intersection of Nightingale and Hummingbird Drives	*142
		Coyote Creek	200 feet downstream from center of U.S. Highway 101	*101
			500 feet south of intersection of Ford and Silver Leaf Roads	*198
			At confluence with Fisher Creek	*246
		Fisher Creek	100 feet west of intersection of Santa Teresa Boulevard and Bailey Avenue.	*250
		Fisher Creek Overbank	100 feet upstream from center of Fisher Road	*257
		Guadalupe River	Intersection of Auzerais Street and Vine Avenue	#3
		Los Gratos Creek	300 feet southwest along West Santa Clara Street from its intersection with North River Street.	#1
		Upper Penitencia Creek	Intersection of Helmsley and Wilsham Drives	#1
			100 feet upstream from center of Noble Avenue	*244
		Ross Creek	Intersection of Cherry Avenue and Cherry Court	*1
		San Francisco Bay	Intersection of Michigan Avenue and Archer Street	*7
		Silver Creek	Intersection of McKee Road and North 33rd Street	*86
			100 feet south of intersection of Cunningham Avenue and White Road.	*131
		Thompson Creek	Intersection of Fairfax Avenue and Scottsdale Drive	#1
		Shallow Flooding	Intersection of Moorpark Avenue and Hamann Drive	#1
			300 feet southeast from intersection of Rogers Avenue and Brokaw Road.	#1
			Intersection of Zonker Road and Component Drive	*26
			Intersection of Las Plumas Avenue and Lenfest Road	*84
			100 feet north from intersection of King Road and Dobbin Drive	*88
			Intersection of Sinclair Freeway and McKee Road	*101
			Intersection of Monterey Highway and East Alma Avenue	*102
			Intersection of Battaglia Circle and Old Ridge Place	*127
			Intersection of White Road and Tully Road	*131
	Maps available for inspection at Engineering Department, 801 N. 1st., San Jose, California.			
	Send comments to Honorable Janet Gray Hayes, 801 N. 1st., San Jose, California 95110.			
	Town of Hastings, St. Johns County.	St. Johns River	Intersection of Church Avenue (State Road 207) with western corporate limits.	*6
		Deep Creek	Intersection of Church Avenue and Orange Street	*7
	Maps available for inspection at Town Hall, 401 Main Street, Hastings, Florida 32045.			
	Send comments to Mayor L. R. French or Ms. Carolyn B. Smyly, Town Hall, P.O. Box 607, Hastings, Florida 32045.			
Illinois	(V), Banner, Fulton County	Copperas Creek	At the downstream corporate limits	*455
			Approximately 260 feet downstream of U.S. Route 24	*455
			At the upstream corporate limits	*457
	Maps available for inspection at the Banner Village Hall, RR #3, Canton, Illinois.			
	Send comments to Honorable Floyd D. Miller, Village President, Village of Banner, Banner Village Hall, RR #3, Canton, Illinois 61520.			
Iowa	(C), Burlington, Des Moines County.	Flint Creek	Mouth at Mississippi River	*535
			About 1,050 feet upstream of the Chicago, Rock Island and Pacific Railroad.	*535
			About 1,500 feet upstream Tama Road Bridge	*538
		Mississippi River	Downstream corporate limits	*533
			Upstream corporate limits	*535
		Tributary A	Just upstream of Gunnison Street	*584
			About 700 feet upstream of Remick Street	*584
			Just downstream Plane Street	*601
			Just upstream Plane Street	*604
			Just downstream Division Street	*608
			Just upstream Division Street	*613
			About 520 feet upstream of Division Street	*613
			At confluence of Tributary B	*617
		Tributary B	Just downstream Division Street	*620
			Just upstream Division Street	*629
			About 420 feet upstream of Division Street	*631
			About 920 feet upstream Division Street	*636
	Maps available for inspection at the City Hall, Burlington, Iowa.			
	Send comments to Honorable R. F. Eiffelman, Mayor, City of Burlington, City Hall, Burlington, Iowa 52601.			
Iowa	(C), Durango, Dubuque County	North Fork Little Maquoketa River	At mouth	*649
			Southwest corporate limits	*649
		Sherrill Creek	About 130 feet downstream of Chicago and North Western Railroad	*647
			About 90 feet upstream Glen Dalfa Road	*649

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Little Maquoketa River	About 660 feet downstream Southeast Road	*647
			About 500 feet upstream Southeast Road	*649
	Maps available for inspection at the City Clerk's Home, Durango, Iowa.			
	Send comments to Honorable James Schemmel, Mayor, City of Durango, P.O. Box 10, Durango. Iowa 52039.			
Iowa	(C), Nevada, Story County	West Branch Indian Creek	About 2,000 feet downstream of U.S. Highway 30	*945
			Just downstream of County Road S14 bridge	*957
			Just downstream of Chicago and North Western railroad	*962
	Maps available for inspection at the City Hall, Nevada, Iowa.			
	Send comments to Honorable Roy T. Bulty, Mayor, City of Nevada, City Hall, Nevada, Iowa 50201.			
Kentucky	City of Frankfort, Franklin County.	Kentucky River	Just upstream Broadway St.	*508
			At the East-West Connector (State Highway 676)	*509
		Benson Creek (Backwater from Kentucky River).	Just upstream Bald Knob Road	*508
	Maps available for inspection at Office of Planning and Zoning, City Hall, 315 W. Second Street, Frankfort, Kentucky 40601.			
	Send comments to Mayor Sower or Mr. Paul Royster, City Manager, City Hall, P.O. Box 697, Frankfort, Kentucky.			
Michigan	(C), Charlotte, Eaton County	Battle Creek River	At downstream corporate limits	*879
			Just upstream of South Cochran Street	*880
		Butternut Creek	Just upstream of Packard Street	*876
			About 650 feet upstream of Interstate 69	*878
	Maps available for inspection at the City Hall, 111 East Lawrence Street, Charlotte, Michigan.			
	Send comments to Honorable Daryl Baker, Mayor, City of Charlotte, City Hall, 111 East Lawrence Street, Charlotte, Michigan 48813.			
Michigan	(Chtr. Twp.), Delhi, Ingham County.	Grand River	Just upstream of Waverly Road	*853
			Upstream corporate limits	*857
		Sycamore Creek	Just upstream of Jolly Road	*838
			Just downstream of College Road	*846
		Mud Lake Drain	Just upstream of Aurelius Road (about 600 feet south of Jolly Road)	*839
			Just downstream of Aurelius Road (about 2,700 feet south of Jolly Road).	*843
		Gilbert Drain	Just upstream of Waverly Road	*864
			About 1,550 feet upstream of Grovenburg Road	*866
	Maps available for inspection at the Delhi Township Hall, 1974 Cedar Street, Holt, Michigan.			
	Send comments to Honorable Billy L. Dowell, Supervisor, Charter Township of Delhi, Delhi Township Hall, 1974 Cedar Street, Holt, Michigan 48842.			
Michigan	(Twp.), Oneida, Eaton County	Grand River	At county boundary	*792
			At downstream corporate limits of City of Grand Ledge	*798
			At upstream corporate limits of City of Grand Ledge	*800
			At upstream corporate limits	*803
	Maps available for inspection at the Oneida Township Hall, 11883 Oneida Road, Grand Ledge, Michigan.			
	Send comments to Honorable Paul Edwards, Supervisor, Township of Oneida, Township Hall, 11883 Oneida Road, Grand Ledge, Michigan 48837.			
Mississippi	City of Belzoni, Humphreys County.	Fisk Bayou	At Jackson Street	*115 [1]
			At Virginia Street	115 [1]
		Unnamed Tributary of Yazoo River.	Intersection of Mound Street and Washington Ave.	*115 [1]
			Intersection of First Street and Shannon Street	*115 [1]
		Yazoo River	At Humphreys County Bridge	*114
		County Ditch No. 26	At Jackson Street	*113 [1]
	Maps available for inspection at City Hall, 102 W. Jackson Street, Belzoni, Mississippi 39038.			
	Send comments to Mayor Mortimer and Mr. Roy H. Watson, City Clerk, City Hall, P.O. Box 674, Belzoni, Mississippi 34038.			
[1] Effected by overflow from Wasp Lake.				
New Jersey	East Amwell, Township, Hunterdon County.	Neshanic River	Downstream Corporate Limits	*103
			Upstream side of Cider Mill Road	*111
			Upstream side of Manners Road	*115
			Upstream Corporate Limits	*121
		Stony Brook	Downstream Corporate Limits	*207
			Approximately 1,570' upstream of Downstream Corporate Limits	*217
			Approximately 4,820' upstream of Downstream Corporate Limits	*236
			Downstream side of Linvale Road	*292
			Approximately 60' upstream of Linvale Road	*294
		South Fork Third Neshanic River	Downstream Corporate Limits	*159
			Approximately 60'upstream of Rynearson's Road	*168
			Centerline of Creek Road at upstream Corporate Limits	*172
		Tributary A	Confluence with Neshanic River	*110
			Downstream side of Private Road approximately 2,975' upstream of Back Brook Road.	*126
			Upstream side of Private Road approximately 2,975' upstream of Back Brook Road.	*130
			Downstream side of Private Road approximately 475' downstream of Manners Road.	*154
			Downstream side of Manners Road	*158
			Upstream side of Manners Road	*159

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Back Brook	Confluence with Neshanic River	*112
			Downstream side of Van Lieu's Road	*118
			Approximately 8,475' upstream of Van Lieu's Road	*137
			Downstream side of Wertsville Road	*164
			Downstream side of Farm Lane	*175
			Approximately 500' downstream of State Route 202	*187
			Downstream side of Country Route 579	*191
			Upstream side of Old York Road	*196
	Maps available at the Township Clerk's Office, East Amwell, New Jersey.			
	Send comments to Honorable Mary Elizabeth Sheppard, Township Clerk, P.O. Box F, East Amwell, New Jersey 08551.			
New York	Town of Wheatfield, Niagara County.	Bergholtz Creek	Just upstream of Williams Road	*576
			Just upstream of Hoover Road	*595
		Brent Road Tributary	Approximately 300 feet upstream of Ward Road	*587
		Raymond Road Tributary	Just downstream of Raymond Road	*603
		Cayuga Creek	Just downstream of Lockport Road	*605
			Just upstream of Blank Road	*616
		Cayuga Creek Tributary	Confluence of Cayuga Creek and Cayuga Creek Tributary	*610
		Tonawanda Creek	Just upstream of Niagara Falls Boulevard	*573
		Sawyer Creek	Just upstream of Shawnee Road	*573
			Just upstream of Schultz Road	*575
			Just upstream of Nash Road	*577
		Bull Creek	Just downstream of Town Line Road (Downstream of Crossing)	*573
			Just downstream of Loveland Road	*578
			Just downstream of Town Line Road (Upstream of Crossing)	*580
	Maps available for inspection at Town Hall, 2800 Church Road, Wheatfield, New York 14120.			
	Send comments to Honorable Edward Greinert, Town Hall, 2800 Church Road, North Tonawanda, New York 14120.			
New York	Warsaw, Village, Wyoming County.	Oatka Creek	Corporate Limits	*980
			Downstream of West Court Street	*996
			Downstream of South Main Street	*1,009
			Downstream of Washington Street	*1,010
			Upstream of Corporate Limits	*1,033
		Crystal Brook	Confluence with Oatka Creek	*1,009
			Upstream of Oatka Street	*1,010
			Corporate Limits	*1,033
	Maps available at the Village Office, 15 South Main Street, Warsaw, New York.			
	Send comments to Honorable Edward Mink, Mayor, P.O. Box 49, Warsaw, New York, 14569.			
North Carolina	Archdale (City), Randolph County.	Muddy Creek	50 feet upstream from center of North Carolina Secondary Road 1916—Weart Road.	*722
			20 feet upstream from center of North Carolina Secondary Road 1608—School Road.	*784
		Muddy Creek—West Tributary	Intersection of Sunny Lane and Archdale Road	*792
			100 feet upstream from Center of North Carolina Highway 62—Trindale Road.	*823
		Muddy Creek—East Tributary	200 feet upstream from center of Ashbrook Street	*737
			50 feet upstream from center of North Carolina Secondary Road 1912—Aldridge Road.	*759
	Maps available for inspection at City Hall, 307 Balfour Drive, Archdale, North Carolina.			
	Send comments to Honorable Lloyd H. Taylor, 307 Balfour Drive, Archdale, North Carolina 27263.			
North Carolina	Asheboro (City), Randolph County.	Deep River	100 feet upstream from center of North Carolina Secondary Road 2261—Old Liberty Road.	*572
		Hasketts Creek	20 feet upstream from center of Bridge at Sewage Plant	*611
			100 feet upstream from center of Greenvale Road	*649
		Hasketts Creek—North Tributary	50 feet downstream from center of Northwood Drive	*670
		Penwood Branch	50 feet upstream from center of North Carolina Secondary Road 2261—Old Liberty Road.	*637
			Intersection of Windsor Drive and Camden Court	*697
		Penwood Branch—South Tributary	Intersection of Grove Street and Glovinia Street	*764
		Vestal Creek	Intersection of creek and center of Cox Road	*669
		Vestal Creek—Tributary I	100 feet upstream from center of Newbern Avenue	*711
		Vestal Creek—Tributary II	50 feet upstream from center of Pine Grove	*710
		Vestal Creek—Tributary III	Confluence with Vestal Creek—Tributary II	*663
	Maps available for inspection at City Hall, 146 N. Church Street, Asheboro, North Carolina.			
	Send comments to Honorable Robert L. Reese, 146 N. Church Street, Asheboro, North Carolina 27203.			
North Carolina	Randolph County (Unincorporated Areas).	Richland Creek	Intersection of Creek and center of North Carolina Secondary Road 2831.	*509
		Muddy Creek	50 feet upstream from center of North Carolina Secondary Road 1917	*717
	Maps available for inspection at Mapping Department, 145 Worth Street, Asehboro, North Carolina.			
	Send comments to Honorable Richard K. Tugh, 145 Worth Street, Asheboro, North Carolina 27203.			
Oklahoma	Town of Noble, Cleveland County.,	Canadian River	At south corporate limits (Cemetery Road Extended)	*1,072
		Belle Creek	Just upstream of Cemetery Road	*1,097
			Approximately 100 feet at upstream of U.S. Highway 77	*1,112

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 Maguirer Road	*1,119
		Dripping Springs Creek	Approximately 100 feet at upstream of Cemetery Road	*1,108
			Just upstream of Maguire Road	*1,125
		N.W. Park Creek	Approximately 100 feet at downstream of Atchison Topeka & Santa Fe Railway.	*1,106
			At downstream of U.S. Highway 77	*1,116

Maps available for inspection at City Hall, 115 North 2nd Street, Noble, Oklahoma 73068.

Send comments to Mayor Earl Musgrave or Ms. Margaret Leslie, City Clerk, City Hall, 115 North 2nd Street, Noble, Oklahoma 73068

Oklahoma	City of Owasso, Tulsa and Rogers Counties.	Ranch Creek	At 76th Street	*591
			Just downstream of 116th Street North	*653
		Ranch Creek Tributary A	Approximately 90 feet at downstream of Atchison Topeka at Santa Fe Railroad.	*592
			Just upstream of North 19th Street	*652
			Approximately 80 feet upstream of North Birch Street	*660
			Just downstream of Garnett Road	*675
		Bird Creek Tributary 5A	At downstream of 76th Street N (Second Avenue)	*590
			Just downstream of U.S. Highway 169	*601
			Approximately 250 feet at upstream of 83rd Street N	*615
			Approximately 100 feet at upstream of 86th Street N	*628
		Elm Creek	Just downstream of 129th Avenue E	*590
		Bird Creek	Approximately 200 feet at downstream of Atchison Topeka and Santa Fe Railroad.	*590

Maps available for inspection at City Hall, 207 South Cedar Street, Owasso, Oklahoma 74055.

Send comments to Mayor Boyd Spencer or Mr. Kenneth Thompson, City Manager, City Hall, 207 South Cedar Street, Owasso, Oklahoma 74055.

Oklahoma	City of Purcell, McClain County	Canadian River	Just downstream of U.S. Highway 77	*1,034
			At the west corporate limits (Approximately 2,900 feet downstream of the Atcheson Topeka and Santa Fe Railway.	*1,057
		Walnut Creek	Just upstream of U.S. Highway 77	*1,036
			Just downstream of Interstate Highway 35	*1,039
		Beaver Creek	Approximatelty 100 feet upstream of Interstate Highway 35	*1,043

Maps available at City Hall, 230 West Main Street, Purcell, Oklahoma 73080.

Send comments to Mayor C. B. Jermiah or Mr. Noland Combs, City Manager, City Hall, 230 West Main Street, Purcell, Oklahoma 73080.

Pennsylvania	Roscoe, Borough, Washington County.	Monongahela River	Downstream Corporate Limits	*765
			Upstream Corporate Limits	*766

Maps available at the residence of Ms. Ruth Chester, Borough Secretary, 503 Underwood, Roscoe, Pennsylvania.

Send comments to Honorable Julius Klein, Council President of Roscoe, Box 1, Roscoe, Pennsylvania 15477.

Texas	City of Anahuac, Chamber County	Lake Anahuac	Along Shoreline	*12
		Galveston Bay	Along western corporate limits (Trinity River Channel)	*13

Maps available for inspection at City Manager's Office, City Hall, 501 Miller Street, Anahuac, Texas 77514.

Send comments to Mayor Strimple or Mr. Robert Nelson, City Manager, City Hall, P.O. Box 578, Anahauc, Texas 77514.

Wisconsin	(C), De Pere, Brown County	Ashwaubenon Creek	Just downstream of Fort Howard Avenue	*585
			About 600 feet upstream of State Highway 41 Southbound	*589
			About 500 feet upstream Ashwaubenon Street	*590
			About 1,300 feet upstream Main Avenue	*595
		Fox River	Downstream corporate limits	*585
			Just downstream De Pere Dam	*585
			Just upstream De Pere Dam	*591
			Upstream corporate limits	*591
		East River	Downstream corporate limits	*591
			Upstream corporate limits	*591

Maps available for inspection at the Office of the Building Inspector, City Hall, 335 South Broadway Street, De Pere, Wisconsin.

Send comments to Honorable Richard A. Switzer, Mayor, City of De Pere, City Hall, 335 South Broadway Street, De Pere, Wisconsin 54115.

Wisconsin	(C), New Holstein, Calumet County.	Jordan Creek	About 0.7 mile downstream of Wisconsin Avenue	*904
			Just downstream of Milwaukee Drive	*924
			Just upstream of Hickory Lane	*939
			Just upstream of Plymouth Street	*967
			Just downstream of Wisconsin Avenue	*971

Maps available for inspection at the Office of the City Clerk, City Hall, 2100 Washington Street, P.O. Box 136, New Holstein, Wisconsin.

Send comments to Honorable Ralph N. Orth, Mayor, City of New Holstein, City Hall, 2100 Washington Street, P.O. Box 136, New Holstein, Wisconsin 53061.

(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 Federal Insurance Administrator)

Issued: September 25, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-32554 Filed 10-21-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA 5926]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below 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).

DATES: 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) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 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(a).

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 on 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.

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arkansas	Fort Smith, City, Sebastian County.	Arkansas River	Downstream Corporate Limits	*403
			3,000' upstream Free Ferry Road (Extended)	*407
			850' upstream Interstate Route 540	*409
			250' downstream St. Louis and San Francisco Railroad	*410
			North C Street (Extended)	*417
		Poteau River	South 3rd Street	*418
			Upstream Corporate Limits	*420
		Mill Creek	Upstream Schulter Road	*421
			Carthage Street (Extended)	*425
			550' downstream Route 59	*427
		Little Massard Creek	650' upstream Meandering Way	*403
			150' downstream 91st Street	*408
		Sunny Mede Creek	900' downstream 52nd Street	*410
			750' upstream 50th Street	*415
			42nd Street	*421
		May Branch	North 21st Street	*421
			Belle Avenue	*422
			May Avenue	*425

Maps available at City Hall, 623 Garrison Avenue, Fort Smith, Arkansas.

Send comments to the Honorable Jack Freece, Mayor, 623 Garrison Avenue, Fort Smith, Arkansas 72902.

Arkansas	City of Pine Bluff, Jefferson County.	Caney Bayou	At intersection of Woodlea and Woodlawn Drives	*213
		Caney Bayou Tributary A	Just upstream of Hutchinson Street	*228
			Just downstream of Mosely Street	*231
			Just downstream of Bryant Street	*238
		Outlet Canal	Just upstream of U.S. Highway 65	*203
			Just upstream of Ohio Street	*204
			Just downstream of Kentucky Street	*205
		Pitts Drain	Just downstream of Ohio Street	*208
			Just downstream of Main Street	*215
			Just upstream of Laurel Street	*221
		Outlet Canal Tributary A	Just upstream of Ohio Street	*211
			Just upstream of Kentucky Street	*213
			Just upstream of Georgia Street	*221
		Caney Bayou Tributary A1	Just downstream of Rhinehart Road	*231
			Just upstream of U.S. Highway 65 (Blake Avenue)	*231
			Just downstream of Shirley Street	*235

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Brumps Bayou	Just upstream of Pullen Street	*214
			Just downstreet of Mytle Street	*229
			Just upstream of Peach Street	*231
		Harding Drain	Just upstream of Pine Street	*215
			Just downstream of Mulberry Street	*221
			Just downstream of Cypress Street	*224
		Eden Park Drain	Just downstream of Main Street	*206
			Just upstream of Olive Street	*211
			Just upstream of Hickory Street	*222
		Interceptor Canal	Just downstream of West 34th Street	*219
			Just downstream of Catalpa Street	*225
		Bayou Bartholomew	Just downstream of U.S. Highway 79	*219
	Maps available for inspection at City Hall, 200 East 8th Avenue, Pine Bluff, Arkansas 71601.			
	Send comments to Mayor Charles E. Moore, City Hall, 200 East 8th Avenue, Pine Bluff, Arkansas 71601			
California	Anaheim (City), Orange County	Santa Ana River	Centerline of Simmons Avenue 200 feet west of the intersection of Simmons Avenue with Nautical Street.	*133
			Imperial Highway bridge 250 feet upstream from centerline	*284
			75 feet upstream of the confluence with Walnut Canyon Channel	*292
			Centerline of levee 250 feet upstream of confluence with Esperanza Channel.	*320
			Intersection of Orangewood Avenue and State College Boulevard	#1
			Intersection of Simmons Avenue and Nautical Street northeast corner.	#3
	Maps available for inspection at City Hall, Anaheim, California.			
	Send comments to Honorable John Seymour, P.O. Box 3222, Anaheim, California 92803.			
California	Orange (City), Orange County	Santa Ana River	Intersection of Spinnaker Street and Sirius Avenue	*133
			Centerline of Rampart Street 1800 feet northeast of intersection with State College Boulevard.	#1
			Intersection of El Rancho Avenue and Lewis Street	#2
			Intersection of Manchester Avenue and Sheringham Street	#3
	Maps available for inspection at City Hall, Orange, California.			
	Send comments to Honorable James Beam, 300 East Chapman Avenue, Orange, California 92666.			
California	Orange County (Unincorporated Areas).	Santa Ana River	Centerline of Greenville Banning channel 700 feet upstream of Coast Highway centerline.	*9
			Centerline of Greenville Banning channel 800 feet upstream of Victoria Street.	*11
			Centerline of Shady Drive 70 feet north of intersection with Westminster Avenue.	*94
			Centerline of Haster Street 420 feet south of intersection with Lampson Avenue.	*122
			400 feet southeast of the intersection of Douglas Street and Katella Avenue.	#1
			Intersection of Edinger Avenue and Harbor Boulevard southeast corner.	#3
	Maps available for inspection at Environmental Management Agency, P.O. Box 4048, Santa Ana, California.			
	Send comments to Mr. H. G. Osborne, P.O. Box 4048, Santa Ana, California 92702.			
California	Santa Ana (City), Orange County	Santa Ana River	Centerline of Southern Pacific Railroad 2000 feet south of Macarther Boulevard.	*32
			Centerline of 5th Street 400 feet west of the center of 5th Street bridge over Santa Ana River.	*84
			Intersection of Cotter Street and Bern Lane	*109
			Centerline of Santa Ana freeway 900 feet northwest of center of Santa Ana freeway bridge over Santa Ana River.	*132
			Intersection of Sharon Road and Forest Avenue	#1
			Intersection of Alona Street and 21st Street	#2
			Intersection of English Street and Washington Avenue	#3
	Maps available for inspection at City Hall, 20 Civic Center Plaza, Santa Ana, California.			
	Send comments to Honorable James E. Ward, 20 Civic Center Plaza, Santa Ana, California 92701.			
Colorado	Orchard City (Town), Delta County.	Cedar Run	Downstream edge of Vista Grande Drive, crossing the stream	*5297
			Downstream edge of Harts Basin Road, crossing the stream	*5,454
		Surface Creek	Downstream edge of Talbott Lane, crossing the stream	*5,442
			Downstream edge of Hamilton Lane, crossing the stream	*5,767
	Maps available for inspection at City Hall, 2102 J 50 Road, Austin, Colorado.			
	Send comments to Honorable J. Clare Davis, 2102 J 50 Road, Austin, Colorado 81410.			
Florida	City of Kissimmee Osceola County.	Shingle Creek	Just upstream of S.R. 530	*79
		Mill Slough	Just upstream of Mill Slough Road	*65
		East City Canal	Just upstream of U.S. 441	*60
			Just upstream of U.S. 17-92	*66
			Just upstream of Vine Street	*69
		West City Canal	Just upstream of U.S. 17-92	*63
			Just upstream of Patrick Street	*64
			Just downstream of Oak Street	*66
	Maps available for inspection at City Hall, 101 North Church Street, Kissimmee, Florida 32741.			
	Send comments to Mayor Smith or Mr. G.W. Mann, Jr., Director of Public Works and Engineering, City Hall, P.O. Box 1608, Kissimmee, Florida 32741.			

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Kansas	(C), Haysville, Sedgwick County	Wichita-Valley Center Floodway	At northeastern corporate limits	*1,267
			Just upstream from the Chicago, Rock Island and Pacific Railroad	*1,270
			At northwestern corporate limits	*1,274
	Maps available for inspection at the City Hall, Haysville, Kansas.			
	Send comments to Honorable Glenn O. Crum, Mayor, City of Haysville, City Hall, Haysville, Kansas 67060.			
Kentucky	Unincorporated areas of Bourbon County.	Stoner Creek	Just upstream of U.S. 460	*793
			Just upstream of Southern Paris City Limits	*800
		Houston Creek	Just upstream of Georgetown Road (U.S. 460)	*807
			Just upstream of Abandoned Frankfort and Cincinnati Railroad	*842
	Maps available for inspection at County Judge/Executor's Office or Office of Disaster and Emergency Service, Bourbon County Courthouse, Paris, Kentucky 40361.			
	Send comments to County Judge/Executor, Roy Baber, Bourbon County Courthouse, Main Street, Paris, Kentucky 40361.			
Missouri	(T), Canalou, New Madrid County.	Shallow Flooding (Little River and Otter Slough Overflow).	Within corporate limits	*291
	Maps available for inspection at the Town Hall, P.O. Box 221, Canalou, Missouri.			
	Send comments to Honorable Charles Joyce, Acting Mayor, Town of Canalou, Town Hall, P.O. Box 221, Canalou, Missouri 63828.			
Missouri	(C), Matthews, New Madrid County.	Shallow Flooding (Little River)	About 500 feet upstream of Main Street bridge over Little River	*293
			About 1000 feet southwest of intersection of Moore Street and Bell Avenue.	*293
		Shallow Flooding (From Rainfall)	About 1400 feet north of Main Street and about 2100 feet east of St. Louis-San Francisco Railway.	#3
			About 900 feet south of Main Street and about 1300 feet east of St. Louis-San Francisco Railway.	#3
			North of Summit Drive between Ridgeview Drive and Davis Street	#3
			North of Critchlow Street, on east side of Railroad Avenue	#3
			Just north of Main Street on Railroad Avenue	#3
			At Hall Street and Railroad Avenue	#3
			Just west of Morgan Street and Bell Avenue intersection	#3
			Just east of Morgan Street and Dean Street intersection	#3
	Maps available for inspection at the City Hall, P. O. Box 54, Matthews, Missouri.			
	Send comments to Honorable Charles Daniels, Mayor, City of Matthews, City Hall, P. O. Box 54, Matthews, Missouri 63867.			
Missouri	(C), Morehouse, New Madrid County.	Shallow Flooding-Little River Overflow.	From Wayne Street to the southern corporate limit	*295
			From Wayne Street to the northwestern corporate limit	*296
		Shallow Flooding-Otter Slough Overflow.	Carrol and Pine Streets	*299
			100 feet north of Craig Place and Front Street	*299
	Maps available for inspection at the City Hall, P. O. Box 96, Morehouse, Missouri.			
	Send comments to Honorable Pete Leija, Mayor, City of Morehouse, City Hall, P. O. Box 96, Morehouse, Missouri 63868.			
Nebraska	(C) Blair, Washington County	Missouri River	About 2.5 miles downstream U.S. Highway 30	*1,006
			About 3.2 miles upstream of U.S. Highway 30	*1,011
		Cauble Creek About 120 feet downstream of confluence of Cauble Creek East Tributary.		*1,034
			Just downstream U.S. Highway 73	*1,048
			Just upstream U.S. Highway 73	*1,055
			Just downstream of College Drive	*1,056
		Cauble Creek East Tributary	Mouth at Cauble Creek	*1,034
			Just downstream Baronage Drive	*1,057
			Just upstream Baronage Drive	*1,065
			Just downstream College View Drive	*1,066
		Cameron Ditch	Mouth at Missouri River	*1,007
			Just downstream of County Road located about 800 feet upstream of U.S. Highway 30.	*1,009
		Unnamed Creek	Just upstream Chicago and North Western railroad	*1,060
			Just downstream 13th Street	*1,073
			Just upstream 17th Street	*1,092
			Just downstream 19th Street	*1,102
	Maps available for inspection at the City Hall, 1570 Washington Street, Blair, Nebraska.			
	Send comments to Honorable M. Stanley Jensen, Mayor, City of Blair, City Hall, 1570 Washington Street, Blair, Nebraska 68008.			
Nebraska	(Uninc.) Dodge County	Platte River	At the downstream Fremont extraterritorial limits	*1,289
			At the upstream Fremont extraterritorial limits	*1,217
			Just downstream of the Chicago and North Western railroad	*1,224
			About 9000 feet upstream of the Chicago and North Western railroad.	*1,232
			About 10,000 feet downstream of the City of North Bend downstream extraterritorial limits.	*1,255
			About 1100 feet upstream of the City of North Bend downstream extraterritorial limits.	*1,268
			At upstream City of North Bend extraterritorial limits	*1,279
			About 9500 feet upstream City of North Bend extraterritorial limits	*1,286
			At upstream county boundary	*1,306

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Elkhorn River	About 5.8 miles downstream of the Chicago and North Western railroad.	*1,148
			Just upstream of the Chicago and North Western railroad	*1,164
			About 4.4 miles upstream of U.S. Highway 30	*1,175
			Just downstream of State Highway 91	*1,193
	Maps available for inspection at the County Clerk's Office, Dodge County Courthouse, Fremont, Nebraska.			
	Send comments to Honorable Walter J. Mruz, Chairman, County Board of Supervisors, Dodge County, Dodge County Courthouse, Fremont, Nebraska 68025.			
New York	Seneca Falls, Town, Seneca County.	Seneca River	Confluence with Cayuga Lake	*386
			Upstream Corporate Limits of the Town of Seneca Falls	*432
		Black Brook	Downstream Corporate Limits	*466
			Downstream side of King Road	*470
			Upstream Corporate Limits of the Village of Seneca Falls	*477
			2,200' upstream of Mound Road at the downstream side of Private Road.	*481
			Upstream Corporate Limits	*487
		Sucker Brook	Confluence with Seneca River	*432
			Upstream side of Conrail	*435
			7,600' upstream of Conrail	*453
		Sucker Brook Tributary	Confluence with Sucker Brook	*496
			Upstream of California Avenue	*454
			3,000' upstream of California Avenue	*483
		Cayuga Lake	Entire Shoreline within the town	*386
	Maps available at the Town Office, 28 Cayuga Street, Seneca Falls, New York.			
	Send comments to Honorable Frank Saracino, Town Supervisor, 28 Cayuga Street, Seneca Falls, New York 13148.			
South Carolina	Unincorporated Areas of Cherokee County.	Buffalo Creek	Approximately 300 feet upstream of Magnolia Plant Road	*570
			Just upstream of State Highway No. 5	*575
			Approximately 5000 feet downstream of North Boond Bridge Interstate 85.	*676
		Cherokee Creek	Approximately 140 feet upstream of small dam above water filtration plant.	*602
			Just upstream of Interstate Highway 85	*612
			Just downstream of Lake Whelchel Dam	*633
			Just upstream of Lake Whelchel Dam	*682
			Approximately 100 feet downstream of State Highway 150	*693
			Approximately 100 feet downstream of State Road 34	*734
			Just upstream of State Road 61	*762
		Irene Creek	Just upstream of State Highway No. 105	*660
			Approximately 100 feet downstream of Rutledge Ave	*668
		Limestone Creek	Just upstream of State Road 304	*617
			Downstream corporate limits for the City of Gaffney approximately 2700 feet upstream from State Road 304.	*644
		Mills Creek	Just upstream of State Road 388	*596
			Just downstream of State Road 512	*658
		Peoples Creek	Just upstream of State Road 296	*643
			Just upstream of culvert under Railroad Spur embankment	*660
			Just downstream of Beech Street	*668
		Providence Branch	Just downstream of State Highway 18	*626
			Just upstream of Vermont Drive	*668
			Just upstream of State Highway 150	*675
	Maps available for inspection at Cherokee County Courthouse, 210 North Limestone Street, Gaffney, South Carolina 29340.			
	Send comments to Mr. Dolphus Medley, County Administrator, Cherokee County Courthouse, 210 North Limestone Street, Gaffney, South Carolina 29390.			
Texas	City of Kilgore, Rusk and Gregg Counties.	Bighead Creek	Approximately 60 downstream of Missouri Pacific Railroad	*283
			At Pentecost Road	*299
			At Houston Street	*306
		Turkey Creek	Approximately 180 feet upstream of Houston Street	*307
			Approximately 100 feet downstream of FM 1249	*312
			Just upstream of Broadway Boulevard	*329
			Approximately 20 feet upstream of Martin Street	*336
		Birdsong Creek	Approximately 250 feet upsteam of Higginbotham Road	*322
			Lockhaven Drive Extended	*323
	Maps available for inspection at Building Inspector's Office, City Hall, 901 North Kilgore Street, Kilgore, Texas 75662.			
	Send comments to Mayor Foster Bean or Mr. Richard Allen, Building Inspector, City Hall, 909 North Kilgore Street, Kilgore, Texas 75662.			
Texas	City of Lufkin, Angelina County	Hurricane Creek	Just downstream of State Highway Loop 287	*249
			Just downstream of Tulane Drive	*266
			Just downstream of U.S. Highway 59 (Timberland Drive)	*280
		Hurricane Creek East Tributary North.	Just downstream of Chestnut Street	*280
			Just downstream of U.S. Highway 69 (Denman Avenue)	*285
		Hurricane Creek East Tributary (E).	Just downstream of State Highway 35	*244
		Hurricane Creek East Tributary (S).	Just downstream of U.S. Highway 59	*254
		Hurricane Creek West Branch	Just upstream of Temple Drive	*266

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Cedar Creek	Just downstream of Hank Street	*240
			Just upstream of State Highway Loop 287	*255
			Just downstream of Franklin Street	*277
		Cedar Creek North Tributary	Just downstream of Texas Southern Railroad	*278
		Cedar Creek South Tributary	Just downstream of F.M. 271	*257
			Just upstream of Texas Southern Railroad	*273
		Paper Mill Creek Tributary	Just upstream of State Highway 287	*259
		Tributary to Paper Mill Creek Tributary.	Just upstream of State Highway 103 (Atkinson Drive)	*273
		Mill Creek Tributary	Just downstream of Angelina and Neches River Railroad	*274
		Tributary to Mill Creek Tributary	Just upstream of Sayers Street	*282

Maps available for inspection at City Hall, 300 East Shepard Street, Lufkin, Texas 75901.

Send comments to Mayor Garrison or Mr. Harvey Westerholm, City Manager, City Hall, 300 East Shepard, Lufkin, Texas 75901.

Texas	City of Robstown, Nueces County	Ditch A	Just downstream of Missouri-Pacific Railroad	*73
			Just upstream of FM Highway 1889	*79
		Ditch BN	Just upstream of Airport Road	*79
		Ditch C	Just downstream of Unnamed Road upstream of confluence of Ditch E.	*68
		Ditch E	Just upstream of State Highway 44	*70
			Just upstream of U.S. Highway 77	*73
Shallow Flooding Area			At intersection of Avenue C and Seventh Street	*73
			At intersection of Main Avenue and San Patricio Street	*77

Maps available for inspection at City Hall, 101 East Main Street, Robstown, Texas 78380.

Send comments to Mayor Ricaido L. Rodriquiez or Mr. Roy Gutienez, City Secretary, City Hall, P.O. Box 872, Robstown, Texas 78380.

Texas	City of Sinton, San Patricio County.	Chiltipin Creek	Intersection of Rachel Avenue and West Welder Street	*49
			Just upstream of U.S. Route 181	*50

Maps available for inspection at City Hall, 301 East Market Street, Sinton, Texas 78387.

Send comments to Mayor Sanderman, or Mr. Walter W. Hill, Jr., City Manager, City Hall, 301 East Market Street, Sinton, Texas 78387.

Texas	Unincorporated Areas of Smith County.	West Mud Creek	Just upstream of State Highway 344	*360
			Just upstream of County Road	*367
			Just downstream of State Highway 346	*385
			Just upstream of U.S. Route 69	*392
		Shackleford Creek	Just upstream of State Highway 346	*397
			Just upstream of Cumberland Road	*452
		Henshaw Creek	Just upstream of U.S. Highway 69	*391
			Just upstream of County Road 143	*402
			Just upstream of County Road 165	*469
		Saline Creek	Just downstream of State Highway 2868	*379
			Just upstream of State Highway 2813	*406
		Willow Creek	Just upstream of Confluence with Black Fork Creek	*419
			Just upstream of State Highway 110	*451
		West Mud Creek Tributary B	Just upstream of Reick Road	*467
			Just upstream of New Copeland Road	*481
			Just downstream of Paluxy Drive	*504
		Black Fork Creek	Just upstream of State Route 110	*419
			Just upstream of U.S. Highway 69	*430
			Just upstream of State Route 323	*440
			Just upstream of State Route 14	*462

Maps available for inspection at 304 Smith County Courthouse, Tyler, Texas 75702.

Send comments to Judge Bob Hayes or Mr. Allan Pollack, Government Intern, 304 Smith County Courthouse, Tyler, Texas 75702.

Texas	Town of Woodsboro, Refugio County.	Tributary A	Just upstream of Jetter Street	*34

Maps available for inspection at City Hall, Woodsboro, Texas 78393.

Send comments to Mayor Allan Carsner, City Hall, P.O. Box 632, Woodsboro, Texas 78393.

Washington	Goldendale, City, Klickitat County.	Little Klickitat River	Upstream State Highway 142	*1,600
			Upstream Mill Street	*1,608
			Upstream Columbus Avenue	*1,622
			Upstream Corporate Limits	*1,638

Maps available at the City Hall, 225 West Court, Goldendale, Washington.

Send comments to Honorable Cyrus Forry, Mayor of Goldendale, City Hall, 225 West Court, Goldendale, Washington 98620.

(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 Federal Insurance Administrator)

Issued: October 3, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-32556 Filed 10-21-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5895]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Unincorporated Areas of Dodge Country, Wisconsin, previously published at 45 FR 60953 on September 15, 1980.

EFFECTIVE DATE: October 22, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080) Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the correction to the Notice of Proposed Determinations of Base (100-year) flood elevations for selected locations in the Unincorporated Areas of Dodge County, Wisconsin previously published at 45 FR 60953 on September 15, 1980, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added 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 67.4(a)). Under the Source of Flooding of Rock River, the location description, "About 0.3 mile upstream of Cady Street", with corresponding elevation of 812 feet, should be added as the first entry. The listing appears correctly as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Wisconsin	(Uninc.), Dodge County	Rock River	About 0.3 mile upstream of Cady Street	*812

(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 Federal Insurance Administrator)

Issued: October 3, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-32555 Filed 10-21-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5927]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below 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).

DATES: 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) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with Section 110 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 67.4 (a).

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.

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	Just downstream of East Belt Freeway	*245
			Just upstream of Baring Cross (Missouri Pacific Railroad)	*256
			Just upstream of U.S. Highway I-430	*265

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Ison Creek	Just upstream of Townsend St	*325
			Just upstream of Garland Street	*346
		Fourche Creek	Just downstream of Arch Street Pike (State Highway 367)	*256
			Just upstream of New Benton Highway	*260
			Just upstream of Baseline Road	*289
			Just upstream of State Highway 5	*308
		Crooked Creek	Just downstream of Highway I-30	*300
			Just downstream of Alexander Road	*315
		Callagahan Branch	Just downstream of State Highway 5 (Old Stage/Coach Road)	*292
			Just upstream of Baseline Road	*338
		Haw Branch	Just upstream of Highway 5 (Old Stage Coach Road)	*289
		Otter Creek	Just upstream of Mabelville West Road	*297
			Just upstream of Highway I-30	*301
			Just downstream of Alexander Road	*305
		McHenry Creek	Just upstream of State Highway 5 (Old Stage Coach Road)	*280
			Just upstream of Highway I-430	*297
		Nash Creek	Just downstream of Baseline Road	*280
			Just upstream of Meadow Lane	*293
		Young Creek	Just downstream of Mablevale Pike Avenue	*266
			Just upstream of Highway I-30	*271
		Brodie Creek	Just upstream of State Highway 5 (Old Stage Coach Road)	*283
			Just upstream of Shackleford Road	*314
			Just upstream of Bowman Road	*330
		Panther Branch	Just downstream of West 36th Street	*316
			Just upstream of Bowman Road	*355
		Rock Creek	Just downstream of West Markham Parkway	*463
			Just upstream of Kanis Road	*466
		Grassy Flat Creek	Approximately 600 feet upstream of Rodney Parham Road	*387
		Coleman Creek	Just downstream of Little Rock Corporate Limits	*258
		Little Fourche Creek	Just upstream of Hilard Springs Road	*257
			Just upstream of Chicago, Rock Island, and Pacific Railroad	*273
			Just upstream of Chicot Road	*286
		Smith Creek	Just downstream of Geyers Springs Road	*265
			Just upstream of Chicot Road	*290
		Field Creek	Just downstream of Little Rock Corporate Limits	*263
		Stump Creek	Just upstream of Reck Road	*262
		Fairman Ditch	Just upstream of State Highway 161	*252
		Glenview Ditch	Just upstream of State Highway 161	*251
		Fivemile Creek	Just downstream of U.S. Highway 67-167	*256
		Fivemile Creek McCain Fork	Just downstream of Smoke Lane Road	*261
		Fivemile Creek East Tributary	Just downstream of Smokey Lane Road	*255

Maps available for inspection at City Planning Office, 3201 West Roosevelt Road, Little Rock, Arkansas 72204.

Send comments to Judge W. R. Beaumont, Pulaski County Courthouse, Markham and Springs Streets, Little Rock, Arkansas 72201.

Georgia	City of Bloomingdale, Chatham County.	Pipemakers Canal	Just downstream of Adams Road	*19
		Hardin Canal	Just downstream of Waller Road	*19

Maps available for inspection at City Hall, Highway 80 and Adams Road, Bloomingdale, Georgia 30302.

Send comments to Mayor W. E. Taylor or Ms. Edith Harry, City Clerk, City Hall, Highway 80 and Adams Road, Bloomingdale, Georgia 30302.

Georgia	City of Darien, McIntosh County	Darien River	Just upstream of U.S. Highway 17	*11
		Cathead Creek	At confluence point of Darien River and Cathead Creek	*12

Maps available for inspection at City Hall, Highway 17, Darien, Georgia 31305.

Send comments to Mayor Gene Sumner or Mr. C. A. Devillars, City Manager, City Hall, Highway 17, Darien, Georgia 31305.

Georgia	City of Riceboro, Liberty County	Riceboro Creek (Flooding controlled by Hurricane Tides from the Coast of Georgia).	Just upstream of Seaboard Coast Line Railroad	*11.0
			Just upstream New State Road 25 (New U.S. Highway 17)	*10.5

Maps available for inspection at City Hall, Riceboro, Georgia 31323.

Send comments to Mayor John D. McIver or Mayor Pro-Tem, Mr. Jack Halmth, City Hall, P.O. Box 246, Riceboro, Georgia 31323.

Kentucky	City of Middlesboro, Bell County	Stoney Fork	Just upstream of Wilson Lane	*1,175
			Just upstream of Louisville and Nashville Railroad	*1,218
		Bean's Fork	Just upstream of State Highway 441	*1,205
		Bennett's Fork	Just upstream of State Highway 441	*1,134
			Just upstream of 35th Street (State Highway 1599)	*1,159
		Yellow Creek	Just upstream of State Highway 441	*1,133
			Just downstream of 30th Street (Peters Borough Avenue)	*1,136
		Little Yellow Creek	Approximately 630 feet upstream of U.S. Highway 25E	*1,134

Maps available for inspection at City Hall, 20th and Lothbury Street, Middlesboro, Kentucky 40965.

Send comments to Mayor Chester Wolf, or Ms. Olive Crockett, City Clerk, City Hall, 20th and Lothbury, Middlesbury, Kentucky 40965.

Louisiana	Town of Henderson, St. Martin Parish.	Bayou Peyron-net	Just upstream of Louisiana Highway 352	*13
			Just upstream of Interstate Highway 10 Westbound Lanes	*15
		Bayou Portage	Just upstream of Interstate Highway 10 Westbound Lanes	*14
		True Canal	Just upstream of Patin Street	*15

Maps available for inspection at Town Hall, Amy Street, Henderson, Louisiana.

Send comments to Mayor Huvall or Ms. Donna Patin, Town Clerk, P.O. Box 595, Henderson Station, Breaux Bridge, Louisiana 70517.

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Minnesota	(Uninc.), Brown County	Minnesota River	Approximately 7250 feet upstream from Blue Earth County Boundary	*804
			Approximately 100 feet downstream from Chicago and North Western Railroad.	*806
			At County Highway 13	*811
			Approximatley 8.2 miles downstream from confluence of Spring Creek	*812
			Just upstream of State Highway 4	*816
			Just upstream of County Highway 8 (Peterson Bridge)	*821
			Approximately 600 feet downstream from Redwood County Boundary	*823
		Cottonwood River	At confluence with Minnesota River	*806
			Approximately 3000 feet downstream from the Chicago and North Western Railroad.	*806
			Approximately 150 feet upstream from the Chicago and North Western Railroad.	*807
			Approximately 200 feet upstram from Bridge Street	*810
			Approximately 200 feet downstream from State Highway 15	*811
			Just downstream from Dam	*819
			Just upstream from Dam	*831
			Just downstream from County Highway 13	*833
			Approximately 3.5 miles upstream from County Highway 13	*851
			Approximately 1.6 miles downstream from eastern corporate limits of the City of Springfield (limit of detailed study).	*1,009
			Approximately 1.3 miles downstream from eastern corporate limits of the City of Springfield.	*1,010
			Approximately 5000 feet downstream from eastern corporate limits of the City of Springfield.	*1,014
			Just downstream of eastern corporate limits of the City of Springfield	*1,017
			Just upstream of upstream corporate limits of the City of Springfield	*1,021
			Just downstream from County Highway 3	*1,023
			Approximately 3000 feet upstream from County Highway 3	*1,026
	Maps available at the Brown County Courthouse, New Ulm, Minnesota.			
	Send comments to Mr. Virgil Wellner, Chairman, Board of Commissioners, Brown County Courthouse, New Ulm, Minnesota 56073.			
Oklahoma	City of Collinsville, Tulsa and Rodgers Counties.	Caney River	Just downstream of U.S. Highway 169	*599
		Horsepen Creek	Just upstream of 129th East Avenue	*603
		Black Jack Creek	Approximately 500 feet downstream of Broadway Street, (146th Street North).	*609
			Just downstream of 126th Street North	*642
		Black Jack Creek Tributary A	Just upstream of Atchison, Topeka & Santa Fe Railroad	*625
			Just downstream of Garnett Road	*644
		East Creek	Just upstream of Broadway Street, (146th Street North)	*608
			Just downstream of 126th Street North	*664
	Maps available for inspection at City Hall, 12th and Main Streets, Collinsville, Oklahoma 74021.			
	Send comments to Mayor John P. Philips or Ms. Wyne Eastin, City Clerk, City Hall, 12th and Main Streets, Collinsville, Oklahoma 74021.			
Texas	City of El Paso, El Paso County	Arroyo 1	Just upstream of Doniphan Road	*3,756
			Just downstream of Interstate Highway 10 (Southbound Lanes)	*3,822
			Just upstream of Interstate Highway 10 (Northbound Lanes)	*3,824
		Arroyo 2	Just upstream of Doniphan Road	*3,753
			Just upstream of Service Road Interstate Highway 10 (Southbound)	*3,807
			Just upstream of Service Road Interstate Highway 10 (Northbound)	*3,814
			Just downstream of Thorn Dam	*3,848
			Just upstream of Thorn Dam	*3,891
			Just downstream of Lakehurst Road	*3,900
		Arroyo 2A	Just upstream of Lakehurst Road	*3,910
		Arroyo 3	Just downstream of Osborne Drive	*3,780
			Just upstream of Interstate Highway 10 (Northbound Lanes)	*3,804
			Just upstream of Restler Drive	*3,960
			Just downstream of West Wind Drive	*4,140
			Just upstream of West Wind Drive	*4,151
		Arroyo 3A	At West Wind Drive Extended	*4,071
		Arroyo 4	Just upstream of Doniphan Road	*3,745
			Just upstream of Interstate Highway 10 (Northbound Lanes)	*3,790
			Just downstream of Mesa Street	*3,880
			Just upstream of Mesa Street	*3,909
			Just downstream of North Wind Drive	*4,090
			Just upstream of North Wind Drive	*4,113
		Arroyo 5	Just downstream of Interstate Highway 10 (Southbound Lanes)	*3,765
			Just downstream of Mesa Street	*3,930
			Just upstream of Mesa Street	*3,971
		Arroyo 6	Just upstream of Doniphan Road	*3,745
			Just downstream of Delmar Avenue	*3,930
			Just upstream of Isabella Drive	*3,990
			Just upstream of Shadow Mountain Drive	*4,171
		Arroyo 6A	Just upstream of Thunderbird Drive	*4,382
		Arroyo 6B	Just upstream of Thunderbird Drive	*4,360
		Arroyo 7	Just downstream of Interstate Highway 10 (Southbound Lanes)	*3,769
			Just downstream of Mesa Street	*4,060
		Arroyo 8	Just upstream of Doniphan Road	*3,735
			Just downstream of Mesa Street	*4,040
			Just upstream of Mesa Street	*4,058
		Overland Flooding At Northwest of Arroyo 1—North of Mulberry Avenue.	At Atchison Topeka and Santa Fe Railway	*3,749

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Ponding area West of Arroyo 1 Through Arroyo 8.	Just downstream of Frontera Road	*3,735
			Just upstream of Belva Road	*3,741
			Just downstream of Mulberry Avenue	*3,752
		Flow Path #11	Just downstream of East West Trail	*3,937
		Flow Path #13 (Drainage Channel #1).	Just upstream of U.S. Highway 54	*3,024
			Just upstream of McCombs Street	*3,957
			Just upstream of Rushing Drive	*3,990
			Just upstream of Kenworthy Drive	*4,037
		Flow Path #13A	Balinger Drive Extended	*4,003
		North East Pond	Donald Street	*3,919
		Flow Path #14 (Drainage Channel #2).	Just upstream of McCombs Street	*3,943
			Just upstream of McKinaw Drive	*3,965
			Just upstream of Rushing Drive	*3,970
			Just upstream of Sunvalley Drive	*4,077
		Flow Path #15 *Shallow Flooding Sheet Flow.	Hugg Street	#2
			Just upstream of Wren Avenue	*3,888
			Just upstream of Fairbank's Drive	*3,934
		Flow Path #16	Just upstream of Hercules Avenue	*3,880
			Just upstream of Hondo Pass Drive	*3,886
		Flow Path #17 (McKelligon Canyon).	At the road to the Concrete Batch Plant	*4,262
			Just downstream of McKelligon Canyon Road (uppermost crossing before the confluence of Flow Path #17A.	4,580
		Flow Path #17A (McKelligon Canyon Tributary).	Just upstream of McKelligon Canyon Road	*4,648
		Flow Path #18	Just downstream of U.S. Highway 85 (Paisano Drive)	*3,735
			Just upstream of U.S. Highway 85 (Paisano Drive)	*3,743
		Flow Path #19	Just upstream of Atchison, Topeka, and Santa Fe Rankin Railway	*3,739
		Flow Path #20	Just upstream of Atchison, Topeka, and Santa Fe Railway	*3,732
			Just upstream of Mesa Street (U.S. Highway 80)	*4,088
		Flow Path #20A	Just downstream of Interstate Highway 10	*3,840
			Just upstream of Interstate Highway 10	*3,847
			Just upstream of Mesa Street (U.S. Highway 85, 185)	*4,131
		Flow Path #21	Just upstream Atchison Topeka and Santa Fe Railway	*3,740
			Just upstream of Southern Pacific Railroad (Eastermost Track)	*3,778
			Just downstream of Mesa Street	*3,880
			Just upstream of Mesa Street	*3,908
		Flow Path #21A	Just upstream of Southern Pacific Railroad	*3,778
			Just downstream of Interstate Highway 10	*3,800
			Just upstream of Stanton Street	*4,056
		Flow Path #22	Just upstream of Van Buren Dam (Reservoir No. 1)	*4,123
			Just downstream of Mall Dam (Approximately 1550 feet upstream of Reservoir No. 1).	*4,182
			Just upstream of Mall Dam (Approximately 1550 feet upstream of Reservoir No. 1).	*4,202
		Flow Path #23	Just downstream of Residential Street	*3,724
			Just downstream of University Avenue	*3,846
			Just upstream of University Avenue	*3,860
			Just downstream of Scenic Drive	*4,112
		Flow Path #24	Just upstream of La Luz Avenue	*3,744
			Just upstream of Bliss Avenue	*3,759
			Just upstream of Hanting Avenue	*3,780
		Flow Path #25	Just upstream of Alameda Avenue	*3,702
			Just upstream of Durazno Avenue	*3,705
		Flow Path #26 (Phelps Dodge)	At Phelps Dodge Detention Basin	*3,750
			Just upstream of Hawkings Boulevard	*3,772
		Flow Path #27 Playa Drain	Just upstream of Americas Avenue (State Highway 375)	*3,666
			Just upstream of Knights Drive	*3,671
			Just upstream of George Orr Road	*3,686
			Just downstream of Ascarate Wasteway	*3,688
			Just upstream of Ascarate Street	*3,690
		Flow Path #27A (Left Bank Lateral Street, Flow of Flow Path #27).	North of Alameda Avenue	*3,697
		Flow Path #28 (Mesa Drain and Interceptor).	Just downstream of Carl Longuemari Road	*3,662
			Just upstream of Pendale Drive	*3,673
			Just upstream of Yarbrough Drive	*3,682
			Just upstream of Butcher Road	*3,691
		Flow Path #28A (Mesa Drain Below Interceptor).	Just upstream of Americas Avenue	*3,665
			Just upstream of Ivey Road	*3,668
		Flow Path #29 *Shallow Flooding	Shallow Flooding Sheet Flow along Phoenix Drive	#21
			Just upstream of Interstate Highway 10	*3,835
			Just upstream of Jugarberry Drive	*3,860
		Flow Path #30	Just upstream of Mauer Drive	*3,693
		Flow Path #31 (Jesuit Drain)	Just upstream of Ryland Drive	*3,720
			Just upstream of Burnham Road	*3,771
		Flow Path #32	Just upstream of Geranium Drive	*3,683
			Just upstream of Northbound Frontage Road of Interstate Highway 10	*3,760
		Flow Path #32A	Confluence of Flow Path #32 and Flow Path #32A	*3,766
		Flow Path #33 (Middle Drain)	Just upstream of North Carnes Road	*3,667
			Just upstream of Zaragosa Road	*3,670
		Middle Drain Below Interceptor	Just downstream of Inglewood Drive	*3,665
		Flow Path #36	Approximately 450 feet upstream of the confluence of Mesa Spur Drain and Flow Path #36.	*3,663
		Flow Path #37 (Franklin Drain)	Just upstream of Americas Avenue	*3,664
			Just upstream of Carl Longuemare Road	*3,665
		Shallow Flooding along Franklin Drain (Below Flow Path #28, Mesa Drain and Interceptor.	Just downstream Unnamed Road (At the end of Carl Longuemare Road).	*3,660

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Ponding Area P1	At the Diat Road	*3,939
		Ponding Area P2	Entire Area	*3,938
		Ponding Area P3	At Montana Street	*3,937
		Ponding Area P4	Entire Area	*3,965
		Ponding Area P5	Entire Area	*3,966
		Ponding Area P6	At Album Road	*3,945
		Ponding Area P7	At Edgemere Boulevard	*3,965
		Ponding Area P8	At Hitchlock Road	*3,969
		Ponding Area P9	At East Glen Drive	*3,964
		Ponding Area P10	At Pico Norte	*3,945
		Ponding Area P11	Entire Area	*3,965
		Ponding Area P12	Entire Area	*3,967
		Shallow Flooding Sheet Flow	East of Lee Trevino Drive and Ponding Areas P11 and P12	#2
		Ponding Area P13	Entire Area	*3,963
		Ponding Area P14	Entire Area	*3,983
		Ponding Area P15	Entire Area	*3,974
		Ponding Area P16	At Zaragosa Road	*4,003
		Lomaland Basin	Entire Area	*3,683
		*Overflow from Reservoir 1	At Mountain Avenue	#2
		Shallow Floodeast Bank of Juan De Herrera Lateral Branch "B".	Entire Area	*3,668
		Shallow Flooding, West Bank of Ysleta Lateral.	At America's Avenue	*3,665
		Shallow Flooding, West of Flow Path #27 Playa Drain.	Bernadine Avenue	*3,677
		Shallow Flooding, West of Flow Path #28 (Mesa Drain and Interceptor).	At Oro Verde	*3,664
		Playa Lateral	Approximately 300 feet Southwest of Zaragosa Road	*3,662

* Shallow Flooding Sheet Flow (Zone AO).

Maps available for inspection at City Engineer's Office, City Hall, #2 Civic Center Plaza, El Paso, Texas 79901.

Send comments to Mayor Thomas D. Westfall or Mr. Leon Metz, Executive Assistant, City Hall, #2 Civic Center Plaza, El Paso, Texas 79901.

(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 Federal Insurance Administrator)

Issued: October 6, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-32534 Filed 10-21-80; 8:45]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA 5916]

National Flood Insurance Program; Proposed Map Combination for Georgetown County and Waccamaw Neck Flood District, S.C.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed map combination described below.

The proposed map combination will be 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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Map and other information showing the detailed outlines of the flood-prone areas and the proposed map combination are available for review at the County Council's Office, County Courthouse, Georgetown, South Carolina.

Send comments to: Mr. Alfred M. Schooler, President, County Council, County Courthouse, Georgetown County, Post Office Box 1270, Georgetown, South Carolina 29440.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, D.C. 20410 (202) 755–6570 or toll free line (800) 424–8872 or (800) 424–8873.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed map combination of the FIRM for Waccamaw Neck Flood District and the FHBM for Georgetown County in accordance with Section 110 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 67.4(a) (presently appearing at its former Section, 24 CFR 1917.4(a)).

The map combination 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. The proposed map 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.

The proposed map combination for selected locations is:

Source of flooding	Location	Zone
Waccamaw Neck Flood District.	Southeastern section of Georgetown County between Intercoastal Waterway and the Atlantic Ocean.	V14 A14 B C A

(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 Federal Insurance Administrator)

Issued: September 5, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-32538 Filed 10-21-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5913]

National Flood Insurance Program; Proposed Zone and Base Flood Elevation Determinations for the City of San Jacinto, Riverside County, Calif.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed zones and base flood elevations as described below.

The proposed zone and base 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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed zones and base flood elevations are available for review at the Planning Department, City Hall, 201 East Main Street, San Jacinto, California.

Send comments to: The Honorable Bertha Hazeltine, Mayor, City of San Jacinto, 201 East Main Street, San Jacinto, California 92383.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washinton, DC 20410 (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed zones and base flood elevations for the City of San Jacinto, California, in accordance with Section 110 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.

These zones and base flood elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. It 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. The proposed zones and base flood 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.

The proposed base (100-year) flood elevations for selected locations in the recently annexed areas are:

Source of flooding	Location	Elevation (national geodetic vertical datum)
Bautista Wash.....	Just downstream of Grand Avenue.	1,523
	Upstream of State Street...	1,534
	Just downstream of Hewitt Street.	1,575

An additional special flood hazard area, identified as Zone A, is proposed north of Esplanade Avenue and east of State Street.

(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 Federal Insurance Administration)

Issued: August 28, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-32535 Filed 10-21-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5915]

National Flood Insurance Program; Proposed Zone Designations for the Village of Forest Park, Cook County, Ill.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed zone designations described below.

The proposed zone designations 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).

DATES: The period for comment will be ninety-days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed zone designations are available for review at 517 Des Plaines Avenue, Forest Park, Illinois.

Send comments to: The Honorable Fred E. Marunde, Village of Forest Park, 517 Des Plaines Avenue, Forest Park, Illinois 60130.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, D.C. 20410 (202) 755–6570 or toll free line (800) 424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed zone designations for the Village of Forest Park, Illinois, in accordance with Section 110 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 67.4(a).

Zone designations and base (100–year) flood 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. The proposed zone designations 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.

The proposed designations are:

Zone A along Des Plaines River in the area added to the map south of Roosevelt Road and west of Des Plaines Avenue.

Zone C in a portion of the area added to the map adjacent to Roosevelt Road.

(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 Federal Insurance Administrator)

Issued: September 5, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-32537 Filed 10-21-80; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 15 and 94

[Docket No. 79-337; RM-3241; RM-3678]

Facilitating Operation of Low Power, Limited Coverage Systems in the 22.0–23.6 GHz Band and Creating a New Class of Low Power Unlicensed Microwave Device in the 24 GHz Ban; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Further notice of proposed rulemaking; reply comments; extension of time.

SUMMARY: This order Extends Time for Filing Reply Comments to the Further Notice of Proposed Rule Making in Docket 79–337 which proposes the amendment of Rule Parts 94 and 15 to facilitate the operation of low power communication systems in the 22.0–23.6 GHz band and creating a new class of low power unlicensed microwave device in the 24 GHz band.

DATE: Reply comments are now due on or before October 29, 1980.

ADDRESS: Federal Communications Commission, 1919 M Street, NW Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Donald D. Campbell, Office of Science and Technology, Washington, D.C. 20554 (202) 653–8176.

In the matter of amendment of Part 94 of the Commission's rules and regulations to facilitate operation of low power, limited coverage systems in the 22.0–23.6 GHz band, Docket No. 79–337, (RM–3241), and amendment of Part 15 of the Commission's Rules to create a new class of low power unlicensed microwave device in the 24 CHz band, RM–3678.

Adopted: October 9, 1980.

Released: October 10, 1980.

1. On 3 October 1980, M/A–COM, Incorporated (M/A–COM) petitioned the Commission requesting that a two week extension of time be granted for filing Reply Comments to the Further Notice of Proposed Rule Making in the above-captioned proceeding. The Further Notice specified that Comments are due on 29 September 1980 and that Reply Comments are due on 14 October 1980. (45 FR 55775, August 21, 1980)

2. M/A–COM states that they filed Comments on 29 September 1980, and have thus far received copies of only two other Comments that were filed. M/A–COM goes on to state that since there was no formal service list established and no requirement that Comment be served upon interested parties, time was lost in trying to determine what Comments were filed. Furthermore,
M/A–COM states that the Comments they have received raise complex technical issues which cannot be addressed in the brief period allotted Reply Comments.

3. The Commission agrees that prompt action is desirable in this proceeding, but feels that M/A–COM's request for an extention of time is in the public interest because it is desirable to establish a thorough and complete record in this proceeding. Furthermore, since we perceive no harm to any party nor have we received any objections in this matter, the request for an extension of time to file Reply Comments is granted.

4. Accordingly, it is ordered, pursuant to § 0.241(d) of the Commission's rules and regulation that the date for filing Reply Comments in this proceeding is extended to October 29, 1980.

Federal Communications Commission.

S. J. Lukasik,

Chief Scientist.

[FR Doc 80-32939 Filed 10-21-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[Gen. Docket No. 78-391; FCC 80-543]

Improvements to UHF Television Reception; Further Notice of Inquiry

AGENCY: Federal Communications Commission.

ACTION: Further notice of inquiry and notice of proposed rulemaking.

SUMMARY: Action taken herein sets dates for comments and reply comments in Docket 78–391, specifically as they relate to the Commission's UHF Comparability Task Force's Final Report. That report summarizes the findings of the two year effort and presents a plan to aid viewers in improved UHF television reception. That plan is embodied in the *Further Notice of Inquiry and Notice of Proposed Rulemaking*. We think it would be helpful if we had the benefit of public comment before proceeding further with these long range recommendations. We therefore request comments by the public and interested parties on the entire issue. Therefore the FCC is requesting comments on the Final Report and on several proposed changes in some of our technical rules.

DATE: Comments must be filed on or before January 5, 1981. Reply comments must be filed on or before February 19, 1981.

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

FOR FURTHER INFORMATION CONTACT: Philip Gieseler, Office of Plans and Policy (202) 653–5940.

SUPPLEMENTARY INFORMATION:

In the matter of Improvements to UHF Television Reception, General Docket No. 78–391.

Adopted: September 18, 1980.

Released: October 24, 1980.

1. The Commission has today received the *Final Report* of its UHF Comparability Task Force (*Final Report*).[1] The report covers a two-year effort to explore the UHF handicap and develop a plan to improve the comparability of UFH television with VHF television. This effort was funded by a supplemental appropriation from the 95th Congress for the Commission to conduct this study.[2]

[1] The Executive Summary of that report is Attachment I of this Notice. A complete copy of the *Staff Report on Comparability for UHF Television: Final Report* has been placed in the Docket. A limited number of copies of the Report are available from the Office of Public Affairs.

[2] Department of State, Justice and Commerce, the Judiciary, and Related Agencies Appropriation Bill, 1979. See also Senate Report 95—5th Cong., 2nd Sess. (July 28, 1978).

2. We initially requested public participation in this effort in a *Notice of Inquiry*, 70 FCC 2d 1720 (1978) in this docket. Subsequent to that, comments have been requested on the Task Force's Preliminary Report, 44 FR 60112 (1979) and several contract reports.[3] We now request comments on the *Final Report* and on several proposal changes in some of our technical rules.

3. *Further Notice of Inquiry.* The *Final Report* is a comprehensive examination of the problems facing UHF. Included in the report are many long range actions the Commission may wish to undertake. We think it would be helpful if we had the benefit of public comment before proceed further with these long range recommendations. We, therefore, request comments by the public and interested parties on the entire report. One specific area which we hope will be addressed concerns the proposed FCC program for antenna measurements. We seek comments concerning which of the many characteristics or parameters of antennas should be measured and which of these measurements should be available to the public. Additionally, comments might address how the information should be disseminated. The extent to which the FCC, private contractors, or manufacturers participate in the measurement program may vary, and comment is specifically requested as to the form that the measurement program should take.

4. *Notice of Proposed Rulemaking.* In addition to their longer range proposals, the Task Force also recommends immediate changes of specific rules.[4] We find these proposals to have merit and request comments on whether we shoulld our rules accordingly.

Information on Comments

5. *Who should file comments?* We urge the viewing public, television equipment manufacturers, broadcasters, and all other interested parties to participate in this inquiry. You may participate by sending information and opinions that are relevant to the questions raised in this Notice.

6. *How comments should be prepared.* Your comments must clearly show this docket number "General Docket No. 78–391," at the top of the first page. Please label your responses so that it will be clear whether you are addressing a specific proposed rule change or a more general issue. If your comments are general, and not related to a specific rule change, please state the issue being addressed.

7. *How may copies should be sent?* Sec. 1.419 of the rules requires that you file the original and five copies of your comments. If you want each Commissioner to receive a persoanl copy of your comments, you should include 6 additional copies. The FCC will fully consider all comments, even if the original is filed.

8. *Where to send comments.* Send your comments to: Secretary, Federal Communications Commission, Washington, D.C. 10554.

9. *How to see the comments of other parties.* All comments will be available for public inspection in the FCC Dockets Reference Room, Room 239, 1919 M St., N.W., Washington, D.C. The FCC is open weekdays between 8:00 am and 5:30 pm. You can reply to comments submitted by another party by following the same procedure as you do for commenting.

10. *Deadline for filing Comments.* Comments must be received by January 5, 1981. You are encouraged to submit a one-page summary of your comments at the time you file. Replies to comments are due by February 19, 1981.

11. This action is taken pursuant to the authority contained in Sections 4(i), 302, 303(f), (g), (r), and (s), 330, and 403 of the Communications Act as amended. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a written statement indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order. The contact person for further information regarding this proceeding is Philip Gieseler (202) 653–5940.

Federal Communications Commission.

William J. Tricarcio,

Secretary.

Attachment I—Executive Summary; Staff Report on Comparability for UHF Television: Final Report

In 1952, the Federal Communications Commission released its *Sixth Report and Order* on television allocations, which specified the use of both the very high frequency band (VHF—channels 2 through 13) and the ultra-high frequency band (UHF—channels 14 through 83) for broadcast television. Since that time, development of a fully effective television service has been hindered by the disparity in technical characteristics associated with these bands. This technical disadvantage and the economic difficulties stemming from it have become known as the "UHF handicap."

The Federal Communications Commission and Congress have sought to foster UHF television because the many UHF channels have the potential to make a wide diversity of television services available to the public. Several improvements in the UHF service has been made, but a significant disparity between the UHF and VHF services continues to exist.

In 1978, Congress directed the FCC to evaluate further improvements in the UHF service, and the UHF Comparability Task Force was formed. It was the Task Force's hope that the need for continued Government attention to changes and improvements in the UHF service could be laid to rest if a comprehensive investigation, weighing the costs and benefits of various improvements, was undertaken.

As a baseline for its analysis of the UHF television service, the Task Force relied on a detailed engineering project undertaken in New York City by the FCC in the early 1960's. That project attempted to determine whether UHF television could be received adequately in a dense urban area such as New York City, and in the surrounding suburbs. The result was overwhelmingly positive: UHF reception in most cases could be just as adequate as VHF reception. Despite this technical result, a UHF handicap persists. We therefore concluded that improving the UHF television service not only involved a detailed engineering analysis, but also required a careful investigation of the underlying economic and social issues.

The Survey of Television Viewers

In order to test our beliefs that the underlying causes of the UHF handicap might be economic and social as well as technical, and to provide the information needed for improvements to the UHF service, the Task Force contracted with Louis Harris and Associates to determine the attitudes and experiences of the public concerning UHF television.[1] The Harris survey confirms the existence of UHF handicaps in programming, in channel

[3] C. Chapin Cutler, *New Technical Opportunities for UHF Television* (February 1980), R. G. FitzGerrell, *Indoor Television Antenna Performance* (October 1979), 45 FR 14233 (1980); J. B. O'Neal, Jr., *Television Receiver Noise Figure Study* (March 1980), 45 FR 23478 (1980).

[4] These are the proposed changes to Part 15 of the FCC Rules found in Appendix C of the *Final Report* and are reproduced here as Attachment II.

[1] The Harris nationwide survey was restricted to areas in or immediately surrounding the predicted coverage areas of both UHF and VHF stations. Cable television households were excluded from the survey, although 21 percent of the households in the sample area were found to subscribe to cable.

selection, and in picture quality. Furthermore, it contains a wealth of information about viewer's receiving equipment that has been invaluable in formulating effective recommendations. The results of the Harris survey are given in Chapter 2, reported in more detail in Harris (1980), and summarized below.

Programming

The programming on a channel is the main determinant of whether a viewer will watch that channel. Only 1 percent of the viewers in the survey who said that none of their favorite programs were shown on UHF had watched UHF stations the previous day, while 50 percent of those who said that all or most of their favorite programs were shown on UHF had watched UHF the previous day. The audience handicap virtually disappears when UHF network affiliates are compared to VHF network affiliates. This suggests that viewers will do what is needed to receive adequate UHF reception when they are particularly attracted to the programming.

Channel Selection

Forty-seven per cent of the viewers surveyed felt that it was easier to tune VHF channels than UHF channels, 33 per cent felt there was no difference in tuning, and 3 per cent felt that it was easier to tune UHF channels. Viewers reported UHF and VHF channel selection was more comparable with certain types of channel selectors. With some of the electronically-tuned selectors, over half the respondents indicated that there was no difference in ease of tuning between UHF and VHF channels.

Picture Quality

The most telling result of the Louis Harris survey was that the reception quality of UHF signals is vastly inferior to the quality of VHF signals. In communities that should be able to receive at least one UHF and one VHF station (based on FCC technical predictions of television coverage), 1 per cent of the households were unable to receive a VHF station, but 27 per cent could not receive a UHF station. Furthermore, 91 per cent of these households could receive at least one VHF station with good or excellent picture quality, compared to only 49 per cent who could receive a UHF station with good or excellent picture quality.

These results stand in striking contrast to previous technical estimates of the UHF handicap. In particular, the New York City research indicated that UHF suffered only a slight disadvantage with respect to VHF; it was found that UHF reception in the urban and suburban area surrounding New York City was somewhat inferior to VHF reception when indoor receiving antennas were used, but that this difference almost completely disappeared when outdoor antennas were used (Deitz, 1962). The UHF Comparability Task Force's own technical estimates, as given in our preliminary report (Gieseler *et al.*, 1979), confirmed the New York City result that most viewers should be able to receive adequate UHF reception. There is an obvious discrepancy between the UHF handicap as measured by traditional engineering methods and the handicap that the Harris survey determined was actually experienced by the public.

There is one chief reason that accounts for the survey results. This one reason must be underscored because it accounts for the vast majority of the UHF picture quality handicap: *Members of the public have not installed adequate receiving antenna systems for good UHF reception.* The previous technical estimates of UHF coverage have assumed and the New York City equipment used UHF receiving antenna systems of a quality far superior to those that are in general use. Although good quality UHF receiving equipment is available, it is not being used to the extent necessary for UHF channels to be received as well as VHF channels. In the Harris survey, 42 per cent of the sample had an outdoor or attic receiving antenna for VHF, while only 24 per cent reported an outdoor or attic antenna for UHF. Of the 48 per cent of the sample with indoor antennas only, 29 percent of this group did not report any UHF indoor antenna. Thus we find that members of the public are not even installing UHF receiving equipment.

Even for those who have installed UHF receiving equipment, there is a significant disadvantage: snow caused by weak signals appeared less frequently on VHF channels with indoor antennas than on UHF channels with outdoor UHF antennas. Thus we find that even members of the public who are installing UHF equipment are not obtaining the quality of service that the New York City project determined could be obtained from good receiving equipment.

Attention has been focused previously on improvements in televison receivers that would make them better able to display a weak UHF signal. Broadcasters have also given attention to raising their transmitted power so a stronger signal can be broadcast to the public. Both of these are worthwhile goals and will offer improvements to UHF television, but these improvements pale in comparison to the improvement that could be achieved through the installation of adequate UHF receiving antenna systems. If members of the public who are now using an indoor UHF receiving antenna would change to an outdoor receiving system, they could easily achieve an improvement more than five times as effective as the improvement obtained if the television station were to double its transmitter power.[2] No new technology is needed for this improvement, just a willingness by the public to install these systems.

Twenty-seven percent of the population predicted to receive adequate reception do not receive *any* picture from the strongest UHF station available to them. Thus, the order of magnitude of the UHF picture quality handicap is much larger than can be resolved by improvements in television receivers and increases in transmit power alone. Major improvement in UHF television reception will be achieved in only one way: Through the installation of adequate UHF receiving antenna systems by the public.

Receiving Antenna Systems

In view of the importance of the receiving antenna system to the reduction of the UHF handicap, the Task Force has given substantial attention to this area. Four separate reports (listed in Appendix A) have been written on various aspects of the receiving antenna system, and Chapter 2 contains the results of this extensive analysis.

We have found that UHF television reception can be much improved with existing and available technology. On the basis of the large volume of information compiled, we have made six distinct recommendations for achieving improved UHF reception:

1. An outdoor antenna is much more likely to provide better picture quality than an indoor antenna.

2. Separate UHF and VHF outdoor antennas can provide better performance on UHF than can a

[2] Doubling a station's power can produce a 3 dB improvement to UHF signal strength. Improving the weak signal performance of television receivers will produce about this same change. The installation of an outdoor receiving antenna system can easily provide a 15 dB improvement and can provide a much larger improvement—30 dB or more. A dB (or decibel) is an engineering notation that describes relative size. An improvement of 15 dB is much better than an improvement of 3 dB. In 1959, the Television Allocations Study Organization specified various grades of television picture quality: excellent, fine, passable, marginal, inferior and unusable (TASO, 1959). A 6 dB improvement provides about one TASO grade of picture quality improvement.

combination UHF/VHF antenna, at little or no extra cost.

3. Four-bay and eight-bay "bowtie" UHF antennas provide good performance and low cost. (The most expensive antennas are not necessarily the best.) A two-bay bowtie UHF antenna is a good choice for an indoor antenna.

4. Antennas should be installed by "probing" for the best receiving location; signal strength can vary significantly over a very short distance; thus the antenna should be installed at the location that provides the best picture quality.

5. Shielded cable (either coax or shielded twin lead) is much better than conventional "twin-lead" cable to connect an outdoor antenna to a TV set. RG–6 is a good quality cable. Coaxial cable should be used with baluns when connected to the antenna and set.

6. Preamplifiers that boost the TV signal may provide improved UHF picture quality, but a television serviceman should be consulted about their use, since in the wrong circumstances "preamps" can cause interference.

A major conclusion reached by the Task Force is that although good-quality UHF receiving equipment is not necessarily expensive, consumers are not provided with the information needed to compare adequately the quality of television receiving equipment. For instance, the major measure of antenna performance is the "gain" of the antenna, but there are many different ways to measure antenna gain figures. While several of these are perfectly valid approaches, the fact that there is no standard reference makes meaningful comparisons of antenna gains extremely difficult. Part of the solution to helping the public choose good-quality receiving systems is to develop a standard and accepted measure for antenna gain, so that claims by manufacturers can be readily compared one against the other. We recommend a government measurement program that can eventually evolve such a standard. If this program is as successful and low cost as we anticipate, the Commission can extend the program to cover other receiving components such as transmission line and preamplifiers.

Such a procedure would be similar to a previous program undertaken by the FTC for the measurement of power output of stereo amplifiers. There are many ways to measure power output, and confusion was evidently caused by advertising claims using many different and non-comparable measurements. Due to FTC involvement, manufacturers now state their power output in a standardized way that allows direct comparison among different pieces of equipment.

The Television Receiver

We have determined that further improvements in the performance of television receivers are not as critical as is the installation of an adequate receiving antenna system. The receiver is nonetheless a vital part of the full television system. We present our analysis and conclusions regarding television receivers in Chapter 3.

The FCC was given the authority to regulate the UHF performance of television receivers by the All-Channel Television Receiver Act, and this regulation comes in four forms. First, receivers must meet certain standards for their ability to receive and display a weak UHF signal; this is required by rules regulating the maximum UHF noise figure, which is a technical measure for weak signal performance. Second, TV receivers must meet certain requirements for channel selection and tuning of UHF channels. Third, television receivers must be capable of adequately receiving all channels allocated to television broadcasting. Fourth, in some cases a television receiver must offer a design feature for UHF if it is provided for VHF. The Task Force has evaluated each of these types of regulation, and has recommended changes that should cost-effectively assist UHF television.

Weak Signal Performance

In 1978, the FCC lowered the maximum UHF noise figure requirement, and this is expected to improve significantly the weak signal performance of television receivers. The Task Force evaluated whether further improvements should be sought in this aspect of receiver design. We concluded that the 12 dB maximum noise figure standard that becomes effective in 1982 will achieve comparable performance for UHF and VHF noise figures, and that further reductions in noise figure beyond the 12 dB limit need not be sought.[3]

We also confirmed that UHF noise figure is not a fully accurate indicator of weak signal performance. Two receivers with the same noise figure can have a different response to a relevision input signal. This problem is now being evaluated within the Office of Science and Technology of the FCC, and we recommend that it be given a high priority. If a valid measure for weak signal performance is obtained, we recommend that this more accurate measurement be used as the standard by which the FCC judges the weak signal performance of television receivers.

In addition to improving the reception of existing UHF signals, the FCC has been seeking means to provide many more television services to an area. Certain combinations of UHF frequencies produce interference in current television receivers. In order to decrease the likelihood of interference, the FCC allocates UHF channels so as to avoid the undesirable channel combinations in the same area. These undesirable channel combinations are known as "UHF taboos," and restrict the total number of stations that can serve the public. If the taboos can be reduced or eliminated, it will be possible to allocate more UHF channels to an area without interference being caused.

Texas Instruments has previously developed an Improved Television Receiver for the FCC that exhibited much better immunity to interference, but the UHF noise figure of that design was higher than desired (Ash and Hartmann, 1978). RF Monolithics, Inc. has been given a follow-on contract to improve on the Texas Instruments design; in particular they are seeking to maintain resistance to interference while achieving a very good UHF noise figure. The RF Monolithics design also will use electronic tuning that offers comparable channel selection for UHF and VHF signals. We are hopeful that this prototype design will eventually lead to a new generation of television receivers that have very good UHF weak signal performance, fully comparable tuning for UHF and VHF channels, and high resistance to interference that will allow many more UHF stations to operate in an area. This development work should be completed later in calendar year 1980.

Channel Selection

Although it is often presumed that the newer types of electronic tuners offer comparable selection of all television channels, the Task Force is seeking to determine definitively whether differences in channel selectors produce different levels of UHF viewing. This will be used to determine what specific rules regarding channel selectors will best aid UHF television, and what additional rules should be imposed by the Commission. A detailed research project to accomplish this will not be

[3] Previously, the maximum UHF noise figure allowable on any channel was 18 dB, and TV receivers had an average noise figure of about 12 dB (Lines, 1972). Under the new requirement, UHF noise figures average about 9 dB, and should improve further when a stricter standard becomes effective in 1982. VHF noise figures average about 6 to 7 dB (Kalagian, 1977).

completed until late in 1980, so the Task Force will not make comprehensive recommendations regarding the desirability of the various electronically-tuned channel selector systems until that research is complete.

We have, however, evaluated the existing channel selector rules and the history behind them, and have suggested certain revisions and consolidation of these rules where the need for changes appears immediately desirable. We expect these proposed changes, which are detailed in Appendix C, to benefit UHF but to have a small impact on receiver manufacturers.

All-Channel Requirements

The Commission has the authority to require television receivers to be capable of receiving all channels allocated to television broadcasting. The frequencies from 806 to 890 Megahertz (MHz) once were allocated to television broadcasting as channels 70 to 83, but these frequencies have been since reallocated to the land mobile services. We believe that the Commission should make it clear that they intend the All-Channel requirements to apply only to frequencies actually allocated to television broadcasting, and that noise figure requirements, comparable tuning and any other similar requirements do not apply to what once were television broadcast channels 70 to 83.

This issue is complicated by the fact that several hundred low-power television translator stations still operate on these old frequencies, on a secondary basis to land mobile operations.[4] These stations have been gradually moving to other television channels of their own accord, however, and our suggestion, if implemented, would not impose a deadline for completing this transition. The benefit of clarifying the all-channel requirements so that they do not apply to channels 70 to 83 is that receiver manufacturers could design their UHF systems to operate over a smaller total bandwidth, which can improve performance, allow for better channel selector designs and save costs. We have concluded that these benefits are clearly worthwhile even in view of the impact of this change on translator stations operating on channels 70 to 83.

Another factor regarding the all-channel requirements is that the total number of tuning positions on some television receivers is less than the total number of stations available in many areas. Some receivers have buttons for only twelve TV channels, so that those viewers in areas receiving thirteen or more channels must eliminate one or more stations from their readily available viewing options.[5] Some TV receivers have a position for each of the twelve VHF channels and six positions for any UHF channel, so that those viewers in areas receiving seven or more UHF channels must eliminate one or more of these stations from their viewing options. We believe that the underlying goal of the All-Channel Television Receiver Act was to provide all viewers with the opportunity to watch all television stations available to them. Television receivers with a limited number of tuning positions are inconsistent with that goal.

On the other hand, these types of tuners may aid UHF stations because they generally provide electronic tuning and offer improved tuning for those UHF stations that have been pre-selected and loaded onto the system. A balancing of the advantages and disadvantages of these tuners may be required. We therefore are including this issue in the comprehensive examination of electronically-tuned channel selection systems that will be completed later this year.

Equality Regulations

Current Commission rules require that if a VHF antenna is attached by the manufacturer to a receiver, a UHF antenna must also be attached § 15.65(b) of the FCC Rules). Also, if tuning aids such as remote control are included with a set, they must operate for both VHF and UHF. These rules are "equality" regulations, in that there is no absolute requirement to include these features, but if they are included, they must apply equally for UHF and VHF. Our review indicates that this concept of equality regulation should be extended to apply to other aspects of receiver design.

In particular, we have found that manufacturers often supply a coaxial connector for attaching a VHF receiving antenna, but do not supply a like connector for UHF. Furthermore, some manufacturers use coaxial or shielded cable inside the set for the VHF frequencies but fail to use this type of cable for UHF. In view of our determination that coaxial and shielded cable provide better performance than unshielded cable, we recommend that reception aids such as these be made subject to the Commission's equality regulations. Manufacturers would not be forced to include these features, but if they included them for VHF, they would likewise need to include them for UHF.

Transmission Systems

In Chapter 5, we note that UHF broadcasters will always have higher transmission costs than VHF broadcasters. The transmitting and the electrical power costs of UHF stations can be easily ten times those of VHF stations. This is due, first, to the fact that UHF broadcasters must operate with higher transmitter power to achieve coverage close to equivalent with VHF stations, and, second, to the fact that the technology used for UHF transmission is inherently less efficient in converting electrical power to transmitted power. Improvement in transmitter efficiency is possible.

The Task Force has attempted to be a catalytic agent in increasing the broadcasters' interest in improved efficiency transmission systems. At present, many UHF stations do not find it profitable to operate at high power due to the costs involved. If technologies can be developed for improving transmitter efficiency, some broadcasters might then find it cost-effective to increase their station's power, thereby sending out a stronger signal for reception by the public. Both the station and the public might therefore benefit from an improvement in the efficiency of transmitting techniques.

The Public Broadcasting Service (PBS) has been investigating the prospects for improved transmitter efficiency, and has been working with special tuning techniques for transmitter tubes and with a device known as a modulating anode pulser. Both of these techniques have been known to improve transmitter efficiency; but PBS has conducted experiments in which the two techniques were combined, and a large efficiency increase has been obtained.

The Task Force has slso evaluated several technologies that would substantially improve the efficiency of UHF transmission and thereby save power costs. One very promising technique is the multi-element depressed collector (MDC) which could offer three times the efficiency of existing transmitter tubes. it is estimated that the development of MDC would require one to two million dollars for development of a transmitter tube ready for production, but in view of the power savings involved, the MDC technology appears to be cost effective. it is expected that the contributions of the Task Force, PBS, and others will receive due consideration by the broadcast community in order to determine which

[4] A television translator is a low power TV station, generally used in rural areas, that rebroadcasts a television station's signals to areas unable to receive the TV signals directly.

[5] Each of the buttons can be reset for a different station, but with some difficulty.

are the most appealing and should be further pursued.

In the course of our work, we made several other findings, each of which individually can make small improvements in efficiency and which when combined may make a sizable difference. We found that the use of aluminum waveguide rather than conventional transmission line now generally is cost effective. We determined that, although high antenna towers can be very expensive, they may in some cases be a profitable alternative to higher power at lower antenna height.

We have also found two areas where FCC rules may be inhibiting the use of possible cost-saving techniques, and are recommending that consideration be given to modifying these rules. First, most stations maintain a margin in their transmitting operations that allow them to operate at up to 110 percent of their authorized power. Due to the nature of UHF transmitter operation, this reduces the efficiency of transmission. FCC rules, though not specifically requiring this, may be read to imply that the ability to operate at 110 percent of authorized power is preferable. We recommend that these rues be clarified to make it clear that this margin is not required.

Second, FCC rules also require that the aural power of the broadcast station be between 10 and 20 percent of the visual broadcast power. Some stations believe that they can adequately serve the public with a smaller ratio or aural-to-visual power. Since this could potentially save on power costs, it should also be considered, at least on an experimental basis.

Consumer and Broadcaster Choice

Commercial broadcasters choose their transmitter power, their antenna height, and their programing expenses at a level that they believe will achieve maximum profits. Noncommercial broadcasters do not maximize profits, but consider similar tradeoffs in benefits and costs when they make their choices. Viewers choose their receiving equipment based on the quality of service they desire and the cost of receiving that service. In Chapter 6, we have conducted an analysis of broadcasters' choices of power and antenna height and of viewers' choices of receiving antenna equipment.

Broadcaster Choice

UHF stations, unlike VHF stations, generally do not operate at their maximum allowed effective radiated power (ERP) because it is not the most profitable power level.[6] Stations select their ERP and antenna height in predicatable ways, depending on the characteristics of their market. These profit-maximizing choices would cause UHF stations to serve somewhat smaller populations than VHF stations, even if viewers used comparable receiving equipent for both UHF and VHF.

We also analyzed whether improvements in UHF transmitter efficiency might make it profitable for UHF stations to transmit at higher power. We found that stations in some markets might increase their power, although the increases can be expected to be 3 dB or less. In many cases, improved transmitter efficiency alone will not make it profitable to increase power.

The implication of this conclusion is that, even if viewers use comparable quality receiving equipment for UHF and VHF, UHF stations usually will reach smaller potential audiences than VHF stations in the same market. Consumer choices of receiving antenna equipment increase this UHF reception disadvantage.

Consumer Choice

Consumers generally have much better VHF television reception than they have UHF reception. The major reason that this is true is that virtually all households have equipment sufficient for reception of the VHF stations in their area, but many households within the reception area of UHF stations either do not have any UHF receiving equipment or have inadequate equipment. These results strongly imply that many consumers do not consider it worth the effort necessary for adequate UHF television reception. If they did, more consumers would be purchasing and installing adequate UHF receiving equipment.

Since a large cause of the UHF picture quality hadicap is a lack of any UHF receiving antenna equipment, consumers as a whole must decide that receiption of UHF stations is worth the cost of this equipment for the handicap to be substantially reduced. At present, however, consumers are not making this choice. This implies that large reductions in the UHF reception disadvantage will depend, partly, on the programing service that UHF stations offer to viewers.

Consumer Information

Although many consumers who have poor UHF reception have not attempted to get good reception, many other consumers have attempted to receive UHF channels with unsatisfactory results. On the basis of our technical and survey work, we have found that, for the same expense, these consumers could have gotten better reception if they had known the best receiving equipment to buy. There is an information gap because consumers who are interested in obtaining adequate reception are not provided the information required to make the best purchasing decisions. This appears to be a failure in the ability of the marketplace to synthesize complex technical information into a form readily understood and accepted by the public.

We have analyzed how this information flow can be improved, and our proposal for improving consumer information falls into two parts:

- A program for measuring the performance of receiving antenna equipment, and making this information available to the public.
- A program for providing additional information concerning UHF reception to the public and to those who wish to inform the public.

The first program, having to do with receiving antenna systems, has already been discussed. The second program involves a combination of information released by the government and use of this information by those in the industry who have an interest in improved UHF reception. We believe that the use of the six recommendations we have formulated for improving UHF reception, for example, can have an impact on consumers' purchase and installation of appropriate receiving equipment. This information can be reproduced and distributed by broadcasters to those in their viewing area, or can be included in booklets if further information is found to be useful.

The Commission's Field Operations Bureau (FOB) presently produces an excellent information booklet entitled "Radio-TV Interference Problems" (Federal Communications Commission, 1977). We recommend that this booklet be updated to include relevant information concerning UHF television reception.

Technical articles of interest to television servicemen can be drafted and published in various technical magazines. The Commission's Office of Public Affairs (OPA) can draft general interest articles for non-technical publications.

We advocate these programs because they appear to have very low costs relative to the possible benefits. There are economies to the central processing

[6] The FCC allows a maximum ERP of 5000 kilowatts (kW for UHF stations, 100 kW for low VHF stations (channels 2 to 6) and 316 kW for high VHF stations (channels 7–13).

of information that, in this case, can be initially undertaken by the Government. There has apparently been little demand for information concerning UHF reception, so the government can serve as a central catalyst in conveying the relevant information to the public. We believe that a program for measuring television receiving antenna equipment in a standardized manner would not be coordinated by the industry on its own initially, but such a program might eventually be adopted by the industry if the program is found to be successful.

We should recognize, however, that even if consumers are provided with additional information for improving the reception of UHF television, it does not necessarily follow that they will act on this information. In fact, consumers in general say that they are satisfied with their present television service. Even in the face of much better information, adequate UHF reception equipment will not be purchased and installed unless consumers sufficiently value the product that they are purchasing—the television programs available to them on UHF.

The Improvement Available to UHF Television

At best, UHF television can cover much but not all of the population covered by VHF television. Even this point is not likely to occur unless something causes consumers to change their minds about their choices of receiving antenna equipment, or unless a much larger fraction of viewers receive UHF signals through a cable television system.[7] This perspective should be kept in mind. To seek improvements in transmitters and television receivers without recognizing the root problem to the UHF handicap—that members of the public are not installing adequate receiving antenna systems for good UHF reception—will have done little to foster the delivery to the public of the many diverse television services available from UHF.

Improvements in UHF transmitter efficiency would make it cost-effective for some broadcasters to double their power output, and the UHF television picture quality for these stations would be improved by 3 dB. When television receivers all meet the 12 dB noise figure standard, we believe that UHF television picture quality will be improved by about 4 dB. These are significant improvements, but they are not nearly sufficient. The only way to achieve major improvement in UHF television reception is through the receiving antenna system. In this area, and in this area alone, improvements of 10, 15 and even 30 dB are possible. This is the magnitude of improvement required for UHF television.

Table 1 is an example of the improvments available in UHF picture quality. For this example, we have assumed that the present UHF picture quality is "inferior" and have added the effects of improvements to receiving antenna systems, TV receivers, and UHF transmitters. Either an increase in transmitter power or an improvement in receiver noise figure would improve picture quality slightly, to "marginal;" a change of both power and receiver noise figure would improve picture quality to "passable." On the other hand, without these improvements, but with only an improvement in the receiving antenna system, the picture quality becomes "fine." Furthermore, when all three improvements—receiving antenna systems, TV receivers, and UHF transmitters—are made, the picture quality becomes "excellent." Table 1 is merely an illustrative example, but it shows that the most improvement to UHF will come from changes to the receiving antenna system, and that improvements to receiver noise figure that the Commission is requiring and increased transmitter power also will help to improve UHF reception.

Table 1.—*Example of Picture Quality Improvements to UHF Television*

[The signal-to-noise ratio required for each picture quality level is given in parentheses][1]

	No change in transmitted power or noise figure	3 dB increase in transmitted power	4 dB improvement in noise figure	Improvement in both transmitted power and noise figure
No changes in receiving antenna system.	Inferior (21 dB[2])	Marginal (24 dB)	Marginal (25 dB)	Passable (28 dB).
15 dB improvement in receiving antenna system.	Fine (36dB)	Fine (39 dB)	Fine (40 dB)	Excellent (43 dB).

[1] A report by Harry Fine (1960) indicates the signal-to-noise ratio required for various levels of picture quality:

Picture quality	Signal-to-noise-ratio
Excellent	Greater than 41 dB.
Fine	33–41 dB.
Passable	28–33 dB.
Marginal	23–28 dB.
Inferior	17–23 dB.
Unusable	Less than 17 dB.

[2] For illustrative purposes, a 21 dB signal-to-noise ratio was assumed. Picture quality will vary from one household to another, and the effects of an assumption other than 21 dB can be analyzed using the information given.

The fundamental relationship between a viewer's interest in installing an adequate UHF receiving antenna system and that viewer's interest in the programming on UHF channels cannot be ignored. The UHF Comparability Task Force has analyzed the technical possibilities for improving the UHF television service, and the economic and social prospects for these improvements. We have not thoroughly studied the relationship between television programming and television reception equipment. Some immediate observations, however, can be made.

The fact that UHF network stations suffer only a small disadvantage relative to VHF network stations indicates that programming impacts the quality of UHF receiving equipment that consumers are willing to buy and use. Future sources of high-quality programming, from lower-cost delivery systems such as communications satellites, may provide additional program sources for the UHF broadcaster. In this regard, UHF television need not necessarily attempt to duplicate the network programming usually found on VHF. In fact, our survey results show that viewers aren't particularly interested in additional network programs, but are interested in several forms of specialty programming. Net work programming in general attempts to appeal to a mass market and cannot serve the tastes of small segments of the market. Specialty sports programming, minority programming, or children's programming may provide a smaller but faithful audience base that will provide profitable operation, whether by advertiser-supported television or by subscription television.

In spite of the technical difficulties faced by UHF television, this service is becoming profitable and competitive. We have suggested several steps for improving the UHF television service further, but we question whether

[7] UHF stations carried on a cable system reach subscribing viewers as effectively as the VHF stations carried on the system.

comparison with VHF provides an appropriate standard for judging UHF, or whether a more appropriate goal is to seek a fully viable and profitable UHF service on its own merits.

Comparisons with VHF will always be unfavorable for the UHF operator. Actual parity between these services would be extremely costly for the government to attempt to achieve, because it involves choices made by consumers and broadcasters that the government does not wish to control; decisions about programming, with its Constitutional implications; and the propagation of radio frequencies, which is dictated by the laws of physics.

We believe that a fully competitive and prosperous UHF service, regardless of how it compares with VHF, will achieve the diversity of television services long sought by the FCC and the Congress. Judging from the growth of UHF stations and their increasingly profitable operation, and the demand for UHF television stations as shown by applications to the FCC, this goal is now beginning to be achieved, and will be additionally fostered by the recommendations we have made.

Attachment II—Proposed Changes to FCC Rules

Section 15.63(c)

- Add the following to the Note in subsection (1):

  If the receiver is not capable of receiving channels 70–83 then the measurements at 900 and 931 MHz may be omitted.
- In subsection (2), delete the number "10".

Section 15.65

- Change title to read: "All-channel television broadcast reception: General requirements."
- Delete the words "manufactured after April 30, 1964" from subsection (a), since this qualification is no longer necessary.
- Amend subsection (b) to read as follows:

  If equipment and controls which tend to simplify, expedite or perfect the tuning and reception of television signals (such as automatic frequency control, remote control, attached or supplied receiving antennas, or coaxial antenna connections, referred to generally as tuning and reception aids) are incorporated into the VHF portion of a television broadcast receiver, tuning and reception aids of the same type and of comparable quality shall be provided for the UHF portion of that receiver.

Section 15.66 and Section 15.67

- Change references to channels 14–83 to channels 14–69.
- Delete the words "manufactured after April 30, 1964" from Section 15.67, since this qualification is no longer necessary.

Section 15.68

- Change title to read: "All-channel television broadcast reception: Channel selectors."
- Amend subsection (b) to read:

  (b) On a given receiver, use of the UHF and VHF tuning systems shall provide approximately the same degree of tuning accuracy with approximately the same expenditure of time and effort: *Provided, however,* That this requirement will be considered met if the need for routine fine tuning is eliminated on UHF channels, through the use of automatic frequency control or other means.
- Reserve subsection (b)(2), since these requirements are now incorporated into § 15.65(b).
- Amend subsection (b)(3), and move to a new subsection (e), as follows:

  (f) *Tuning controls and channel read-out.* UHF tuning controls and channel read-out on a given receiver shall be comparable in size, location, accessiblity and legibility to VHF tuning controls and read-out on that receiver.

  (1) *Systems with separate selectors for UHF and VHF Channels.* Comparable legibility of channel read-out will alternatively be considered met if UHF channel numbers are clearly legible and UHF and VHF channel numbers are at all times visible on the face of the receiver.

  (2) *Systems with channel positions selectable to UHF or VHF channels.* If discrete tuning positions are provided that are adjustable to UHF and VHF channels, and if such tuning positions are adjusted or labeled by the manufacturer for specific channels, at least half of these adjustable channels shall be set or labeled for UHF reception.
- Reserve subsection (d), which applies to 70-channel detent tuners. These types of channel selectors would meet the requirements of the other subsections of Section 15.68.

[FR Doc. 80-32910 Filed 10-21-80; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR PART 1248

[No. 37269]

Elimination of Annual Report Form TCS for Motor Carriers of Property

AGENCY: Interstate Commerce Commission.

ACTION: Second notice of proposed rulemaking.

SUMMARY: The Commission is proposing to eliminate the requirement that all Class I Motor Carriers of Property file Form TCS, the annual report of freight commodity statistics. The intended effect of this proposal is to reduce the management hours spent to collect, compile and report information by the carriers. The Commission concluded that the use of the data contained in the report no longer justifies the reporting burden. The elimination of the reporting requirement will be effective for the reporting year beginning January 1, 1981.

DATES: Comments should be filed on or before December 8, 1980.

ADDRESSES: An original and 15 copies, if possible, of any comments should be sent to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

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

SUPPLEMENTARY INFORMATION: On February 19, 1980, the Commission published a Notice (45 FR 13480) proposing the adoption of statistical sampling procedures to collect freight commodity statistics from Class I, II and III Motor Carriers of Property in the Freight Commodity Statistics Report (Form TCS). At the present time, Form TCS is filed by Class I Motor Carriers of Property only. The Notice proposed a reduction in the number of Class I carriers required to file Form TCS, but at the same time, it required a sample of Class II and III carriers to file.

In response to the Notice, we received 63 comments from motor carriers, motor carrier associations and other interested parties (See Appendix A). This Second Notice of Proposed Rulemaking resulted from the respondents' comments that are discussed below:

Justify Need of Report—The majority of the respondents opposed the filing of Form TCS because they contend the Commission has not shown a need for TCS data. They recommend the Commission eliminate the report completely unless a regulatory need for the information gathered can be demonstrated.

Statistical Sampling Does Not Reduce Reporting Burden—The American Trucking Associations (ATA), backed by many of the respondents, stated that adopting statistical sampling procedures to collect the data does not decrease the reporting burden for those carriers that must report. In addition, by including Class II and III carriers, the requirement creates an entirely new burden which directly contradicts the Commission's own stated policy of reducing public filing requirements.

Report is Too Burdensome—Form TCS has 447 commodity classification line items with 11 potential columns. The report itself is printed on 12 pages with one additional page of instructions. Reporting such detailed information is estimated to take an average of 470 hours of management time annually. Many of the respondents requested that we either modify or eliminate the report.

As a result of these comments, we are proposing to eliminate Form TCS. The time spent to compile the information by the carriers is not justified by the occasional use of the information by the Commission. Any need for the information can be satisfied by periodic special requests.

The proposed action does not significantly affect either the quality of the human environment or conservation of energy resources.

§ 1248.51–1248.57 (Subpart D) [Removed]

Accordingly, we propose to delete 49 CFR Part 1248 Subpart D.

This action is proposed under the authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided October 8, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis and Gilliam.

Agatha L. Mergenovich,

Secretary.

Appendix A

Respondents

O.L. Doud
Standard Trucking Company
Carstensen Freight Lines, Inc.
Hall's Motor Transit Company
Tennessee Carolina Transportation, Inc.
Carolina Freight Carriers Corporation
G.C.T., Inc.
Priority Freight Systems, Inc.
Metals Transport, Inc.
IRC&D Motor Freight, Inc.
Associated Truck Lines, Inc.
Brren Transfer Co.
Reisch Trucking and Transportation Co., Inc.
Harry McKenzie Trucking Co.
Reinhart & Sons
California Trucking Association
E.L. Murphy Trucking Company
Nehalem Valley Motor Freight, Inc.
Calzona Transportation Inc.
Clairmont Transfer Co.
Holmes Transportation Inc.
The Chief Freight Lines Company Haslett Company
Graves Truck Lines
Berman's Motor Express, Inc.
Red Ball Motor Freight, Inc.
The Mason and Dixon Lines, Inc.
General Highway Express, Inc.
Murphy Motor Freight Lines, Inc.
Consolidated Freightways Corporation of Delaware
Transamerican Freight Lines Incorporated
Advisory Council on Federal Reports
Nationwide Carriers, Inc.
Doyle Trucking Corporation
Delta Lines
Clark Bros. Transfer, Inc.
Shaffer Trucking, Inc.
Yellow Freight System, Inc.
Churchill Truck Lines, Inc.
Meridian Express Company
Pilot Freight Carriers, Inc.
Transcon Lines
McLean Trucking Company
AAA Cooper Transportation
Lock Trucking Inc.
Ruan Transport Corporation
Overnite Transportation Company
Tri-State Motor Transit Co.
Smith's Transfer Corporation
Curry Motor Freight Lines, Inc.
Fleet Carrier Corporation
Convoy Company
Ellsworth Freight Lines, Inc.
Maryland Motor Truck Asso. Inc.
Campbell Sixty Six Express, Inc.
Nussbaum Trucking, Inc.
Arkansas-Best Freight System, Inc.
Michigan Transportation Company, Inc.
Harold G. Cline, Inc.
ICX
Indianhead Truckline, Inc.
Arizona Tank Lines, Inc.
American Trucking Associations, Inc.

[FR Doc. 80-32904 Filed 10-21-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Ch. I

Scoping Meeting To Consider the Preparation of an Environmental Assessment on the Proposal of Rules To Govern Surface Management of Hardrock and Placer Mining on Units of the National Wildlife Refuge System

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of public meeting.

SUMMARY: This Notice advises the public that the U.S. Fish and Wildlife Service will hold a scoping meeting to consider its preparation of an environmental assessment on the proposal of rules to govern surface management of mining operations authorized under the Mining Law of 1872 on units of the National Wildlife Refuge System. Virtually all of these units which are on public domain lands have been withdrawn from the operation of the mining laws, but there are relatively small numbers of existing claims on twelve refuges. Current information indicates there are approximately 500 claims on nine refuges in Alaska and several hundred claims on three refuges in the forty eight contiguous States. The Service proposes to promulgate rules which are similar to those proposed by the Bureau of Land Management in the **Federal Register** on March 3, 1980, as modified in its final environmental impact statement on those rules. The Service also proposes to adopt BLM's environmental impact statement on the environmental impacts of these rules, pursuant to the Council on Environmental Quality's rules at 40 CFR 1500.

DATE: The scoping meeting will be held on Wednesday, Nov. 5, 1980 at 1:00.

ADDRESS: The scoping meeting will be held at Room 3241, U.S. Department of the Interior, 18th and C St. N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: William C. Reffalt, Chief, Division of Refuge Management, U.S. Fish and Wildlife Service, (202) 343–4791.

SUPPLEMENTARY INFORMATION: The Service is seeking public input on its proposed decision to promulgate surface management rules for mining operations on refuges authorized by the Mining Law of 1872, and to adopt the environmental impact statement which was prepared for the Bureau of Land Management's (BLM's) proposed surface management rules. The Service contemplates proposing rule which are similar to BLM's, with changes where necessary to reflect the different statutes which control the administration of the National Wildlife Refuge System.

The rules proposed by BLM represent a framework for regulating hardrock mining by requiring a plan of operations for all mining operations which create more than negligible impacts on surface resources. The rules do not spell out mining methods, but are intended as a general framework to address mining management. The rules require contemporary reclamation of disturbed areas and site-specific environmental impact documents in the process of approving a plan of operations.

Because the Service contemplates proposing rules which are similar to those proposed by BLM, the Service intends to adopt all or part of the EIS prepared for BLM's rules. Adoption is a procedure authorized by the Council of

Environmental Quality's rules in the interest of reducing unnecessary paperwork and delay. See 40 CFR 1500.4, 1500.5, 1506.3. Furthermore, refuge system lands were initially lumped with other lands in BLM's environmental impact statements. The Service also proposes to create an Environmental Assessment to address any differences in the rules and their respective impacts.

Dated: October 17, 1980.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 80-33008 Filed 10-21-80; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

Natural Oceanic and Atmospheric Administration

50 CFR Part 320

Taking of Bowhead Whales by Indians, Aleuts, or Eskimos for Subsistence Purposes

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: At its 32nd Annual Meeting held in Brighton, England, in July 1980, the International Whaling Commission (IWC) adopted an amendment to the Schedule of the International Convention for the Regulation of Whaling, 1946 (Convention), which established a three year quota for the taking of the Bering Sea stock of bowhead whales for calendar years 1981, 1982, and 1983 of 45 landed or 65 struck, whichever occurs first, with a maximum of 17 whales landed in any year. The Schedule of the Convention containing the three year quota will become effective on November 26, 1980. The Whaling Convention Act of 1949 requires Schedule Amendments to be adopted as Federal regulations. NOAA is beginning to plan for the rulemaking which will implement this quota.

DATES: Comments on how the three year quota should be implemented may be submitted on or before December 1, 1980.

ADDRESS: Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Mr. Richard B. Roe, Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235, Telephone: (202) 634-7461.

SUPPLEMENTARY INFORMATION: Prior to 1977 the IWC Schedule exempted the native subsistence harvest of bowhead whales from its otherwise total prohibition of the hunting of bowheads. In 1977, the IWC removed that exemption and has established annual quotas each year from 1977 through 1980. In 1980, the quota was 18 landed or 26 struck, whichever came first.

Recent scientific analyses have indicated that the bowhead whale population may decline even in the absence of any further removal of animals from the stock. Thus, a sustained harvest of bowhead whales at current levels over an extended period of time could endanger the herd and jeopardized the Eskimos' own interests.

At the 32nd Annual Meeting of the IWC, the United States proposed a transition period to lower hunt levels during which NOAA and the Department of the Interior would cooperate with the Eskimos in developing and studying the implications of more biological evidence, exploring subsistence alternatives, and improving hunting practices and weapons to increase the efficiency of the hunt. The IWC responded by establishing a three year block quota, beginning in 1981, of 45 whales landed or 65 struck, whichever occurs first, with the maximum landed in any one year of 17.

NOAA intends to issue proposed regulations implementing the three year quota in mid-December. An environmental assessment will be available at that time.

There are a number of issues associated with the bowhead hunt on which the Agency invites comment. These include: how the quota should be allocated over a three year period; how the quota should be allocated among the villages; and how takings over or under annual allocations should affect the remaining quota.

In addition to this regulatory process, over the next several months, a number of other Federal efforts related to the bowhead will be undertaken. Scientific analysis will refine the status of the population and its ability to withstand removals. Methods to improve the efficiency of the hunt will be studied. The availability and acceptability of alternative resouces will be examined, and a program to increase their use will be developed. Issues relating to whaling effort, storage of whale meat, utilization of and sharing of whale meat will be reviewed. Comments on these matters are solicited as well.

Terry L. Leitzell,

Assistant Administrator for Fisheries.

[FR Doc. 80-32903 Filed 10-21-80; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 45, No. 206
Wednesday, October 22, 1980

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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Freedom of Information Act; Confidential Business Information

AGENCY: Administrative Conference of the United States; Committee on Ratemaking and Economic Regulation.

ACTION: Request for comments.

SUMMARY: The Administrative Conference Committee on Ratemaking and Economic Regulation currently is examining the procedures used by agencies in complying with Freedom of Information Act requests that implicate exemption (b)(4) of the Act, the so-called "business records exemption". The Committee wishes to be informed about actual instances in which information to which exemption (b)(4) applies has been disclosed by the agency under a Freedom of Information Act request notwithstanding the applicability of the exemption. The Committee particularly desires to be informed of instances in which important confidential business information has been disclosed by the government to the detriment of the submitter of the information.

SEND COMMENTS TO: William C. Bush; 2120 L Street NW, Suite 500; Washington, DC 20037.

COMMENT DEADLINE: November 20, 1980.

FOR FURTHER INFORMATION CONTACT: William C. Bush, Administrative Conference of the United States, 2120 L Street NW, Suite 500, Washington, DC 20037, telephone (202) 254–7065.

SUPPLEMENTARY INFORMATION: The Administrative Conference Committee on Ratemaking and Economic Regulation is working toward developing recommendations concerning agency procedures and practices in dealing with Freedom of Information Act requests for information that would fall within exemption (b)(4) of the Act, the "business records exemption". This information would ordinarily be in the form of documents in an agency's possession that had been submitted to the agency by a private person or business firm and that deal with the business of the individual or firm, and would include documents containing "confidential" information or trade secrets.

The Committee is aware of a large volume of criticism directed at alleged problems in the administration of exemption (b)(4). In particular, there appears to be a substantial concern that valuable commercial secrets are often disclosed by agencies pursuant to Freedom of Information Act requests, thereby seriously damaging the interests of the submitters of the information, and that such disclosures are made by agencies without affording the submitters adequate opportunity to protect their interests.

Notwithstanding the quantity and intensity of such criticisms, there is in the public record very little documentation of instances in which an individual or firm has actually been damaged as a result of an agency release of confidential business information under the Freedom of Information Act. The Committee would welcome comments describing such instances, as well as comments on any related problems that may have been experienced by submitters of business records.

In addition to any comments received in response to this invitation, the Committee will also be considering a report of its consultant, Professor Russell B. Stevenson, Jr. of the National Law Center, George Washington University. The Committee has not yet received the consultant's report. The Committee will hold several meetings in the future to discuss these matters, and will again request comments at the time that any tentative recommendations are formulated. Notices of future meetings and further requests for comments will appear in the **Federal Register.**

All comments submitted to the Committee will be placed in a file available for public inspection during normal business hours (9:00 a.m. to 5:30 p.m.; Monday through Friday, excluding federal holidays) at the Office of the Chairman of the Administrative Conference, 2120 L Street NW, Suite 500, Washington, DC.

Richard K. Berg,
Executive Secretary.
October 17, 1980.

[FR Doc. 80-33000 Filed 10-21-80; 8:45 am]
BILLING CODE 6110-01-M

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Meeting

Notice is hereby given in accordance with Section 800.6(d)(3) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that the Advisory Council on Historic Preservation will meet on November 5–6, 1980, in the Cash Room, U.S. Treasury Building, 15th and Pennsylvania Avenue, NW., Washington, D.C. The meeting will begin at 9:00 a.m. on both Wednesday and Thursday. The meeting is open to the public with the exception of the portion of the Excutive Director's report concerning the Fiscal Year 1982 Council budget.

The Council was established by the National Historic Preservation Act of 1966 (16 U.S.C. Sec. 470) to advise the President and Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Secretries of the Interior; Housing and Urban Development; Commerce; Treasury; Agriculture; Transportation; State; Defense; Health and Human Services; and the Smithsonian Institution; the Attorney General; the General Services Administrator; the Chairman of the Council on Environmental Quality; the Chairman of the Federal Council on the Arts and Humanities; the Architect of the Capitol; the Chairman of the National Trust for Historic Preservation; the President of the National Conference of State Historic Preservation Officers; and twelve non-Federal members appointed by the President.

The agenda for the meeting includes the following:

I. Statement by the Chairman
II. Report of the Excutive Director
  A. Budget
  B. Urban Task Force

C. International Centre Committee
III. Report of the General Counsel
A. Legislation
B. Litigation
C. Interim Procedures, Section 9(a), Mining in National Parks Act
IV. Report of the Office of Cultural Resource Preservation
A. Report of the Panel on McConnell's Mill State Park, Pennsylvania
B. Report of Archeology Task Force

Due to controlled access to the Treasury Building, those wishing to attend must have a Government Identification Card, or notify the Council prior to the meeting by calling 202–254–3967.

Additional information concerning either the meeting agenda or the submission of oral and written statements to the Council is available from the Executive Director, Advisory Council on Historic Preservation, Suite 430, 1522 K Street, NW, Washington, D.C. 20005, 202–254–3967.

Dated: October 16, 1980.

Robert R. Garvey, Jr.

Executive Director.

[FR Doc. 80-32892 Filed 10-21-80; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Forest Service

Belle Starr Cave Wilderness Study Area and Extensions; Ouachita National Forest; Scott and Sebastian Counties, Ark.; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an environmental impact statement for the Belle Starr Cave Wilderness Study Area and extensions. The Belle Starr Cave Area was designated a wilderness study area by Pub. L. 93–622 on January 3, 1975. The Act identified the Area as 5,700 acres; corrected acreage, according to resource data is about 6,036 acres. The Forest's Service's Roadless Area Review and Evaluation (RARE II) Process identified Belle Starr East (about 5,900 acres) and Belle Starr West (about 5,560 acres) as areas requiring "further planning". The three adjacent areas (about 17,496 acres) will be studied concurrently.

A range of alternatives for the area will be considered. One of the alternatives will be the no action (no change) alternative which will be to continue the present management of the area. Other alternatives will consider different management options for the area—ranging from recommending the total area for wilderness to recommending the area for wilderness with boundary changes.

The environmental analysis process for the Belle Starr Cave Wilderness Study Area was initiated in 1975. This process also included a survey by the U.S. Geological Survey and the Bureau of Mines to determine the mineral values of the area. Public input on the Area was received during the Forest Service's RARE II process which was conducted from 1977–1979. Other background information, such as compartment prescriptions, Ouachita National Forest Timber Management Plan and other documents have been reviwed along with the RARE II input for determining the scope of the issues to be addressed and for identifying the significant issues related to the proposal.

A public hearing on the draft environmental impact statement will be held in the Winter of 1981. Adequate notice of the hearing will be published in local newspapers prior to the hearing. At least 30 days before the date of the hearing, the Governor of Arkansas, the governing boards of Scott and Sebastian Counties, and Federal departments and agencies concerned with the areas will be invited to submit their views on the proposed action at the hearing or by no later than 30 days following the date of the hearing. The draft environmental impact statement should be available for public review by February, 1981. The final environmental impact statement is scheduled for filing by September 1981.

R. Max Peterson, Chief of the Forest Service is the responsible official for the environmental impact statement.

Comments and suggestions concerning this Notice of Intent or the proposal should be sent to John V. Orr, Forest Supervisor, by December 1, 1980. For further information about the proposal or the environmental impact statement, or other documents relevant to the proposal, contact: Earl Littlejohn, Ouachita National Forest, P.O. Box 1270, Hot Springs, Arkansas 71901 (phone 501–321–5202).

Dated: October 15, 1980.

J. Lamar Beasley,

Acting Chief.

[FR Doc. 32859 Filed 10-21-80; 8:45 am]

BILLING CODE 3410-11-M

Dry Creek Wilderness Study Area; Ouachita National Forest, Logan and Scott Counties, Ark.; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an environmental impact statement for the Dry Creek Wilderness Study Area. The Dry Creek Area was designated a wilderness study area by Public Law 93–622 on January 3, 1975. The Act identified the Area as 5,500 acres; corrected acreage, according to resource data is 6,667 acres.

A range of alternatives for the area will be considered. One of the alternatives will be the no action (no change) alternative which will be to continue the present management of the area. Other alternatives will consider different management options for the area—ranging from recommending the total study area for wilderness to recommending the area for wilderness with boundary changes.

The environment analysis process for the Dry Creek Wilderness Study Area was initiated in 1975. This process also included a survey by the U.S. Geological Survey and the Bureau of Mines to determine the mineral values of the area. Public input on the Area was received during the Forest Service's Roadless Area Review and Evaluation (RARE II) process which was conducted from 1977–1979. Other background information, such as compartment prescriptions, Ouachita National Forest Timber Management Plan and other documents have been reviewed along with the RARE II input for determining the scope of the issues to be addressed and for identifying the significant issues related to the proposal.

A public hearing on the draft environmental impact statement will be held in the Winter of 1981. Adequate notice of the hearing will be published in local newspapers prior to the hearing. At least 30 days before the date of the hearing, the Governor of Arkansas, the governing boards of Logan and Scott Counties, and Federal departments and agencies concerned with the areas will be invited to submit their views on the proposed action at the hearing or by no later than 30 days following the date of the hearing. The draft environmental impact statement should be available for public review by February, 1981. The final environmental impact statement is scheduled for filing by September 1981.

R. Max Peterson, Chief of the Forest Service is the responsible official for the environmental impact statement.

Comments and suggestions concerning this Notice of Intent or the proposal should be sent to John V. Orr, Forest Supervisor, by December 1, 1980.

For further information about the proposal or the environmental impact statement, or other documents relevant to the proposal, contact: Earl Littlejohn, Ouachita National Forest, P.O. Box 1270, Hot Springs, Arkansas 71901 (phone 501–321–5202).

Dated: October 15, 1980.

J. Lamar Beasley,

Acting Chief.

[FR Doc. 80-32858 Filed 10-21-80; 8:45 am]

BILLING CODE 3410-11-M

Office of the Secretary

Agricultural Technical Advisory Committee for Trade on Sweeteners and Tropical Products; Proposed Establishment

Notice if hereby given that the Secretary of Agriculture, after consultation with the United States Trade Representative, proposes to establish an Agricultural Technical Advisory Committee for Trade on Sweeteners and Tropical Products.

The purpose of this committee is to provide advice to the Secretary and the Trade Representative with respect to the trade policy of the United States pursuant to section 135(c) of the Trade Act of 1974 (Pub. L. 93-618), as amended by the Trade Agreements Act of 1979 (Pub. L. 96-39). Meetings of this committee will be open only to members of the committee in accordance with section 135(f)(2) of the Act unless otherwise determined.

The establishment of this committee is in the public interest in connection with the duties of the Department imposed by the Trade Act of 1974, as amended by the Trade Agreements Act of 1979.

Comments may be submitted to Thomas B. O'Connell, Advisory Committees Support Group Leader, FAS, U.S. Department of Agriculture, room 5528 South Building, Washington, D.C. 20250 until November 6, 1980.

October 17, 1980.

Bob Bergland,

Secretary.

[FR Doc. 80-32934 Filed 10-21-80; 8:45 am]

BILLING CODE 3410-10-M

Soil Conservation Service

Richland Creek Watershed, Miss.

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of intent to prepare an environmental impact statement.

FOR FURTHER INFORMATION CONTACT: Mr. Chester F. Bellard, State Conservationist, Soil Conservation Service, 100 West Capitol Street, Jackson, Mississippi 39201, 601-960-4335.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Richland Creek Watershed, Rankin County, Mississippi.

The environmental assessment of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Chester F. Bellard, State Conservationist, has determined that the preparation and review of an environmental impact statement are needed for this project.

The project concerns a plan for flood prevention. The planned works of improvement includes three floodwater retarding structures, 9.8 miles of channel excavation, 0.9 miles of levee, and floodproofing of one residential and four commercial buildings by dikes and one mobile home by relocation.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. Chester F. Bellard, State Conservationist.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention 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)

Dated: October 7, 1980.

[FR Doc. 80-32820 Filed 10-21-80; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[80-10-63]

Houston Service Show-Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause (80-10-63).

SUMMARY: The Board is proposing to award nonstop air route authority between Houston, on the one hand, and the 77 points listed in Appendix A, on the other hand, to Continental Air Lines and any other fit, willing and able applicant whose fitness, willingness and ability can be established by officially noticeable data, under show-cause procedures.

The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions shall file, by November 17, 1980, a statement of objections together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings should be served upon all parties listed below.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 38839, which we have entitled the *Houston Service Show-cause Proceeding*. They should be addressed to Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on Continental Air Lines; Mayor of Houston; Manager, Houston Intercontinental Airport; Texas Aeronautics Commission; the mayor and airport manager of each additional city referred to in the objection; and the state aeronautical commission of the state in which such city is situated.

FOR FURTHER INFORMATION CONTACT: Anne W. Stockvis, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5198.

SUPPLEMENTARY INFORMATION: The complete text of Order 80-10-63 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 80-10-63 to that address.

By the Bureau of Domestic Aviation:

October 15, 1980.

Phyllis T. Kaylor,

Secretary.

Appendix A

Akron-Canton, Ohio
Albany, N.Y.
Allentown-Bethlehem-Easton, Pa.
Asheville, N.C.
Ashland, Ky.-Huntington, W. Va.
Augusta, Ga.
Bakersfield, Calif.
Bangor, Me.
Baton Rouge, La.
Beaumont-Port Arthur, Tex.
Bismark-Mandan, N.D.
Buffalo-Niagara Falls, N.Y.
Burlington, Vt.
Butte, Mont.
Cedar Rapids, Iowa
Champaign-Urbana, Ill.
Charleston, S.C.
Charleston, W. Va.

Chattanooga, Tenn.
Cheyenne, Wyo.
Columbia-Jefferson City, Mo.
Columbia, S.C.
Columbus, Ga.
Davenport, Iowa-Moline, Ill.
Duluth, Minn.-Superior, Wis.
Erie, Pa.
Eugene, Ore.
Evansville, Ind.
Fargo, N.D.
Fayetteville, N.C.
Flint, Mich.
Fort Wayne, Ind.
Gainesville, Fla.
Grand Forks, N.D.
Grand Rapids, Mich.
Green Bay-Clintonville, Wis.
Greenville-Spartanburg, S.C.
Harlingen-San Benito, Tex.
Harrisburg-York, Pa.
Hartford, Conn.-Springfield, Mass.
Helena, Mont.
Huntsville, Ala.
Jackson-Vicksburg, Miss.
Lafayette, La.
Lansing, Mich.
Lexington-Frankfort, Ky.
Lincoln, Neb.
Madison, Wis.
Medford, Ore.
Minot, N.D.
Mission-McAllen-Edinburg, Tex.
Missoula, Mont.
Monterey-Salinas, Calif.
Montgomery, Ala.
Newsport News-Hampton-Williamsburg-Yorktown, Va.
Portland, Me.
Providence, R.I.
Pueblo, Colo.
Raleigh-Durham, N.C.
Rapid City, S.D.
Rochester, Minn.
Rochester, N.Y.
Saginaw-Bay City-Midland, Mich.
St. Croix, V.I.
St. Thomas, V.I.
Santa Barbara, Calif.
Savannah, Ga.
Scranton-Wilkes-Barre, Pa.
Seridan, Wyo.
Shreveport, La.
Sioux City, Iowa
South Bend, Ind.
Springfield, Ill.
Springfield, Mo.
Syracuse, N.Y.
Waterloo, Iowa
Youngstown, Ohio

[FR Doc. 80-32929 Filed 10-21-80; 8:45 am]
BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

California Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the California Advisory Committee to the Commission will convene at 9 a.m., and will end at 4 p.m., on November 8, 1980, at the Airport Hilton Hotel, San Francisco Airport, Vintage Room #14, San Francisco, California. The purpose of the meeting is subcommittee meetings and a full committee meeting on current projects.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Herman Sillas, Jr., U.S. Courthouse Building, 650 Capitol Mall, Sacramento, California 95814, (916) 440-2331 or the Western Regional Office, 3660 Wilshire Boulevard, Suite 810, Los Angeles, California 90010, (213) 688-3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 15, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-32919 Filed 10-21-80; 8:45 am]
BILLING CODE 6335-01-M

Delaware Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Delaware Advisory Committee to the Commission will convene at 3:30 p.m., and will end at 5:00 p.m., and will convene at 6:30 p.m., and will end at 9:00 p.m., on November 5, 1980, at the J. Caleb Boggs Federal Building, Federal Court Room, Wilmington, Delaware 19801. The purpose of the afternoon meeting is to report on the State Advisory Committee Chairpersons Conference; discuss the Regional Project on Northeast Corridor contracting and planning for FY '81. The purpose of the evening meeting is discussion of State Board of Education's proposal to redistrict the New Castle County School District into four separate school districts.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Ms. Beatrice R. Coker, 3106 North Van Buren, Wilmington, Delaware 19802, (302) 764-0137 or the Mid-Atlantic Regional Office, 2120 L Street, N.W., Washington, D.C. 20037, (202) 254-6717.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 15, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-32920 Filed 10-21-80; 8:45 am]
BILLING CODE 6335-01-M

Florida Advisory Committee; Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the Florida Advisory Committee of the Commission originally scheduled for October 22-23, 1980, at the Sheraton Hotel, 224 E. Garden Street, Pensacola, Florida 32501, (FR Doc. 80-30436 on page 65002) has been changed.

The meeting now will be held at the Seville Inn, Gold Room, 223 E. Garden Street, Pensacola, Florida 32501, beginning at 7:30 p.m., and ending at 10:00 p.m., on October 22, 1980. The press conference on October 23, 1980 will convene at 10:00 a.m., and will end at 12:30 p.m.

Dated at Washington, D.C., October 16, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-32921 Filed 10-21-80; 8:45 am]
BILLING CODE 6335-01-M

Indiana Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Indiana Advisory Committee to the Commission will convene at 7:00 p.m., and will end at 10:00 p.m., on November 6, 1980, at Gary City Hall, Gary Room, 2nd Floor, 401 Broadway Street, Gary, Indiana 46402. The purpose of the meeting is for the Employment sub-committee to report on their review of the data requested as a result of the employment study of city-council government in Indianapolis, Indiana and the full committee will make recommendations to staff on their concepts and observations on what should be included in the report. Also, staff will give an update on the monitoring of civil rights activities in Muncie, Indiana and the Housing sub-committee will submit their final draft on the Housing Study. New business will also be discussed.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mrs. Harriette B. Conn, 501 State Office Building, Indianapolis, Indiana 46204, (317) 633-6723 or the Midwestern Regional Office, 230 South

Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 15, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-32922 Filed 10-21-80; 8:45 am]

BILLING CODE 6335-01-M

Minnesota Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Minnesota Advisory Committee to the Commission will convene at 10 a.m., and will end at 12 p.m., on November 7, 1980, at Duluth Radisson, 505 W. Superior, Duluth, Minnesota 55802. The purpose of the meeting is to release the Duluth Desegregation Statement and discuss the Twin Cities Police Report.

Persons desiring additional information or planning a presentation to the committee, should contact the Chairperson, Ms. Lupe Lopez, 509 Sibley, St. Paul, Minnesota 55101, (612) 227–8954.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 15, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-32923 Filed 10-21-80; 8:45 am]

BILLING CODE 6335-01-M

New Jersey Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New Jersey Advisory Committee to the Commission will convene at 6:30 p.m., and will end at 8:30 p.m., on November 13, 1980, at the Ramada Inn, Route 18, School House Lane, New Brunswick, New Jersey 08816. The purpose of the meeting is to discuss coming year projects.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Clyde C. Allen, 62 Sheridan Avenue, Plainfield, New Jersey 07060, (212) 572–7577 or the Eastern Regional Office, 26 Federal Office Building, Room 1639, New York, New York 10007, (212) 264–0543.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 17, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-32924 Filed 10-21-80; 8:45 am]

BILLING CODE 6335-01-M

Oklahoma Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Oklahoma Advisory Committee to the Commission will convene at 4:00 p.m., and will end at 7:00 p.m., on November 20, 1980, at Langston University, President's Conference Room, Langston, Oklahoma 73050. The purpose of the meeting is to discuss desegregation of higher education project.

Persons desiring additional information or planning a presentation to the Committee should contact the Chairperson, Rep. Hannah Atkins, State Capitol Building, Room 334, Oklahoma City, OK 73105, (405) 521–2711 or the Southwestern Regional Office, Heritage Plaza, 418 South Main, San Antonio, Texas 78204, (512) 229–5570.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 15, 1980.

Thomas L. Newmann,

Advisory Committee Management Officer.

[FR Doc. 80-32925 Filed 10-21-80; 8:45 am]

BILLING CODE 6335-01-M

Wyoming Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Wyoming Advisory Committee to the Commission will convene at 9:00 a.m., and will end at 12:00 p.m., on November 15, 1980, at the Federal Building, 100 East B Street, Room 3116, Casper, Wyoming 82601. The purpose of the meeting is to report on the SAC Chairs Conference in Washington and update the progress of research into working conditions for women and minorities in mineral extraction industries.

Persons desiring additional information or planning a presentation to the Committee should contact the Chairperson, Mrs. Jamie C. Ring, 520 Parkview Drive, Casper, Wyoming 82601, (307) 237–9504 or the Rocky Mountain Regional Office, 1020 Fifteenth Street, Suite 2235, Denver, Colorado 80202, (303) 837–2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 15, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-32926 Filed 10-21-80; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 164]

Resolution and Order Approving Application of Border Industrial Development, Inc. for a Foreign-Trade Zone in Nogales, Ariz.

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the Authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81U), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of Border Industrial Development, Inc., Nogales, Arizona, filed with the Foreign-Trade Zones Board (the Board) on February 26, 1980, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Nogales, Arizona, within the Nogales Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves an industrial park type zone that envisages the possible construction of buildings by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary

of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant To Establish, Operate, and Maintain a Foreign-Trade Zone in Nogales, Ariz., Within the Nogales Customs Port of Entry

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81U) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports to entry under the jurdiction of the United States;

Whereas, Border Industrial Development, Inc., (the Grantee), a non-profit Arizona civic corporation, has made application (filed February 26, 1980) in due and proper form to the Board, requesting the establishment, operation and maintenance of a foreign-trade zone in Nogales, Arizona, within the Nogales Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's Regulations (15 CFR Part 400) are satisfied;

Now, Therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 60 at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, said grant being subject to the provisions, conditions, and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone site in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 15th day of October 1980, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Luther H. Hodges, Jr.,

Chairman and Executive Officer.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 80-32908 Filed 10-21-80; 8:45 am]

BILLING CODE 3510-25-M

COMMISSION ON EXECUTIVE, LEGISLATIVE, AND JUDICIAL SALARIES

Public Hearing

AGENCY: Commission on Executive, Legislative, and Judicial Salaries.

ACTION: Notice of Public Hearing.

SUMMARY: In accordance with the Federal Advisory Committee Act, notice is hereby given of a meeting of the Commission on Executive, Legislative, and Judicial Salaries, open to public observation and participation. The purpose of the meeting is to solicit the views of the public concerning the appropriate pay levels and relationships between and among executive, legislative, and judicial salaries in the Federal Government.

DATE: Beginning at 1 p.m. on Thursday, November 6, and at 9:30 a.m. on Friday, November 7, 1980.

ADDRESSES: The Cash Room, (Pennsylvania Avenue Entrance), Department of the Treasury, 15th and Pennsylvania Avenue, N.W. Washington, D.C.

FOR FURTHER INFORMATION: Contact Lewis Shollenberger, Suite 440, 1815 N. Lynn Street, Arlington, Virginia 22209. Telephone (703) 235–2782.

SUPPLEMENTARY INFORMATION: Pursuant to section 225 of Public Law 90–206, the Commission is appointed every fourth fiscal year to make recommendations to the President on the appropriate level of compensation for the Vice President, and for positions in the Executive Branch from Cabinet Officers through positions at Level V, for the Members of Congress, for Supreme Court Justices and other members of the Federal Judiciary, and for certain other Federal officers. The Commission will submit its report to the President in early December 1980. As part of its review, the Commission wishes to seek out and carefully consider the views of all interested parties, including Federal government officials, organized labor, the business community, professional associations, and the general public.

The Commission requests that persons wishing to give testimony at this public hearing submit the subjects to be covered in writing and a summary statement of the views to be covered including name, organization, telephone number and address, to the individual named above, no later than Friday, October 31. The summaries should not exceed two typewritten pages, excluding any supplemental data such as charts, etc. which support the testimony. The Commission will then respond by telephone to those wishing to testify, giving the date and time of the appearance, and the amount of available time scheduled for testimony.

Persons who cannot testify at this hearing are invited to submit written views and comments to the Commission. The Commission requests that all written views and comments be submitted no later than the closing date of the public hearing on November 7, 1980.

While the Commission appreciates that the scope and complexity of these issues will make it difficult for some interested parties to respond fully in the time allowed, it must be emphasized that the Commission has its own time restraints and earnestly solicits the recommendations of all interested parties.

Alfred M. Zuck,

Executive Director.

[FR Doc. 80-33044 Filed 10-21-80; 8:45 am]

BILLING CODE 6820-AZ-M

DEPARTMENT OF DEFENSE

Department of the Navy

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I (1976)), notice is hereby given that the Naval Research Advisory Committee will meet on November 13, 1980, at the United States Naval Observatory, Washington, D.C., and on November 14, 1980, at the Pentagon, Washington, D.C. Sessions of the meeting will commence at 8:30 a.m. and terminate at 5:00 p.m. on November 13, 1980, and commence at 8:00 a.m. and terminate at 5:00 p.m. on November 14, 1980. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of star positions in aiding ship navigation, time service, anti-jam communications, jamming, tactical warning, nuclear effects, and other related research. These matters constitute classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to Executive order. The classified and non-classified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 522b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Captain Jesse B. Morris, U.S. Navy, Office of Naval Research (Code 700), 800 North Quincy Street, Arlington, Virginia 22217, telephone No. (202) 696–5086.

Dated: October 10, 1980.

P. B. Walker,

Captain, JAGC, U.S. Navy Alternate Federal Register Liaison Officer.

[FR Doc. 80-32897 Filed 10-21-80; 8:45 am]

BILLING CODE 3810-71-M

Office of the Secretary

Defense Intelligence School Panel of the National Defense University and the Defense Intelligence School

Pursuant to the provisions of Subsection (d) Section 10 of Public Law 92–463, as amended by Section 5 of Public Law 94–409, notice is hereby given that a partially closed meeting of the Defense Intelligence School Panel of the Board of Visitors of the National Defense University and the Defense Intelligence School will be held on-site at the School in Washington, D.C. on 17, 18 and 19 November 1980.

Morning sessions on 17, 18 and 19 November 1980 will be devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and will therefore be closed to the public. Subject matter will be concerned with specialized instructional requirements and related curricula content.

M. S. Healy,

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

October 17, 1980.

[FR Doc. 80-32937 Filed 10-21-80; 8:45 am]

BILLING CODE 3810-70-M

Department of Defense Wage Committee; Notice of Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92–463, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, December 2, 1980; Tuesday, December 9, 1980; Tuesday, December 16, 1980, Tuesday, December 23, 1980; and Tuesday, December 30, 1980 at 10:00 a.m. in Room 3D–325, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Public Law 92–392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92–463, the Federal Advisory Committee Act, meetings may be closed to the public when they are "concerned with matters listed in section 552b. of Title 5, United States Code." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D–281, The Pentagon, Washington, D.C.

M. S. Healy,

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

October 17, 1980.

[FR Doc. 80-32936 Filed 10-21-80; 8:45 am]

BILLING CODE 3810-70-M

DELAWARE RIVER BASIN COMMISSION

Comprehensive Plan; Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on November 18, 1980, beginning at 10:00 a.m. The hearing will be in the Stockholm Room of the Holiday Inn in Kulpsville, Montgomery County, Pennsylvania (Exit 31 of the northeast extension of the Pennsylvania Turnpike). The subject of the hearing is amendments of the Comprehensive Plan, and applications under Section 3.8 of the Delaware River Basin Compact, for the following interrelated projects:

1. *Neshaminy Water Resources Authority D–65–76 CP (8).* A water supply project involving an intake and pumping station on the Delaware River at Point Pleasant, Plumstead Township, Bucks County, Pennsylvania; a transmission main from Point Pleasant to the Bradshaw reservoir proposed by the Philadelphia Electric Company; a transmission main from Bradshaw reservoir to the North Branch Neshaminy Creek; a water treatment plant at the confluence of Pine Run with North Branch Neshaminy Creek in the Borough of Chalfont; and, southern and western transmission mains from the water treatment plant to serve areas in Bucks and Montgomery Counties. The applicant proposes to divert a maximum of 63 million gallons per day initially,

and to increase the diversions incrementally to a maximum of 95 million gallons per day by the year 2010.

2. *Philadelphia Electric Company D–79–52 CP.* A water supply project involving a 70 million gallon storage reservoir near Bradshaw Road in Plumstead Township, Bucks County, Pennsylvania; a proposed pumping station adjacent to the reservoir; and a seven mile transmission main from the reservoir to the East Branch Perkiomen Creek. The project will provide water supply by way of Perkiomen Creek to the Limerick nuclear generating station near Pottstown, Montgomery County, Pennsylvania, during those periods when the Schuylkill River and Perkiomen Creek flows are insufficient to maintain full plant operation. When operating, the system will withdraw from Bradshaw reservoir at a miximum rate of 46.2 million gallons per day.

Drafts of Delaware River Basin Commission dockets for each of the above project review applications are available from the Commission upon request. These documents provide a more detailed description of each project and set forth proposed terms and conditions under which the projects would be operated, if approved by the Commission.

The public hearing will run from 10 a.m. until 5 p.m. and will resume with an evening session at 7:30 p.m. Persons wishing to testify are requested to notify the Secretary to the Commission, by phone or in writing, prior to 5 p.m., Friday, November 14, 1980. Written testimony may be submitted at the hearing in lieu of oral testimony and will be made a part of the record. The record of the hearing will remain open until 5 p.m., Friday, December 5, 1980, for receipt of written testimony.

W. Brinton Whitall,

Secretary.

October 15, 1980.

[FR Doc. 80–32898 Filed 10–21–80; 8:45 am]

BILLING CODE 6360–01–M

DEPARTMENT OF EDUCATION

Board of Advisors to the Fund for the Improvement of Postsecondary Education; Renewal

Pursuant to the Federal Advisory Committee Act, 5 USC Appendix I, notice is given of the renewal of the Board of Advisors to the Fund for the Improvement of Postsecondary Education. The Board advises the Secretary, the Assistant Secretary for Educational Research and Improvement, and the Director, Fund for the Improvement of Postsecondary Education, on projects under consideration for support by the fund, and on the operations of the Fund generally. This includes activities such as advising on planning documents and guidelines prepared by the Director of the Fund, and advising on project ideas submitted to the Fund in response to these guidelines. This Board will expire when the National Board of the Fund for the Improvement of Postsecondary Education authorized by the Education Amendments of 1980, Pub. L. 96–374, is properly chartered and established.

Further information on the Board may be obtained from Arturo Madrid, Director, Fund for the Improvement of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202, telephone: (202) 245–8091.

Dated: October 16, 1980.

John Gabusi,

Assistant Secretary for Management.

[FR Doc. 80–32931 Filed 10–21–80; 8:45 am]

BILLING CODE 4000–01–M

Fund for the Improvement of Postsecondary Education; Meeting

AGENCY: Fund for the Improvement of Postsecondary Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the Board of Advisory to the Fund for the Improvement of Postsecondary Education. This notice also describes the functions of the Board. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463, Sec. 10(a)(2)).

DATE: November 7, 1980, 3:00 p.m. to 9:00 p.m.; November 8, 1980, 9:00 a.m. to 12:00 p.m.

ADDRESS: Sheraton French Lick Resort, French Lick, Indiana.

FOR FURTHER INFORMATION CONTACT: Arturo Madrid, Director, Fund for the Improvement of Postsecondary Education, 400 Maryland Avenue, SW., Washington, D.C. 20202 (202/245–8091).

SUPPLEMENTARY INFORMATION: The Board of Advisors to the Fund for the Improvement of Postsecondary Education was established under Section 404 of the General Education Provisions Act. The Board of Advisors to the Fund was established to:

Recommend to the Director of the Fund, the Assistant Secretary for Educational Research and Improvement, and the Secretary priorities for funding and the approval or disapproval of grants and contracts of a given kind or over a designated amount.

The meeting of the Board shall be open to the public.

The proposed agenda includes:

- Developing and submitting for review procedures for the five competitions the Fund will be conducting in FY81.

The competitions are:

—Mina Shaughnessy Scholars Program
—Minority Institutions Science Improvement Program
—Comprehensive Programs
—ED/DOL Program
—Final Year Dissemination

Records shall be kept of all Board proceedings, and shall be available for public inspection at the Fund for the Improvement of Postsecondary Education, 400 Maryland Avenue, SW., Roomn 3123, Washington, D.C. 20202, between the hours of 8:00–4:30 weekdays, except Federal Holidays.

Signed: October 17, 1980.

F. James Rutherford,

Assistant Secretary, Education Research and Improvement.

[FR Doc. 80–32928 Filed 10–21–80; 8:45 am]

BILLING CODE 4000–01–M

National Advisory Council on Women's Educational Programs; Meeting

AGENCY: National Advisory Council on Women's Educational Programs.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Women's Educational Programs and its Executive, Federal Policies, Practices, and Programs, Civil Rights and WEEA Program Committees. 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. This document is intended to notify the general public of their opportunity to attend.

DATES: November 10, 1980, 1:00 p.m. to 5:00 p.m. and 7:30 p.m. to 9:30 p.m.; November 11, 1980, 8:30 a.m. to 5:00 p.m.; and November 12, 1980, 8:30 a.m. to 5:00 p.m.

ADDRESS: 1832 M Street, N.W., Suite 821, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Kathleen Dauito, Administrative Assistant, National Advisory Council on Women's Educational Programs, 1832 M Street, N.W., Suite 821, Washington, D.C. 20036 (202) 653–5846.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Women's Educational Programs is established pursuant to Public Law 95–561. The Council is mandated to (a) advise the

Secretary on matters relating to equal education opportunities for women and policy matters relating to the administration of the Women's Educational Equity Act of 1978; (b) make recommendations to the Secretary with respect to the allocation of any funds pursuant to the Act, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the Nation; (c) recommend criteria for the establishment of program priorities; (d) make such reports as the Council determines appropriate to the President and Congress on the activities of the Council; and (e) disseminate information concerning the activities of the Council.

The Council will hold an orientation session for its newly appointed members on November 10, 1980 from 1:00 p.m. to 5:00 p.m. The agenda will include a general overview of the past and present work and programs of the Advisory Council.

The meeting of the Executive Committee will take place on November 10, 1980 from 7:30 p.m. to 9:30 p.m. The agenda will include plans for the Council meeting as well as a discussion of current activities and future plans.

The meeting of the Federal Policies, Practices, and Programs Committee, the Civil Rights Committee, and the WEEA Program Committee will take place on November 11, 1980 from 8:30 a.m. to 3:00 p.m.

The agenda for the Federal Policies, Practices, and Programs Committee will include a discussion of the Council's Congressional testimony on sex equity provisions in the Vocational Education Act, the possibility of a second forum on vocational education, and the concerns of new members and suggestions for new directions.

The agenda for the Civil Rights Committee will include discussion of the Council's study on alternatives to Federal assistance termination as a sanction for certain types of Title IX violations, EEOC's call for information on layoffs and affirmative action, and follow-up on the sexual harassment report.

The agenda for the Program Committee will include the orientation of new members to the activities of the Committee, a general discussion of possible evaluation strategies of the FY 1980 WEEA Program, and a status report from the WEEAP Director.

The meeting of the National Advisory Council on Women's Educational Programs will take place from 3:30 p.m. to 5:00 p.m. on November 11 and from 8:30 a.m. to 5:00 p.m. on November 12, 1980. The agenda will include reports of the Executive Director and the Women's Educational Equity Act Program, action on recommendations from the Council's standing Committees, and plans for future Council meetings.

The meetings of the Council will be open to the public. Records will be kept of the proceedings and will be available for public inspection at the office of the National Advisory Council on Women's Educational Programs, 1832 M Street, NW., Suite 821, Washington, D.C.

Signed at Washington, D.C. on October 17, 1980.

Joy R. Simonson,

Executive Director.

[FR Doc. 80-32893 Filed 10-21-80; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

National Petroleum Council, Exploration Task Group of the Committee on Arctic Oil and Gas Resources; Meeting

Notice is hereby given that the Exploration Task Group of the Committee on Arctic Oil and Gas Resources will meet in December 1980. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Arctic Oil and Gas Resources will analyze the various issues bearing on expeditious resource development of this promising frontier area. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Exploration Task Group meeting follows:

The second meeting of the Exploration Task Group will be held on Tuesday, December 2, 1980, starting at 9:00 a.m., in Rooms 304 and 306, Chevron U.S.A. Inc., 575 Market Street, San Francisco, California.

The tentative agenda for the meeting follows:

1. Introductory remarks from Chairman and Government Cochairman.
2. Review preliminary drafts of individual assignments.
3. Discuss any other matters pertinent to the overall assignment of the Exploration Task Group.

The meeting is open to the public. The Chairman of the Exploration Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Exploration Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform L. A. Vickers, Office of Oil and Natural Gas, Resource Applications, 202/633-8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on October 16, 1980.

R. D. Langenkamp,

Deputy Assistant Secretary Resource Development & Operations Resource Applications.

October 16, 1980.

[FR Doc. 80-32950 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Land Use Task Group of the Committee on Environmental Conservation; Meeting

Notice is hereby given that the Land Use Task Group of the Committee on Environmental Conservation will meet in November 1980. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Environmental Conservation will analyze the environmental problems of the oil and gas industries and the impact of current environmental control regulations on the availability and costs of petroleum products and natural gas. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Land Use Task Group meeting follows:

The Land Use Task Group will hold its first meeting on Wednesday, November 5, 1980, starting at 2:00 p.m., in the Conference Room of the National Petroleum Council, 1625 K Street, NW, Washington, D.C.

The tentative agenda for the meeting follows:

1. Review Task Group assignment from the NPC Committee on Environmental Conservation.
2. Discuss Task Group study approach and individual assignments.
3. Discuss Task Group schedule.
4. Discuss any other matters pertinent to the overall assignment of the Land Use Task Group.

The meeting is open to the public. The Chairman of the Land Use Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Land Use Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform L. A. Vickers, Office of Oil and Natural Gas, Resource Applications, 202/633-8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on October 16, 1980.

R. D. Langenkamp,

Deputy Assistant Secretary Resource Development & Operations Resource Applications.

October 16, 1980.

[FR Doc. 80-32949 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Resource Assessment Task Group of the Committee on Arctic Oil and Gas Resources; Meeting

Notice is hereby given that the Resource Assessment Task Group of the Committee on Arctic Oil and Gas Resources will meet in October 1980. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Arctic Oil and Gas Resources will analyze the various issues bearing on expeditious resource development of this promising frontier area. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Resource Assessment Task Group meeting follows:

The second meeting of the Resource Assessment Task Group will be held on Friday, October 31, 1980, starting at 9:00 a.m., in the Board Room of DeGoyler and MacNaughton, 400 One Energy Square, Dallas, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks from Chairman and Government Cochairman.
2. Review recommendations for the methodology of the Task Group report.
3. Review the timetable of the Task Group.
4. Discuss any other matters pertinent to the overall assignment of the Task Group.

The meeting is open to the public. The Chairman of the Resource Assessment Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Resource Assessment Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform L. A. Vickers, Office of Oil and Natural Gas, Resource Applications, 202/633-8383, prior to the meeting and resonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on October 16, 1980.

R. D. Langenkamp,

Deputy Assistant Secretary, Resource Development & Operations, Resource Applications.

October 16, 1980.

[FR Doc. 80-32951 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangements

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada Concerning Civil Uses of Atomic energy, as amended, and the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreements involve approval of the following sales contracts:

S-CA-300, to the Government of Canada, 1,000 milligrams of uranium, greater than 99% enriched in U-235, to be used in a research program to develop analytical procedures concerning uranium isotopes.

S-EU-665, to Belgium, 1,000 milligrams of uranium containing 99.9% U-238, 100 milligrams of uranium containing approximately 90% U-236, 10 milligrams of plutonium enriched to greater than 85% Pu-244, and 50 milligrams of plutonium, enriched to 99.9985% in Pu-239. These materials are to be used for safeguards purposes, for burn-up determinations, for fuel analysis, and for exploratory research.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: October 16, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-32811 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangements

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy, as amended.

These subsequent arrangements to be carried out under the above mentioned Agreement involve the shipment of enriched uranium/aluminum alloy fuels from the locations below to the DOE Savannah River facility for reprocessing and storage of recovered uranium.

Reactor and location	Kilograms of contained uranium
FRG 1 and 2, Federal Republic of Germany	56
ESSOR, Italy	20

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and

security. These arrangements for returning U.S. origin highly enriched uranium (HEU) to the U.S. are consistent with U.S. non-proliferation policy in that they serve to reduce the amount of HEU abroad.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: October 16, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-32812 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

Dickey-Lincoln School Lakes Transmission Project; Public Meetings

The U.S. Department of Energy (DOE) will conduct public meetings to provide information and receive comments on a draft Environmental Impact Statement (EIS) describing electrical transmission facilities between the Comerford and Moore Dams and Franklin, New Hampshire, area. These meetings are scheduled as follows: Wednesday, November 12, 7:30 p.m., Littleton Town Hall, Littleton, New Hampshire, and Thursday, November 13, 7:30 p.m., Court Room, Plymouth Town Hall, Plymouth, New Hampshire.

The supplemental draft Environmental Impact Statement was filed with EPA on October 3, 1980, and notice of its availability was published in the **Federal Register** on October 10, 1980. A 45-day period has been allotted for public comment and review of the document.

Questions regarding the EIS should be directed to Timothy J. Murray, Assistant Project Manager for Environmental Studies, Dickey-Lincoln School Lakes Transmission EIS Project, Bonneville Power Administration—ETMC, P.O. Box 3621, Portland, Oregon 97208.

Dated at Washington, D.C., this 17th day of October, 1980.

Roger E. Seifert,

Assistant Manager.

[FR Doc. 80-32952 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Volume 300]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

October 16, 1980.

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION								
*EXXON CORPORATION					RECEIVED: 10/02/80 JA: LA			
8100573	80-2833	1772520204	102		S L 6706 NO A-1	MAIN PASS BLOCK 74	240,0	
*GLENDA PETROLEUM CORP					RECEIVED: 10/02/80 JA: LA			
8100561	80-3413	1711120628	108		EXXON 23-A #7 S/N 148410	MONROE	3,9	MID LOUISIANA GAS
8100566	80-3408	1711120720	108		KELTON HOWARD NO 1 S/N 150153	MONROE	11,0	MID LOUISIANA GAS CO
8100562	80-3412	1711120722	108		KELTON HOWARD NO 3 S/N 150155	MONROE	12,0	MID LOUISIANA GAS CO
8100563	80-3411	1711120723	108		KELTON HOWARD NO 4 S/N 150156	MONROE	12,0	MID LOUISIANA GAS CO
8100564	80-3410	1711120725	108		KELTON HOWARD NO 5 S/N 150173	MONROE	13,0	MID LOUISIANA GAS CO
8100565	80-3409	1711120726	108		KELTON HOWARD NO 6 S/N 150174	MONROE	13,0	MID LOUISIANA GAS CO
8100567	80-3420	1711120547	108		MAGGIE SMITH C-1 S/N 147359	MONROE	19,0	MID LOUISIANA GAS CO
8100568	80-3419	1711120567	108		MAGGIE SMITH C-3 S/N 147534	MONROE	20,0	MID LOUISIANA GAS CO
8100569	80-3418	1711120601	108		MAGGIE SMITH H-1 S/N 147905	MONROE	16,0	MID LOUISIANA GAS CO
8100571	80-3416	1711120606	108		MAGGIE SMITH H-2 S/N 147917	MONROE	17,0	MID LOUISIANA GAS CO
8100570	80-3417	1711120763	108		MAGGIE SMITH J #1 S/N 150679	MONROE	13,0	MID LOUISIANA GAS CO
8100572	80-3415	1707321116	108		PERRY HEIRS B #6 S/N 161006	MONROE	3,5	MID LOUISIANA GAS
8100560	80-3414	1707321119	108		PERRY HEIRS B #9 S/N 161110	MONROE	3,5	MID LOUISIANA GAS
*KERR-MCGEE CORPORATION					RECEIVED: 10/02/80 JA: LA			
8100574	80-2792	1710121079	102		BESSIE L CARTER #1	JEANERETTE	1460,0	TEXAS GAS TRANSMISSI
OHIO DEPARTMENT OF NATURAL RESOURCES								
*ALTHEIRS OIL INC					RECEIVED: 10/01/80 JA: OH			
8100501		3412724684	103		M SABATINO #1	PIKE TWP	4,0	
8100374		3405320539	103		MELVIN COEN #1	CHESHIRE TWP	4,0	COLUMBIA GAS TRANSMI
*APPALACHIAN PETROLEUM CORP					RECEIVED: 10/01/80 JA: OH			
8100330		3416725668	103		E HULETT #1	ADAMS	3,5	COLUMBIA GAS TRANSMI
8100502		3412122376	103		HAROLD REED #1-1	JACKSON	3,5	COLUMBIA GAS TRANSMI
8100328		3416725684	103		M FARNSWORTH #1	ADAMS	3,5	COLUMBIA GAS TRANSMI
8100329		3416725644	103		R ADDLESBURGER #4	ADAMS	3,5	COLUMBIA GAS TRANSMI
*ATLAS ENERGY GROUP INC					RECEIVED: 10/01/80 JA: OH			
8100449		3413322305	103		CARVER BASINAIS NO 1 - #0892	DEERFIELD	0,0	EAST OHIO GAS CO
*BEREA OIL AND GAS CORPORATION					RECEIVED: 10/01/80 JA: OH			
8100485		3415521391	102		HUBISH #3	BROOKFIELD	1,0	COLUMBIA GAS TRANSMI
8100486		3415521296	103		THOMAS UNIT #2	VIENNA	1,0	EAST OHIO GAS CO
*BJVC ENERGY MANAGEMENT CORP					RECEIVED: 10/01/80 JA: OH			
8100405		3410521882	103		HARLEY RIGGS #3	BEDFORD	3,0	COLUMBIA GAS TRANSMI
*BROWN PETROLEUM CORP					RECEIVED: 10/01/80 JA: OH			
8100410		3407522401	103		BRUMME #4	KILLBUCK	1,5	COLUMBIA GAS TRANSMI
8100414		3407522262	103		FLINTSTONE FARMS #2	KILLBUCK	3,0	NATIONAL GAS & OIL C
8100406		3409921228	103		PARKS #2	CANFIELD	38,0	EAST OHIO GAS CO
*BUCKEYE OIL PRODUCING CO					RECEIVED: 10/01/80 JA: OH			

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8100404		3411121881	108		BEARDMORE #1		5,0	COLUMBIA GAS TRANSMI
*CAMERON BROS					RECEIVED: 10/01/80 JA: OH			
8100440		3411925277	103		OHIO DIST COUNCIL INC #1	WASHINGTON	10,0	COLUMBIA GAS TRANSMI
*CLARENCE K TUBSEL JR					RECEIVED: 10/01/80 JA: OH			
8100386		3400721407	103		J KALLIO #1	CITY OF CONNEAUT	30,0	
*DERRICK PETROLEUM CO					RECEIVED: 10/01/80 JA: OH			
8100379		3403123748	103		DOUGLAS SWIGERT #1	JACKSON	0,0	
8100378		3403123800	103		HARRY STURMAN & H SWARTZ #1	PERRY	0,0	
8100377		3403123865	103		LYNN MIKESELL #1	PERRY	0,0	
*DUSTY DRILLING COMPANY INC					RECEIVED: 10/01/80 JA: OH			
8100445		3411521984	103		TAYLOR #1	DEERFIELD	0,1	COLUMBIA GAS TRANSMI
*ENERGY DEVELOPMENT CORP					RECEIVED: 10/01/80 JA: OH			
8100326		3416922367	103		CANANKAMP #1	PLAIN	16,0	
8100388		3400721381	103		DEAN #1	NEW LYME	20,0	EAST OHIO GAS CO
8100387		3400721386	103		FORRISTAL #1	NEW LYME	20,0	EAST OHIO GAS CO
8100389		3400721365	103		PIETRASZ #2	ORWELL	20,0	EAST OHIO GAS CO
8100385		3400721415	103		STOKES #1	NEW LYME	20,0	EAST OHIO GAS CO
*FORTUNE GAS AND OIL INC					RECEIVED: 10/01/80 JA: OH			
8100446		3411521832	103		KLIES #1	BLOOM	30,0	EAST OHIO GAS CO
*GERALD GREEN					RECEIVED: 10/01/80 JA: OH			
8100403		3411121966	103		GERALD GREEN #1	WAYNE	12,0	
*J D DRILLING CO					RECEIVED: 10/01/80 JA: OH			
8100375		3405320470	103		EARL ICARD #1	CHESHIRE	3,0	COLUMBIA GAS TRANSMI
*J P WHITE					RECEIVED: 10/01/80 JA: OH			
8100483		3415521412	103		NEWCOMB LUMBER #3	NEWTON	50,0	COLUMBIA GAS TRANSMI
*L & M PETROLEUM					RECEIVED: 10/01/80 JA: OH			
8100331		3416725582	107		CHARLES LOWE #2	FEARING	12,8	COLUMBIA GAS TRANSMI
8100337		3416725379	107		DEHMLOW/ZIMMER UNIT #1	FEARING	12,8	COLUMBIA GAS TRANSMI
8100399		3416725017	107		DOYLE DUCKWORTH UNIT #1	FEARING	12,8	COLUMBIA GAS TRANSMI
8100335		3416725472	107	D	ELMER MILLER #2	FEARING	12,8	COLUMBIA GAS TRANSMI
8100334		3416725483	107		HAROLD DAY #2	FEARING	12,8	COLUMBIA GAS TRANSMI
8100400		3416724973	107		HOWARD IDDINGS #1	MARIETTA	12,8	COLUMBIA GAS TRANSMI
8100336		3416725412	107		LYLE SCHULTHEIS 1-B	FEARING	12,8	COLUMBIA GAS TRANSMI
8100333		3416725497	107		LYLE SCHULTHEIS 2-A	FEARING	12,8	COLUMBIA GAS TRANSMI
8100332		3416725569	107		OTTMIRE DUFF #1	LAWRENCE	12,8	COLUMBIA GAS TRANSMI
8100359		3416725018	107		PAUL ZIMMER #1	FEARING	12,8	COLUMBIA GAS TRANSMI
8100338		3416724377	107		ROBERT BARTH #4	NEWPORT	12,8	COLUMBIA GAS TRANSMI
*NATIONAL PETROLEUM CORP					RECEIVED: 10/01/80 JA: OH			
8100390		3400721142	103		C REINKE #2	JEFFERSON	15,0	EAST OHIO GAS CO
8100402		3411121998	107		D CHRISTMAN #2	MALAGA	15,0	TEXAS EASTERN TRANSM
8100401		3411122071	107		R PETERS #8	MALAGA	15,0	TEXAS EASTERN TRANSM
*OHIO TITAN ENERGY CO LTD 1980-6					RECEIVED: 10/01/80 JA: OH			
8100413		3407522352	103		JOHN C BUREN #3	HARDY	1700,0	COLUMBIA GAS TRANSMI
*OHIO TITAN ENERGY CO LTD 1980-4					RECEIVED: 10/01/80 JA: OH			
8100411		3407522357	103		JOHN C BUREN #1	HARDY	1200,0	COLUMBIA GAS TRANSMI
*OHIO TITAN ENERGY CO LTD 1980-5					RECEIVED: 10/01/80 JA: OH			
8100412		3407522353	103		JOHN C BUREN #2	HARDY	1300,0	COLUMBIA GAS TRANSMI
*R H HUTCHESON					RECEIVED: 10/01/80 JA: OH			
8100496		3413320425	108		A ETAL WISE COM #1		3,5	EAST OHIO GAS CO
8100407		3409920196	108		ALLIANCE BRICK #1		9,2	EAST OHIO GAS CO
8100394		3400720244	108		BAILEY #1		1,7	EAST OHIO GAS CO
8100492		3415120234	108		BRADLEY & DONER #1		4,4	COLUMBIA GAS TRANSMI

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8100393		3400720245	108		C T KELNER #1		5,4	EAST OHIO GAS CO
8100491		3415120323	108		D G SHAFFER #1		1,9	COLUMBIA GAS TRANSMI
8100498		3413320405	108		D H HOSKINS #1		5,8	EAST OHIO GAS CO
8100408		3409920179	108		F & M E KNISLEY #1		14,1	EAST OHIO GAS CO
8100395		3400720243	108		I & A GLINIAK #1		1,6	EAST OHIO GAS CO
8100392		3400720324	108		J & M REBOVITCH #1		5,1	EAST OHIO GAS CO
8100495		3413320431	108		J KAPUSTA #1		3,4	EAST OHIO GAS CO
8100384		3401920415	108		J P MCQUEEN #1		2,9	EAST OHIO GAS CO
8100484		3415720966	108		JOHN G SCALIA #1		1,7	EAST OHIO GAS CO
8100500		3413320132	108		JOHN QUIN #2		6,6	EAST OHIO GAS CO
8100499		3413320136	108		JOHN QUIN #3		5,4	EAST OHIO GAS CO
8100391		3400720356	108		KOWALEWSKI UNIT #1		5,8	EAST OHIO GAS CO
8100448		3413320460	108		M & G OWEN #1		1,7	EAST OHIO GAS CO
8100494		3413320455	108		M T & G MORTER #1		9,7	EAST OHIO GAS CO
8100396		3400720227	108		P & E STEIN #1		2,3	EAST OHIO GAS CO
8100497		3413320419	108		R J & D B KEMMARY #1		2,5	EAST OHIO GAS CO
8100493		3415120199	108		WATSON #1		1,4	EAST OHIO GAS CO
*RELIANCE MANAGEMENT CO					RECEIVED: 10/01/80 JA: OH			
8100376		3404520586	108		GALON RODABAUGH #1		1,0	COLUMBIA GAS TRANSMI
*ROWLEY & BROWN PETROLEUM CORP					RECEIVED: 10/01/80 JA: OH			
8100443		3411923683	103		KILPATRICK #2	LICKING	72,0	COLUMBIA GAS TRANSMI
*STOCKER&SITLER INC					RECEIVED: 10/01/80 JA: OH			
8100481		3416320442	102		LOCKARD LEASE #1	CLINTON	73,0	
8100482		3416320434	102		LOCKARD UNIT #1	CLINTON	55,0	
*STRATA EXPLORATION INC LTD 1980-6					RECEIVED: 10/01/80 JA: OH			
8100409		3407522461	103		LEON GLICK #1	HARDY	750,0	COLUMBIA GAS TRANSMI
*SUSIE JANE GAS CO					RECEIVED: 10/01/80 JA: OH			
8100397		3408720254	108		JOHN PRATT #1		11,5	COLUMBIA GAS TRANSMI
*THE OXFORD OIL CO					RECEIVED: 10/01/80 JA: OH			
8100442		3411923960	108		ALPINE FARMS #1-A		9,0	COLUMBIA GAS TRANSMI
8100441		3411924383	108		LARRY MCCUTCHEON #1		4,0	COLUMBIA GAS TRANSMI
8100415		3407521495	108		MARY MILLER #1		15,0	COLUMBIA GAS TRANSMI
8100325		3411521324	108		MAURICE BUERGER #1		18,0	COLUMBIA GAS TRANSMI
*THUNDERBIRD PETROLEUM DEVELOP CO					RECEIVED: 10/01/80 JA: OH			
8100503		3412122296	103		C J BAKER #1	ELK	50,0	
*TOWNER PETROLEUM CO					RECEIVED: 10/01/80 JA: OH			
8100436		3412121759	108		A CROCK #1 G-8		6,0	EAST OHIO GAS CO
8100426		3412121823	108		AKE #1 J-17		6,0	JONES & LAUGHLIN STE
8100512		3412121826	108		AKE #2 J-16		8,0	JONES & LAUGHLIN STE
8100424		3412121825	108		AKE #3 J-15		4,5	JONES & LAUGHLIN STE
8100510		3412121828	108		AKE #4 J-20		3,0	JONES & LAUGHLIN STE
8100425		3412121824	108		AKE/HUTCHINS/FINLEY J-18		7,0	JONES & LAUGHLIN STE
8100341		3405922189	108		AYRES J-67		18,0	JONES & LAUGHLIN STE
8100358		3405922021	108		BEYMER/CHAPMAN USS-24		2,0	US STEEL CORP
8100461		3405922286	108		BISHARD PPG-38		21,0	JONES & LAUGHLIN STE
8100373		3405921897	108		BRILL #1 USS-2		7,0	US STEEL CORP
8100476		3405922215	108		BROWN W-36		3,0	WIERTON STEEL CORP
8100464		3405922276	108		BROWN W-46		8,0	WIERTON STEEL CO
8100348		3405922111	108		BUGOS PPG-15		4,0	PPG INDUSTRIES INC
8100371		3405921921	108		C FITZGERALD #1 USS-3		4,0	US STEEL CORP
8100478		3405922203	108		C GRAY J-64		4,5	JONES & LAUGHLIN STE
8100477		3405922212	108		C GRAY J-65		7,0	JONES & LAUGHLIN STE

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8100421		3405922440	108		CARLISLE #1 J-82		9,0	JONES & LAUGHLIN STE
8100420		3405922442	108		CARLISLE #2 J-83		19,0	JONES & LAUGHLIN STE
8100369		3405921928	108		CHAPMAN #1 USS-4		2,3	US STEEL CORP
8100322		3411521738	108		CO INFIRMARY #1 M-12		10,5	EAST OHIO GAS CO
8100323		3411521737	108		CO INFIRMARY #2 M-13		6,0	EAST OHIO GAS CO
8100367		3405921955	108		CRAMBLETT PPG-39		4,0	JONES & LAUGHLIN STE
8100431		3412121789	108		CROCK #3 B-1		5,0	EAST OHIO GAS CO
8100507		3412121879	108		CROCK #5 B-3		2,0	EAST OHIO GAS CO
8100324		3411521660	108		DANIELS M-10		6,0	EAST OHIO GAS CO
8100345		3405922121	108		DUNLAP #4 J-59		8,0	JONES LAUGHLIN STEEL
8100459		3405922292	108		DUNLAP W-42		18,0	WIERTON STEEL CO
8100509		3412121830	108		E & C HUTCHINS #4 J-26		9,6	JONES & LAUGHLIN STE
8100362		3405921986	108		EVANS USS-18		6,0	US STEEL CORP
8100418		3405922446	108		FERDON J-89		7,0	JONES & LAUGHLIN STE
8100344		3405922152	108		FOGLE W-26		5,0	WIERTON STEEL CO
8100474		3405922217	108		FORD W-33		6,0	WIERTON STEEL CORP
8100365		3405921959	108		FRESHLEY/CALAWAY USS-10		7,5	JONES & LAUGHLIN STE
8100453		3405922348	108		GEORGE-SCHULLER #1 PPG-31		20,0	JONES AND LAUGHLIN S
8100480		3405922198	108		GRAY #1 J-58		3,0	JONES & LAUGHLIN STE
8100472		3405922220	108		GRAY J-70		4,0	JONES & LAUGHLIN STE
8100355		3405922025	108		H WARNE PPG-2		9,0	JONES & LAUGHLIN STE
8100416		3405922471	108		HALE #2 W-56		9,0	WIERTON STEEL CO
8100430		3412121810	108		HARPER-JENKINS OM-5		4,0	EAST OHIO GAS CO
8100506		3412121887	108		HAYES/HUTCHINS/CLARK J-10		11,6	JONES & LAUGHLIN STE
8100456		3405922298	108		HICKMAN W-51		2,0	WIERTON STEEL CORP
8100455		3405922299	108		HICKMAN W-52		17,0	JONES & LAUGHLIN STE
8100350		3405922108	108		HITCHCOCK PPG-10		5,0	PPG INDUSTRIES INC
8100349		3405922109	108		HOSFELT/HITCHCOCK PPG-12		4,0	PPG INDUSTRIES INC
8100435		3412121766	108		HUTCHINS #1 J-11		3,7	JONES & LAUGHLIN STE
8100429		3412121816	108		HUTCHINS #2 J-13		2,0	JONES & LAUGHLIN STE
8100428		3412121817	108		J OGLE #1 OM-6		7,5	EAST OHIO GAS CO
8100364		3405921962	108		J OLIVER USS-14		6,0	US STEEL CORP
8100454		3405922300	108		JACKSON W-47		1,0	WIERTON STEEL CORP
8100462		3405922284	108		JOHNSON W-40		4,5	WIERTON STEEL CO
8100422		3405922439	108		JOHNSON/FRAME J-86		18,0	JONES & LAUGHLIN STE
8100473		3405922218	108		JOHNSTUN-WATSON W-29		5,0	WIERTON STEEL CO
8100475		3405922216	108		KLIES W-30		5,0	WIERTON STEEL CO
8100363		3405921985	108		LANDMAN USS-16		0,5	US STEEL CORP
8100361		3405921992	108		LANDMAN USS-19		7,0	US STEEL CORP
8100466		3405922273	108		LARRICK W-44		8,0	WEIRTON STEEL CO
8100368		3405921954	108		LATCHIC #1 USS-8		7,0	US STEEL CORP
8100457		3405922297	108		LATTEA J-77		2,0	JONES & LAUGHLIN STE
8100460		3405922290	108		LAUGHMAN PPG-30		14,0	JONES & LAUGHLIN STE
8100465		3405922283	108		LAUGHMAN W-48		7,0	JONES & LAUGHLIN STE
8100417		3405922463	108		LINDLEY #1 PPG-64		10,0	JONES & LAUGHLIN STE
8100351		3405922106	108		LINN PPG-7		3,5	PPG INDUSTRIES INC
8100353		3405922102	108		LINN PPG-8		8,0	PPG INDUSTRIES INC
8100471		3405922221	108		LONG J-74		5,7	JONES & LAUGHLIN STE
8100504		3412122000	108		M SAYRE B-6		3,8	EAST OHIO GAS CO
8100432		3412121788	108		M WEBER #1 OM-3		9,4	EAST OHIO GAS CO
8100343		3405922183	108		MCCONNELL USS-27		3,0	US STEEL CORP
8100370		3405921927	108		MCCORMICK USS-5		9,6	US STEEL CORP

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8100511		3412121827	108		MCKITRICK #1 J-21		7,6	JONES & LAUGHLIN STE
8100423		3405922433	108		MCQUAIN J-85		9,0	JONES & LAUGHLIN STE
8100451		3405922380	108		MOORE #1 PPG-62		18,0	JONES & LAUGHLIN STE
8100479		3405922201	108		OLIVER J-71		13,0	JONES & LAUGHLIN STE
8100339		3405922191	108		OLIVER J-72		0,0	JONES & LAUGHLIN STE
8100340		3405922190	108		OLIVER J-73		16,0	JONES & LAUGHLIN STE
8100360		3405922016	108		OLIVER USS-17		4,5	JONES & LAUGHLIN STE
8100470		3405922225	108		PETERSUN J-68		9,0	JONES & LAUGHLIN STE
8100357		3405922023	108		R MOOREHEAD PPG-1		2,5	JONES & LAUGHLIN STE
8100467		3405922241	108		RAIMER W-49		5,0	JONES & LAUGHLIN STE
8100468		3405922239	108		RAIMER W-50		11,0	JONES & LAUGHLIN STE
8100346		3405922119	108		RAMELLI & CANEL 1 J-54		11,0	JONES & LAUGHLIN STE
8100347		3405922118	108		RAMELLI & CANEL 2 J-55		15,0	JONES & LAUGHLIN STE
8100438		3412121750	108		RITTERBECK G-3		6,6	COLUMBIA GAS TRANSMI
8100437		3412121754	108		ROSS #1 G-4		5,8	EAST OHIO GAS CO
8100444		3411922401	108		RUBY #1		10,0	EAST OHIO GAS CO
8100372		3405921898	108		S BRILL #1 USS-6		4,0	US STEEL CORP
8100433		3412121786	108	D	S GREATHOUSE UM-2		24,5	EAST OHIO GAS CO
8100427		3412121820	108		SANFORD #1 G-7		2,0	EAST OHIO GAS CO
8100463		3405922285	108		SCHULLER/BISHARD PPG #37		5,0	JONES & LAUGHLIN STE
8100450		3405922410	108		SHOWALTER #1 PPG-40		8,0	JONES & LAUGHLIN STE
8100352		3405922105	108		SLASOR PPG-14		4,5	PPG INDUSTRIES INC
8100342		3405922187	108		SMITH J-63		4,7	JONES & LAUGHLIN STE
8100447		3405922431	108		T DEAN J-84		0,0	JONES & LAUGHLIN STE
8100434		3412121781	108		T FINLEY #1 J-12		3,7	JONES & LAUGHLIN STE
8100356		3405922024	108		TIPTON PPG-3		2,0	JONES & LAUGHLIN STE
8100366		3405921957	108		UMBERGER #1 USS-9		9,0	US STEEL CORP
8100439		3412121635	108		W LOVE #1		2,5	EAST OHIO GAS CO
8100505		3412121996	108		W SAYRE B-5		6,5	EAST OHIO GAS CO
8100354		3405922026	108		WADE PPG-23		4,0	PPG INDUSTRIES INC
8100419		3405922444	108		WATSON J-81		4,0	JONES & LAUGHLIN STE
8100469		3405922227	108		WEAVER W-34		8,0	WIERTON STEEL CO
8100508		3412121856	108		WEBBER/MILLER J-31		7,7	JONES & LAUGHLIN STE
8100452		3405922349	108		WHITE J-79		15,0	JONES & LAUGHLIN STE
8100458		3405922296	108		WORCHESTER J-80		5,0	JONES & LAUGHLIN STE
-WENNER PETROLEUM CORPORATION					RECEIVED: 10/01/80 JA: OH			
8100327		3416922243	103		CAROL SIX #1	PLAIN - WAYNE POOL	0,0	COLUMBIA GAS TRANSMI
-WESTERN HYDROCARBONS CORP					RECEIVED: 10/01/80 JA: OH			
8100487		3415121128	108		BIERY-GREEN #1	SW 1/4 OF #12	8,0	EAST OHIO GAS CO
8100383		3402920558	108		BON #1		15,1	EAST OHIO GAS CO
8100380		3402920573	108		GRANGE UNIT #1		1,6	EAST OHIO GAS CO
8100382		3402920568	108		HANDSCHIN		4,5	EAST OHIO GAS CO
8100488		3415121115	108		NEY A&D		15,2	EAST OHIO GAS CO
8100489		3415121112	108		RAY M E & MINA J		5,3	EAST OHIO GAS CO
*8100381		3402920561	108		STEIGER A&P COM I		6,8	EAST OHIO GAS CO
8100490		3415121110	108		WILCOXON/HOLSOPPLE		9,7	EAST OHIO GAS CO
-WILLOW WOOD GAS CO					RECEIVED: 10/01/80 JA: OH			
8100398		3408720142	108		W D HOLSCHUH NO 1		4,0	COLUMBIA GAS TRANSMI

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OKLAHOMA CORPORATION COMMISSION

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-A L ABERCROMBIE INC					RECEIVED: 10/02/80 JA: OK			

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8100580	05389	3500700000	108		BOATES #1	FLORIS	15,0	MICHIGAN-WISCONSIN P
-AMERADA HESS CORPORATION					RECEIVED: 10/02/80 JA: OK			
8100606	05513	3501500653	108		JOSIE NOVOTNY A NO 1	WEST CEMENT	9,9	NATURAL GAS PIPELINE
8100617	04788	3504320984	103		P E MERCER NO 1	PUTNAM	750,0	MICHIGAN WISCONSIN P
-ANDOVER OIL COMPANY					RECEIVED: 10/02/80 JA: OK			
8100587	05396	3515100000	108		BEHRENS-HEATH #15-1	S E ALVA	3,6	OKLAHOMA NATURAL GAS
8100615	05493	3501721152	103		CLARA M SCHROEDER #18-1		185,0	DELMI GAS PIPELINE C
8100608	05505	3501721344	103		GLOBE LIFE M #34-1	WILDCAT	185,0	DELMI GAS PIPELINE C
-APACHE CORPORATION					RECEIVED: 10/02/80 JA: OK			
8100609	05503	3512920392	102		BURROWS #1-29		1460,0	MICHIGAN-WISCONSIN P
8100634	05236	3512900000	103		TAYLOR #1-1		1277,5	EL PASO NATURAL GAS
-ARKLA EXPLORATION COMPANY					RECEIVED: 10/02/80 JA: OK			
8100596	05484	3503920265	103		LEONARD #3-25	WEATHERFORD	365,0	ARKANSAS LOUISIANA G
8100597	05483	3514920052	102		ROY #1	DILL CITY	85,0	OKLAHOMA NATURAL GAS
-BLAIK OIL COMPANY					RECEIVED: 10/02/80 JA: OK			
8100603	05443	3504722062	103		ISHMAEL UNIT #4	SOONER TREND	58,0	EXXON COMPANY USA
8100575	05501	3508321236	103		STROTHMAN #1	S E ELK HORN	18,0	EASON OIL CO
-CABOT CORPORATION					RECEIVED: 10/02/80 JA: OK			
8100614	05494	3513920310	108		BALZER #1-9		14,0	NATURAL GAS PIPELINE
-CAYMAN EXPLORATION CORP					RECEIVED: 10/02/80 JA: OK			
8100631	05355	3507322228	103		STORM #1		0,0	CITIES SERVICE GAS C
-COTTON PETROLEUM CORPORATION					RECEIVED: 10/02/80 JA: OK			
8100578	05442	3504920237	108		MAXWELL NO 1	SOONER TREND	10,0	UNION TEXAS PETROLEU
-CROUCH PETROLEUM COMPANY					RECEIVED: 10/02/80 JA: OK			
8100604	05431	3505520259	108		SMITH-VANZANDT 1-21	BLUOMINGTON	5,2	WILLOW PIPELINE CO
-DAVIS OIL COMPANY					RECEIVED: 10/02/80 JA: OK			
8100592	05488	3503900000	103		LORENZ NO 1	SOUTH THOMAS	500,0	TRANSOK PIPELINE CO
-DICK BOGERT INC					RECEIVED: 10/02/80 JA: OK			
8100607	05512	3501121020	103		LAMLE 1-10	SOONER TREND	250,0	ARKANSAS LOUISIANA G
8100611	05499	3507322311	103		SCHUBER 1-21	SOONER TREND	60,0	PHILLIPS PETROLEUM C
-GETTY OIL COMPANY					RECEIVED: 10/02/80 JA: OK			
8100623	05478	3501500000	103		LENA THOMAS HEIRS NO 1	EAST BINGER	6,0	PHILLIPS PETROLEUM C
-GRACE PETROLEUM CORPORATION					RECEIVED: 10/02/80 JA: OK			
8100618	04737	3505128013	103		WHITENER 3-30	CHITWOOD	73,0	MOBIL OIL CORP
-HUNT ENERGY CORPORATION ET AL					RECEIVED: 10/02/80 JA: OK			
8100594	05486	3501520852	103		GILLINGHAM NO 1 (CULP MELTON)	UNNAMED FIELD	0,0	MICHIGAN WISCONSIN P
8100595	05485	3501520852	103		GILLINGHAM NO 1 (RED FORK)		0,0	MICHIGAN WISCONSIN P
-KAISER-FRANCIS OIL COMPANY					RECEIVED: 10/02/80 JA: OK			
8100581	04881	3505120873	103		ERWIN #1	WATONGA CHICKASHA TREND	1095,0	ARKANSAS LOUISIANA G
8100586	04687	3505120759	102		WHITING #1	S E CHICKASHA	365,0	MISSISSIPPI RIVER TR
-L & N EXPLORATION INC					RECEIVED: 10/02/80 JA: OK			
8100624	05477	3508321262	103		GALLOWAY #1	WEST BARNS	73,0	EASON OIL CO
-L G WILLIAMS OIL COMPANY INC					RECEIVED: 10/02/80 JA: OK			
8100633	05300	3501720954	103		KUNNEMAN #30-1	NORTH CONCHO	1,8	PHILLIPS PETROLEUM C
8100630	05303	3501720994	103		NEWER #34-1	NORTH CONCHO	3,7	PHILLIPS PETROLEUM C
8100576	05467	3501721327	103		WIEMAN #29-1	NORTH CONCHO	0,0	PHILLIPS PETROLEUM C
8100632	05302	3501721004	103		ZUM MALLEN #23-1	WEST PIEDMONT	20,0	PHILLIPS PETROLEUM C
-LOBAR OIL CO INC					RECEIVED: 10/02/80 JA: OK			
8100610	05502	3508321167	103		MAGUIRE NO 1	LOVELL FIELD	150,0	EASON OIL CO
-NIXON-DAVIS ENERGY CO INC					RECEIVED: 10/02/80 JA: OK			
8100600	05452	3508321152	103		JUNE #1	WEST MULHALL	200,0	EASON OIL CO
8100599	05453	3508321074	103		KYLE #1	S LUCIEN	12,0	EASON OIL CO
8100601	05451	3508321227	103		NORTON #1	WEST MULHALL	35,0	EASON OIL CO

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8100602	05450	3508321205	103		SMEDLEY #1	WEST MULHALL	120,0	EASON OIL CO
*OIL INVESTMENT CO					RECEIVED: 10/02/80 JA: OK			
8100584	02930	3507321299	108		HICKEY 29 NO 1	SOONER TREND	14,0	EASON OIL CO
*OMNI OIL & GAS INC					RECEIVED: 10/02/80 JA: OK			
8100598	05458	3507322388	103		BERT 28 NO 1	SOONER TREND FIELD	182,5	PHILLIPS PETROLEUM C
*P-T III LTD					RECEIVED: 10/02/80 JA: OK			
8100613	05495	3504700000	103		SIMUNEK 20-1	SOONER TREND	109,5	WELLHEAD ENTERPRISES
8100612	05496	3504700000	103		SKAGGS 20-1	SOONER TREND	109,5	WELLHEAD ENTERPRISES
*PERRY OIL CO					RECEIVED: 10/02/80 JA: OK			
*8100579	05429	3504721850	103		PARRIOTT #1	N E ENID	168,0	PANHANDLE EASTERN PI
*PETRO-LEWIS CORPORATION					RECEIVED: 10/02/80 JA: OK			
8100583	02131	3505120686	103		FRITTS #2	MARLOW	54,0	ARKANSAS LOUISIANA G
*PETROLEUM RESOURCES CO					RECEIVED: 10/02/80 JA: OK			
8100591	05310	3500320693	103		CURTIS-METHODIST CHURCH #1	S W CHEROKEE	212,0	AMINOIL USA INC
*PHILLIPS PETROLEUM COMPANY					RECEIVED: 10/02/80 JA: OK			
8100577	05421	3504900000	108		BONNER A #1	GOLDEN TREND	0,0	WARREN PETROLEUM CO
8100605	06014	3591721354	102		MCCARTHY A #1	N CONCHO	0,0	PANHANDLE EASTERN P
*PIONEER PRODUCTION CORPORATION					RECEIVED: 10/02/80 JA: OK			
8100590	04799	3515120990	102		CLARK D SCHULTZ #1 (MISSISSIPPIAN)	WILDCAT	184,5	PANHANDLE EASTERN PI
8100589	04800	3515120990	102		CLARK D SCHULTZ #1 (OSWEGO)	WILDCAT	184,5	PANHANDLE EASTERN PI
*SABINE CORP					RECEIVED: 10/02/80 JA: OK			
8100619	04607	3515320924	103		HARPER #2-19	S E MOORELAND	255,0	WESTERN FARMERS ELEC
8100629	05373	3504320991	103		OSCAR CHAIN #2-30	E WEBB	1100,0	MICHIGAN-WISCONSIN P
*SAMEDAN OIL CORPORATION					RECEIVED: 10/02/80 JA: OK			
8100616	05491	3501721144	102		M WILDS NO 1-6		17,0	PHILLIPS PETROLEUM C
*SAMSON RESOURCES COMPANY					RECEIVED: 10/02/80 JA: OK			
8100620	02707	3502920158	102		M & R RANCH NO 1 (CROMWELL)	CENTRAHOMA	300,0	ARKANSAS LOUISIANA G
*SHAR-ALAN OIL CO					RECEIVED: 10/02/80 JA: OK			
8100585	04355	3509321667	103		CORNELSEN #4	E FAIRVIEW	34,0	PHILLIPS PETROLEUM C
*TENNECO OIL COMPANY					RECEIVED: 10/02/80 JA: OK			
8100625	05471	3509321706	103		KIRKENDALL 3-19	CHESTER WEST	85,5	PHILLIPS PETROLEUM C
*TEXAS OIL & GAS CORP					RECEIVED: 10/02/80 JA: OK			
8100621	05480	3507920355	103		REED F #1		103,0	
8100582	04750	3501120999	103		WALKER G #1		558,0	
*THE HARLOW CORP					RECEIVED: 10/02/80 JA: OK			
8100588	05096	3505500000	108		ROGERS #3	NORTH BLOOMINGTON	14,8	OKLAHOMA NATURAL GAS
*VULCAN ENERGY CORP					RECEIVED: 10/02/80 JA: OK			
8100593	05487	3507322343	103		BOECHEN #1	SOONER TREND	150,0	PHILLIPS PETROLEUM C
8100627	05375	3507322255	103		COMBS #1	E LOYAL	50,0	PHILLIPS PETROLEUM C
8100622	05479	3507322268	103		SCHOELEN #1	SOONER TREND	130,0	PHILLIPS PETROLEUM C
*WISHBONE OIL & GAS					RECEIVED: 10/02/80 JA: OK			
8100628	05374	3508320862	103		HOPFER #1	WEST MULHALL	23,4	EASON OIL & GAS
*WM J OCONNOR					RECEIVED: 10/02/80 JA: OK			
8100626	05384	3515121000	103		KRAGH #1 (FORM WHITENECK #1)	WEST ALINE	180,0	

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WEST VIRGINIA DEPARTMENT OF MINES

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*BAKER DEVELOPMENT					RECEIVED: 10/02/80 JA: WV			
*8100549		4701700614	108		JAMES F ROBINSUN #1		1,0	HOPE NATURAL GAS CO
*COLUMBIA GAS TRANSMISSION CORP					RECEIVED: 10/02/80 JA: WV			
8100533		4703902211	108		AULTZ NO 1 809838	ROCKY FORK	0,6	COLUMBIA GAS TRANSMI

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8100518		4700501078	108		BETHELEM MINES CORP 820531	WEST VIRGINIA FIELD AREA	7,2	COLUMBIA GAS TRANSMI
8100535		4703902447	108		H C PRILLERMAN 809788	ROCKY FORK	4,5	COLUMBIA GAS TRANSMI
8100526		4703902662	108		IMPERIAL COAL NO 3 820357	FIELD AREA A	4,2	COLUMBIA GAS TRANSMI
8100519		4701900219	108		KANAWHA GAULEY COAL & COKE 809796	FIELD AREA A	9,0	COLUMBIA GAS TRANSMI
8100520		4701900226	108		KANAWHA GAULEY COAL & COKE 809830	FIELD AREA A	14,0	COLUMBIA GAS TRANSMI
8100521		4701900236	108		KANAWHA GAULEY COAL & COKE 820023	FIELD AREA A	5,0	COLUMBIA GAS TRANSMI
8100522		4701900239	108		KANAWHA GAULEY COAL & COKE 820026	FIELD AREA A	8,0	COLUMBIA GAS TRANSMI
8100523		4701900240	108		KANAWHA GAULEY COAL & COKE 820027	FIELD AREA A	5,2	COLUMBIA GAS TRANSMI
8100524		4701900254	108		KANAWHA GAULEY COAL & COKE 820203	FIELD AREA A	1,8	COLUMBIA GAS TRANSMI
8100530		4701900262	108		KANAWHA GAULEY COAL & COKE 820207	FIELD AREA A	2,4	COLUMBIA GAS TRANSMI
8100534		4701900265	108		KANAWHA GAULEY COAL & COKE 820208	FIELD AREA A	3,9	COLUMBIA GAS TRANSMI
8100531		4701900263	108		KANAWHA GAULEY COAL & COKE 820209	FIELD AREA A	6,5	COLUMBIA GAS TRANSMI
8100532		4701900264	108		KANAWHA GAULEY COAL & COKE 820210	FIELD AREA A	3,6	COLUMBIA GAS TRANSMI
8100559		4701900255	108		KANAWHA GAULEY COAL & COKE 820204	FIELD AREA A	3,2	COLUMBIA GAS TRANSMI
8100544		4701900260	108		KANAWHA GAULEY COAL & COKE 820205	FIELD AREA A	3,5	COLUMBIA GAS TRANSMI
8100545		4701900261	108		KANAWHA GAULEY COAL & COKE 820206	FIELD AREA A	2,0	COLUMBIA GAS TRANSMI
8100536		4703902605	108		KING LAND CO 809789	FIELD AREA A	8,0	COLUMBIA GAS TRANSMI
8100537		4703902606	108		KING LAND CO 809790	FIELD AREA A	12,5	COLUMBIA GAS TRANSMI
8100547		4703902621	108		KING LAND CO 809799	FIELD AREA A	8,8	COLUMBIA GAS TRANSMI
8100515		4703902622	108		KING LAND CO 809800	FIELD AREA A	3,7	COLUMBIA GAS TRANSMI
8100513		4703902623	108		KING LAND CO 809801	FIELD AREA A	4,5	COLUMBIA GAS TRANSMI
8100527		4703902624	108		KING LAND CO 809802	FIELD AREA A	1,0	COLUMBIA GAS TRANSMI
8100546		4703902612	108		KING LAND CO 809806	FIELD AREA A	11,5	COLUMBIA GAS TRANSMI
8100516		4703902613	108		KING LAND CO 809807	FIELD AREA A	5,0	COLUMBIA GAS TRANSMI
8100517		4703902614	108		KING LAND CO 809808	FIELD AREA A	10,0	COLUMBIA GAS TRANSMI
8100525		4703902668	108		OHLEY COAL CO NO 1 820354	FIELD AREA A	2,4	COLUMBIA GAS TRANSMI
8100514		4703902673	108		OHLEY COAL CO NO 3 820355	FIELD AREA A	2,0	COLUMBIA GAS TRANSMI
8100538		4703902671	108		PAINT CREEK COAL & LAND #3 820358	FIELD AREA A	5,3	COLUMBIA GAS TRANSMI
8100540		4703902669	108		PAINT CREEK COAL & LAND 820352	FIELD AREA A	12,2	COLUMBIA GAS TRANSMI
8100539		4703902670	108		PAINT CREEK COAL & LAND 820353	FIELD AREA A	1,0	COLUMBIA GAS TRANSMI
*FOSSIL PETROLEUM CORPORATION					RECEIVED: 10/02/80 JA: WV			
8100558		4700100795	108		ARLIN PAUGH #1 FOSSIL #9501		2,9	CONSOLIDATED GAS SUP
8100552		4703300999	108		ISAAC MAXWELL #1 FOSSIL #10001		4,7	CONSOLIDATED GAS SUP
*M & F OIL & GAS CO					RECEIVED: 10/02/80 JA: WV			
8100541		4710301191	108		E E ICE #3	GRANT	0,8	PENNZOIL CO
8100542		4710301192	108		E E ICE #4	GRANT	0,8	PENNZOIL CO
8100548		4710301193	108		E E ICE #5	GRANT	0,8	PENNZOIL CO
8100543		4710301190	108		V A ICE #3	GRANT	0,8	PENNZOIL CO
*NASHVILLE ASSOCIATES INC					RECEIVED: 10/02/80 JA: WV			
8100529		4700701060	108		COCHRAN KEN NO 1-A		3,1	CONSOLIDATED GAS SUP
8100551		4700701014	108		KNIGHT FERGUSON MALLOY #1		2,7	CONSOLIDATED GAS SUP
8100528		4700710220	108		KNIGHT MARTHA NO 1		4,9	CONSOLIDATED GAS SUP
*QUAKER STATE OIL REFINING CORP					RECEIVED: 10/02/80 JA: WV			
8100556		4709520407	108		HERRY ASH 61052-1	CENTERVILLE DISTRICT	16,8	CONSOLIDATED GAS CO
8100557		4703922140	108		RENNICK #1 62115-1	BIG SANDY DISTRICT	3,0	COLUMBIA GAS TRANSMI
8100555		4703922432	108		SHAFFER-CARTE-DUDD #1 62150-1	ELK DISTRICT	1,0	COLUMBIA GAS TRANSMI
8100553		4703922363	108		STRICKLAND #1 62200-1	ELK DISTRICT	1,8	COLUMBIA GAS TRANSMI
8100554		4703922361	108		V DOUGLAS #1	ELK DISTRICT	3,9	COLUMBIA GAS TRANSMI
*WILLIAM DYE RIDDLE					RECEIVED: 10/02/80 JA: WV			
8100550		4701302508	108		JARVIS #1 55-0550472	PINE CREEK	5,9	CONSOLIDATED GAS SUP
**********								
** U.S. GEOLOGICAL SURVEY - METAIRIE,LA								
**********								
*CNG PRODUCING COMPANY					RECEIVED: 10/01/80 JA: LA 3			

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
*8100319	GO-1548	1771240155	102		F-182 (ALT)	SHIP SHOAL	730,0	CONSOLIDATED GAS SUP
*8100321	GO-1590	1771240224	102		F-1081	SHIP SHOAL	584,0	CONSOLIDATED GAS SUP
*GULF OIL CORPORATION					RECEIVED: 10/01/80 JA: LA 3			
8100320	GO-1559	1772040075	102		OCS G-1101 G-4D WD BLK 117	WEST DELTA	146,0	TEXAS EASTERN TRANSM

CORRECTIONS TO PREVIOUS NOTICES/REVISIONS TO PRIOR DETERMINATIONS

JD No.	JA	APPLICANT	WELL NAME	ORIG. FERC VOL. NO.	DATE PUB. IN FEDERAL REGISTER	R: Revision or redetermination by Jurisdictional Agency C: Correction to prior Fed. Reg. notice
80-58584	NM	Amerada Hess Corp	STATE WEB W3 & 4 #3	295		C: 108 Denied
80-57291	OK	Harper Oil Co	PEMBROOK #1	290	10-10-80	C: 102 103 Approved
80-57429	OK	Linn L. Shanks	CARNEY NO 3	291	10-10-80	C: 108 Denied
80-31599	TX	Gulf Oil Corp	G MARTINEZ #3 RRC #72013	204	05-23-80	C: 103 108 Approved
80-50121	TX	Marathon Oil Co	HODGES #2	266	09-17-80	C: Well Name
80-51000	TX	Meadco Properties	#1 SUGG - 13 RRC #07763	267	09-17-80	C: 102 Approved (not 103)
80-05237	USGS(LA)	C & K Petroleum Co	OCS G-1960 NO A-2	116	12-03-79	C: Well Name

BILLING CODE 6450-85-C

Other Purchasers—Volume No. 300

8100319 Columbia Gas Transmission Corp.
8100321 Columbia Gas Transmission Corp.
8100381 Quaker State Oil Refining Corp.
8100549 Consolidated Gas Co.
8100579 Union Texas Petroleum

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" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before November 6, 1980.

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32995 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

October 17, 1980.

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
MISSISSIPPI OIL & GAS BOARD								
*CARDELL-TLAPEK COMPANY					RECEIVED: 10/02/80 JA: MS			
8100638	33-80-496	2316320126	102		WILLIAMS ESTATE #1	MECHANICSBURG FIELD	730.0	SOUTHERN NATURAL GAS
*EXXON CORPORATION					RECEIVED: 10/02/80 JA: MS			
8100640	A1-80-15	2309120093	102		HUB GAS UNIT 13 NO 1	HUB	300.0	SOUTHERN NATURAL GAS
*FIRST ENERGY CORPORATION					RECEIVED: 10/02/80 JA: MS			
8100645	A5-80-420	2306520148	107		QUENTIN DYESS WELL #1	HOLIDAY CREEK FIELD	62.0	TRANSCONTINENTAL GAS
*FLORIDA GAS EXPLORATION COMPANY					RECEIVED: 10/02/80 JA: MS			
8100646	A4-80-467	2309120099	107		F B CARLISLE UNIT 4-6 NO 1	EAST MORGANTOWN FIELD	540.0	TRANSCONTINENTAL GAS
*GULF OIL CORPORATION					RECEIVED: 10/02/80 JA: MS			
8100636	A2-80-11	2307320210	103		I H BASS ET AL NO 85	BAXTERVILLE	8.0	UNITED GAS PIPE LINE
8100635	A8-80-11	2307320206	103		MRS L T SIMPSON NO 11	BAXTERVILLE	0.0	UNITED GAS PIPE LINE
*INEXCO OIL COMPANY					RECEIVED: 10/02/80 JA: MS			
8100647	A0-80-49	2315320240	107		BISHOP CODLEY ET AL NO 1 WELL	MIWANNEE	292.0	
*KILROY CO OF TEXAS					RECEIVED: 10/02/80 JA: MS			
8100644	A3-80-361	2302920026	102		INTERNATIONAL PAPER COMPANY #2	GLANCY	1022.0	MISSISSIPPI POWER &
*OGDEN OIL CO INC					RECEIVED: 10/02/80 JA: MS			
8100643	74-80-32	2306320286	102		LOGAN A NO 1 WELL	RODNEY FIELD	365.0	LOCUS RIDGE GAS CO
8100643	74-80-32	2306320286	103		LOGAN A NO 1 WELL	RODNEY FIELD	365.0	LOCUS RIDGE GAS CO
8100641	73-80-32	2306320280	102		LOGAN NO 1 WELL	RODNEY FIELD	100.0	LOCUS RIDGE GAS CO
8100641	73-80-32	2306320280	103		LOGAN NO 1 WELL	RODNEY FIELD	100.0	LOCUS RIDGE GAS CO
8100639	75-80-32	2306320287	102		PIAZZA A NO 1 WELL	RODNEY FIELD	43.0	LOCUS RIDGE GAS CO
8100639	75-80-32	2306320287	103		PIAZZA A NO 1 WELL	RODNEY FIELD	43.0	LOCUS RIDGE GAS CO
*SMITH PRODUCTION CO					RECEIVED: 10/02/80 JA: MS			
8100637	59-80-503	2306320235	102		NOBLE WELL NO 1	MELTON FIELD	175.0	COLES CREEK GAS CO
8100637	59-80-503	2306320235	103		NOBLE WELL NO 1	MELTON FIELD	175.0	COLES CREEK GAS CO
*UNION OIL COMPANY OF CALIF					RECEIVED: 10/02/80 JA: MS			
8100642	72-80-426	2303120059	107		L D ROSS 2-11 NO 1	MCRANEY	601.0	TRANSCONTINENTAL GAS
OHIO DEPARTMENT OF NATURAL RESOURCES								
*APPALACHIAN PETROLEUM CORP					RECEIVED: 10/03/80 JA: OH			
8100744		3412122277	103		D & D LOTHES #1	JACKSON	3.5	COLUMBIA GAS TRANSMI
8100743		3412122278	103		D & D LOTHES #2	JACKSON	3.5	COLUMBIA GAS TRANSMI
8100760		3412122285	103		D & D LOTHES #3	JACKSON	3.5	COLUMBIA GAS TRANSMI
8100752		3416425562	103		WILBUR BAKER #8-1	ADAMS	3.5	COLUMBIA GAS TRANSMI
*ARNOLD ROSEN & MILTON HANDLER					RECEIVED: 10/03/80 JA: OH			
8100753		3415520089	108		ARMIL #1		20.0	COLUMBIA GAS
*BELDEN & BLAKE & CO 74					RECEIVED: 10/03/80 JA: OH			
8100755		3415123249	103		L & G POHARESKY COMM #1-947		36.5	
*BERRESFORD ENTERPRISES INC					RECEIVED: 10/03/80 JA: OH			
8100714		3403123939	103		MARILYN BUMPUS #1	LIVERTON	0.0	COLUMBIA GAS CO

JR NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
=BROWN PETROLEUM CORP					RECEIVED: 10/03/80 JA: DH			
8100687		3407522454	103		BOGARDEE #1	KILLBUCK	1.0	COLUMBIA GAS TRANSMI
8100689		3407522340	103		DAN YODER #1	MECHANIC	69.0	COLUMBIA GAS TRANSMI
=BUCKEYE OIL PRODUCING CO					RECEIVED: 10/03/80 JA: DH			
8100722		3411122089	103		CLARENCE CHRISTMAN #1	MALAGA	14.0	COLUMBIA GAS TRANSMI
8100725		3411121960	103		CLYDE LANDEFELD #1	MALAGA	13.0	COLUMBIA GAS TRANSMI
8100724		3411122057	103		LAWRENCE RICER #1	MALAGA	13.0	COLUMBIA GAS TRANSMI
8100726		3411121959	103		OTTO BURKHART JR (82) #1	MALAGA	10.0	COLUMBIA GAS TRANSMI
8100676		3409921242	103		WILLIAM FRANCIS #1	GOSHEN	16.0	COLUMBIA GAS TRANSMI
=CLAY COUNTY PRODUCTION CO INC					RECEIVED: 10/03/80 JA: DH			
8100759		3412724253	103		LEWIS-LEACH #1	CLAYTON	6.0	FORAKER GAS CO INC
=CLINE OIL & GAS CO					RECEIVED: 10/03/80 JA: DH			
8100663	03886	3416724109	107		MUPP #2	AURELIUS	8.0	COLUMBIA GAS TRANSMI
8100664	04642	3416724108	107		MORRIS #2	SALEM	10.0	COLUMBIA GAS TRANSMI
8100665	03355	3416723965	107		SNODGRASS #2	AURELIUS	7.0	COLUMBIA GAS TRANSMI
=CLOVER OIL CO					RECEIVED: 10/03/80 JA: DH			
8100674		3410322274	103		MACE #1	WESTFIELD	50.0	
=DORAN & ASSOCIATES INC					RECEIVED: 10/03/80 JA: DH			
8100758		3412724812	103		KARL WILTSIE #1	MADISON	12.0	NATIONAL GAS & OIL C
=DORFMAN PRODUCTION CO					RECEIVED: 10/03/80 JA: DH			
8100677		3409921200	103		A LOHR NO 1	DAMASCUS	7.0	
8100682		3409921096	103		A WENDLAND NO 1	DAMASCUS	1.5	DAMASCUS GAS CO
8100680		3409921179	103		MALMSBERRY A NO 1	DAMASCUS	1.8	DAMASCUS GAS CO
8100681		3409921102	103		MYERS B NO 1	DAMASCUS	3.6	DAMASCUS GAS CO
8100678		3409921195	103		MYERS B NO 2	DAMASCUS	3.6	DAMASCUS GAS CO
8100679		3409921183	103		SIMMONS NO 1	DAMASCUS	10.0	DAMASCUS GAS CO
=EDCO DRILLING & PRODUCING INC					RECEIVED: 10/03/80 JA: DH			
8100716		3403123852	103		HOBERG 2A	LIVERTON	18.0	
8100718		3403123764	103		SHAW 3A	BEDFORD	18.0	
=ENERGY DEVELOPMENT CORP					RECEIVED: 10/03/80 JA: DH			
8100661		3400721363	103		BEER #2	ORWELL	20.0	EAST OHIO GAS CO
8100754		3415123262	103		DEFORD UNIT #1	CANTON	16.0	THE EAST OHIO GAS CO
=FLANIGAN BROTHERS					RECEIVED: 10/03/80 JA: DH			
8100662		3400721350	103		EDWARD VANSKOIK ET AL #1	MONROE	6.0	
=G & B DRILLING CO					RECEIVED: 10/03/80 JA: DH			
8100717		3403123791	103		WARREN & DAVID LAPP #1	BETHLEHEM	8.0	
=JOHN C MASON					RECEIVED: 10/03/80 JA: DH			
8100715		3403123866	103		JOHN C MASON ETAL #1	CLARK	12.0	NATIONAL GAS & OIL C
=KING DRILLING CO					RECEIVED: 10/03/80 JA: DH			
8100675		3410321979	103		JOSEPH LLOYD #1	GUILFORD	10.0	COLUMBIA GAS TRANSMI
8100751		3416922060	103		SELINA STEINER #1	CANAAN	10.0	COLUMBIA GAS TRANSMI
=LAKE REGION OIL INC					RECEIVED: 10/03/80 JA: DH			
8100688		3407522423	103		JOHN W CUSTUS #1	MECHANIC	15.0	COLUMBIA GAS TRANSMI
=LESLIE OIL & GAS CO INC					RECEIVED: 10/03/80 JA: DH			
8100673		3410322282	103		HANGE #1	SPENCER	20.0	COLUMBIA GAS TRANSMI
=LIBERTY OIL&GAS CORP					RECEIVED: 10/03/80 JA: DH			
8100672		3410521849	103		HELEN E BARGELOH #1	OLIVE	20.0	COLUMBIA GAS TRANSMI
=MORGAN-PENNINGTON INC					RECEIVED: 10/03/80 JA: DH			
8100750		3416922315	103		PONTIUS NO 2	GREEN	20.0	COLUMBUS GAS TRANSMI
=NATIONAL PETROLEUM CORP					RECEIVED: 10/03/80 JA: DH			
8100723		3411122072	107		R PETERS #7	MALAGA	0.0	TEXAS EASTERN TRANSM
=OAK DALE DRILLING CO					RECEIVED: 10/03/80 JA: DH			

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8100691		3407322251	103		BARTHOLOMEW #1	GREEN	10.0	GREEN FALLS GAS CO
=ORION ENERGY CORP					RECEIVED: 10/03/80 JA: OH			
8100719		3411522110	103		B LEONARD #1	WINDSOR	35.0	
8100720		3411522091	103		WEINSTOCK #1	WINDSOR	25.0	
=PATRICK T DONNELLY DVA LANDPROVEST					RECEIVED: 10/03/80 JA: OH			
8100761		3412122386	103		BLACKBURN/OHIO POWER #1-80	CUMBERLAND	25.0	
8100734		3411925323	103		HALL/MCINTIRE #1-80	MEIGS TOWNSHIP	30.0	
=QUAKER STATE OIL REFINING CORP					RECEIVED: 10/03/80 JA: OH			
8100666	01543	3407321530	108		GRACE B HULL #1 69143-01		3.4	COLUMBIA GAS TRANSMI
8100668	01540	3407321260	108		NATCO #10 69139		0.3	GENERAL CLAY PRODUCT
8100667	01541	3407321291	108		NATCO #12 69139		1.6	GENERAL CLAY PRODUCT
8100656	01539	3407321273	108		NATCO #9 69139		0.1	GENERAL CLAY PRODUCT
=R GENE BRASEL DBA BRASEL & BRASEL					RECEIVED: 10/03/80 JA: OH			
8100711		3405320271	103		FLORENCE PHILLIPS #1	ADDISON	5.0	COLUMBIA GAS TRANSMI
=RAYMOND T BECK					RECEIVED: 10/03/80 JA: OH			
8100757		3413322187	103		WILLIAM YURGEN #2	RAVENNA	15.0	COLUMBIA GAS OF OH I
=RELIANCE MANAGEMENT CO					RECEIVED: 10/03/80 JA: OH			
8100684		3408322720	103		A M ELLIOTT #3	CLAY	6.0	COLUMBIA GAS TRANSMI
=STRATA EXPLORATION INC LTD 1980-8					RECEIVED: 10/03/80 JA: OH			
8100685		3407522667	103		TOM WILSON #1	RICHLAND	200.0	COLUMBIA GAS TRANSMI
=SUN OIL COMPANY (DELAWARE)					RECEIVED: 10/03/80 JA: OH			
8100713		3404320060	108		WAKEFIELD NO 1	BIRMINGHAM (NEWBURG)	17.0	EAST OHIO GAS CO
=TALBOTT OIL & GAS CO					RECEIVED: 10/03/80 JA: OH			
8100669		3410521888	103		CHARLES BARRETT #1	RUTLAND	4.0	COLUMBIA GAS TRANSMI
8100671		3410521875	103		VIRGINIA VITATOE #3	RUTLAND	5.0	COLUMBIA GAS TRANSMI
8100670		3410521887	103		WARREN MOLDEN #1	RUTLAND	4.0	COLUMBIA GAS TRANSMI
=THE OXFORD OIL CO					RECEIVED: 10/03/80 JA: OH			
8100721		3411521506	108		DOUGLAS WILLIAMS #1		16.0	NATIONAL GAS & OIL C
8100692		3407322008	108		ERNEST MYERS #1		1.5	COLUMBIA GAS TRANSMI
8100712		3404520598	108		GEORGE YEAGER #1		3.0	NATIONAL GAS & OIL C
8100736		3411923442	108		HAROLD WILSON #1		12.0	NATIONAL GAS & OIL C
8100735		3411923801	108		MARION WINN #1		4.0	NATIONAL GAS & OIL C
8100690		3407521960	108		MAUDE JACOT #1		4.0	COLUMBIA GAS TRANSMI
=TOWNER PETROLEUM CO					RECEIVED: 10/03/80 JA: OH			
8100705		3405922066	108		APPERSON G-15		4.0	COLUMBIA GAS TRANS C
8100733		3412121533	108		ARENS & CROCK CT-5 #1		2.0	JONES & LAUGHLIN STE
8100707		3405921987	108		BEYMER USS-22		1.2	US STEEL CORP
8100706		3405922020	108		BEYMER-CHAPMAN USS-25		3.5	US STEEL CORP
8100747		3412121948	108		BIG C RANCH J-37		12.5	JONES & LAUGHLIN STE
8100748		3412121928	108		BIG C RANCH J-38		10.6	JONES & LAUGHLIN STE
8100730		3412121595	108		BROWN #1		5.0	JONES & LAUGHLIN STE
8100702		3405922069	108		COMBS #1 G-16		9.0	COLUMBIA GAS TRANSMI
8100695		3405922388	108		COWDEN PPG-32		11.0	JONES & LAUGHLIN STE
8100737		3412121867	108		CROCK-BROWN & WEBBER J-29		2.8	JONES & LAUGHLIN STE
8100763		3412121862	108		CROCK/SANFURD J-27		1.2	JONES & LAUGHLIN STE
8100657		3402920732	108		E COY RE-4		1.1	COLUMBIA GAS TRANSMI
8100740		3412121790	108		E GREATHOUSE OM-1		2.8	EAST OHIO GAS CO
8100738		3412121854	108		E MILLER #4 J-35		5.4	JONES & LAUGHLIN STE
8100708		3405921966	108		E WARNE USS-13		2.6	US STEEL CORP
8100709		3405921965	108		G TOMAK USS-15		4.0	US STEEL CORP
8100710		3405921896	108		GOODWIN G-9		7.0	COLUMBIA GAS TRANS C
8100694		3405922461	108		GREEN PPG-63		11.0	JONES & LAUGHLIN STE

JP NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8100698		3405922151	108		HATFIELD PPG-18		12.5	P P G INDUSTRIES INC
8100701		3405922075	108		HORTON G-14		16.8	COLUMBIA GAS TRANS C
8100699		3405922131	108		HORTON G-17		10.0	COLUMBIA GAS TRANS C
8100749		3412121886	108		HUTCHINS-LORI J-22		2.7	JONES & LAUGHLIN STE
8100659		3402920728	108		J COY RE-2		1.5	COLUMBIA GAS TRANSMI
8100731		3412121580	108		J MUGGRAGE #1		0.5	EAST OHIO GAS CO
8100727		3412121629	108		K CROCK #1		1.0	JONES & LAUGHLIN STE
8100742		3412121660	108		K CROCK #2 J-28		13.5	JONES & LAUGHLIN STE
8100703		3405922068	108		KEIFFER G-21		12.7	COLUMBIA GAS TRANS C
8100658		3402920729	108		L SANOR RE-3		0.8	COLUMBIA GAS TRANSMI
8100700		3405922113	108		LAUGHMAN PPG-19		5.0	P P G INDUSTRIES INC
8100729		3412121627	108		MCCAULLEY #1		6.0	EAST OHIO GAS CO
8100745		3412122100	108		MILLER #5 J-40		11.0	JONES & LAUGHLIN STE
8100739		3412121818	108		MORRIS #1 J-23		4.0	JONES & LAUGHLIN STE
8100762		3412121715	108		MUGGRAGE #2 G-1		14.0	EAST OHIO GAS CO
8100741		3412121716	108		MUGGRAGE #3 G-2		10.7	EAST OHIO GAS CO
8100696		3405922182	108		PADEN PPG-17		8.0	P P G INDUSTRIES INC
8100693		3405922462	108		PARRISH #2		9.0	JONES & LAUGHLIN STE
8100728		3412121628	108		S CROCK #4		2.0	EAST OHIO GAS CO
8100746		3412121951	108		S CROCK J-33		0.0	JONES & LAUGHLIN STE
8100697		3405922180	108		SCHANTZ PPG-21		21.0	P P G INDUSTRIES INC
8100732		3412121578	108		SMITH #2		5.5	EAST OHIO GAS CO
8100660		3402920727	108		VIRGIL SANOR RE-1		1.1	COLUMBIA GAS TRANSMI
8100704		3405922067	108		YONTZ G-19		4.0	COLUMBIA GAS TRANS C
-VIKING RESOURCES CORPORATION					RECEIVED: 10/03/80 JA: OH			
8100756		3415123216	103		STEFANICK UNIT #4	OSNABURG	30.0	
-W E SHRIDER CO					RECEIVED: 10/03/80 JA: OH			
8100683		3408923850	103		ROGER KRAMER #1	HOPEWELL	3.0	NEWZANE GAS CO
-WILLIAM F HILL					RECEIVED: 10/03/80 JA: OH			
8100686		3407522496	103		BYRON E NEISWANDER #1	KNOX	0.0	
**********								
WEST VIRGINIA DEPARTMENT OF MINES								
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-CONSOLIDATED GAS SUPPLY CORPORATION					RECEIVED: 10/06/80 JA: WV			
8100782		4704700278	108		CROZER COAL LAND ASSOC 10631	PINEVILLE FLD A-59442	4.0	GENERAL SYSTEM PURCH
8100783		4704700446	108		JOHN ADDAIR 11015	PINEVILLE FLD A-59442	3.0	GENERAL SYSTEM PURCH
8100779		4704700183	108		OLGA COAL CO 10166	PINEVILLE FLD A-59442	6.0	GENERAL SYSTEM PURCH
8100780		4704700185	108		OLGA COAL CO 10220	PINEVILLE FLD A-59442	14.0	GENERAL SYSTEM PURCH
8100781		4704700190	108		OLGA COAL CO 10221	PINEVILLE FLD A-59442	7.0	GENERAL SYSTEM PURCH
8100777		4704700087	108		OLGA COAL CO 9631	PINEVILLE FLD A-59442	6.0	GENERAL SYSTEM PURCH
8100778		4704700088	108		OLGA COAL CO 9632	PINEVILLE FLD A-59442	6.0	GENERAL SYSTEM PURCH
8100776		4704500637	108		TRIAD CO 10081	PINEVILLE FLD A-59442	5.0	GENERAL SYSTEM PURCH
-FOSSIL PETROLEUM CORPORATION					RECEIVED: 10/06/80 JA: WV			
8100764		4702102640	108		VOELKER NO 1 FOSSIL NO 6401	SAND FORK	20.5	CARNEGIE NATURAL GAS
-QUAKER STATE OIL REFINING CORP					RECEIVED: 10/06/80 JA: WV			
8100770		4703922305	108		A S PRICE #2 62150-2	ELK DISTRICT	0.5	COLUMBIA GAS TRANSMI
8100768		4703922383	108		D SMITH #1 62200-1	ELK DISTRICT	5.5	COLUMBIA GAS TRANSMI
8100785		4703922317	108		DOHUFFMAN A #1	ELK DISTRICT	3.6	COLUMBIA GAS TRANSMI
8100792		4703922312	108		E SHAFFER #1 62150-1	ELK DISTRICT	1.7	COLUMBIA GAS TRANSMI
8100788		4703922136	108		EWING 62075-1	ELK DISTRICT	0.6	COLUMBIA GAS TRANSMI
8100790		4703922104	108		FACEMYER #1 62115-1	BIG SANDY DISTRICT	0.4	COLUMBIA GAS TRANSMI
8100775		4703922329	108		H THAXTON #1 62200-1	ELK DISTRICT	4.1	COLUMBIA GAS TRANSMI

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8100789		4703922119	108		J RAY #6 62075-6	ELK DISTRICT	0.4	COLUMBIA GAS TRANSMI
8100791		4701721058	108		JOSEPH FREEMAN #1	WEST UNION DISTRICT	6.1	PENNZOIL CO
8100772		4703922353	108		L PETERS #1 62200-1	ELK DISTRICT	3.3	COLUMBIA GAS TRANSMI
8100786		4703922139	108		LARCH 62075-1	ELK DISTRICT	1.0	COLUMBIA GAS TRANSMI
8100771		4703922350	108		MARLOWE #1 62075-1	ELK DISTRICT	2.3	COLUMBIA GAS TRANSMI
8100793		4703922404	108		MOLES #1 62200-1	ELK DISTRICT	2.7	COLUMBIA GAS TRANSMI
8100787		4703922138	108		P HUFFMAN #1 62115-1	BIG SANDY DISTRICT	1.2	COLUMBIA GAS TRANSMI
8100769		4703922389	108		R FRENCH #1 62150-1	ELK DISTRICT	3.3	COLUMBIA GAS TRANSMI
8100773		4703922360	108		S B CARTE #1	ELK DISTRICT	4.1	COLUMBIA GAS TRANSMI
8100767		4703922382	108		SLACK #1 62075-1	ELK DISTRICT	3.4	COLUMBIA GAS TRANSMI
8100765		4703922379	108		TICKLE 62200-1	ELK DISTRICT	0.5	COLUMBIA GAS TRANSMI
8100784		4703922327	108		W C BOOKER #1	ELK DISTRICT	0.6	COLUMBIA GAS TRANSMI
8100766		4703922381	108		W H ODELL #1 62115-1	BIG SANDY DISTRICT	3.7	COLUMBIA GAS TRANSMI
8100774		4703922885	108		W L PAULEY #1 62200-1	ELK DISTRICT	1.3	COLUMBIA GAS TRANSMI
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** U.S. GEOLOGICAL SURVEY - METAIRIE,LA								
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-CNG PRODUCING COMPANY					RECEIVED: 10/02/80 JA: LA 3			
8100653	GO 1484	1771240156	102		D-781	SHIP SHOAL 247	526.0	CONSOLIDATED GAS SUP
8100651	GO-1549	1771240155	102		F-181	SHIP SHOAL 247	1460.0	CONSOLIDATED GAS SUP
-GULF OIL CORPORATION					RECEIVED: 10/02/80 JA: LA 3			
8100655	GO-1556	1772040075	102		OCS G-1101 #G-4 WD BLK 117	WEST DELTA 117	117.0	TEXAS EASTERN TRANS
-KIRBY EXPLORATION CO					RECEIVED: 10/02/80 JA: LA 3			
8100649	GO-1275	1772040062	102		OCS G 1107 NO D-13	WEST DELTA 134	1000.0	SOUTHERN NATURAL GAS
8100648	GO-1276	1772040065	102		OCS G 1107 NO D-14	WEST DELTA 134	7.0	SOUTHERN NATURAL GAS
8100650	GO-1273	1772040061	102		OCS G 1107 NO D-8	WEST DELTA 134	1400.0	SOUTHERN NATURAL GAS
-SHELL OIL CO					RECEIVED: 10/02/80 JA: LA 3			
8100654	GO-1445	1781740065	102		OCS G-2968 NO A-1	MISSISSIPPI CANYON 311	6.0	SOUTHERN NATURAL GAS
-MOBIL OIL CORP					RECEIVED: 10/02/80 JA: TX 3			
*8100652	GO-1154	4270940182	102		C-6	HIGH IS SD ADD A-572	183.0	NATURAL GAS PIPELINE

BILLING CODE 6450-85-C

Other Purchasers—Volume No. 301

8100652 Transcontinental Gas P L Corp.

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" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determinations in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before November 6, 1980.

Please reference the FERC Control Number (JD No.) in all corrrespondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32993 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

October 15, 1980.

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION								
*A & G SCRATCHERS & CENTRALIZERS					RECEIVED: 10/01/80 JA: LA			
8100154	AO-3147	1707321160	108		J A SMITH #1	MONROE	19.0	PETRO-LEWIS CORP
*ACE DRILLING SERVICES INC					RECEIVED: 10/01/80 JA: LA			
8100309	AO-3137	1711121761	108		GIBSON ESTATE #1	MONROE GAS FIELD	9.9	TEXAS GAS TRANSMISSI
8100308	AO-3138	1711121762	108		GIBSON ESTATE #2	MONROE GAS FIELD	9.9	TEXAS GAS TRANSMISSI
8100313	AO-3139	1711121763	108		GIBSON ESTATE #3	MONROE GAS FIELD	9.9	TEXAS GAS TRANSMISSI
8100314	AO-3140	1711121764	108		GIBSON ESTATE #4	MONROE GAS FIELD	9.9	TEXAS GAS TRANSMISSI
8100315	AO-3141	1711121765	108		GIBSON ESTATE #5	MONROE GAS FIELD	9.9	TEXAS GAS TRANSMISSI
8100316	AO-3142	1711121660	108		GIBSON ESTATE #6	MONROE GAS FIELD	9.9	TEXAS GAS TRANSMISSI
8100317	AO-3143	1711121767	108		GIBSON ESTATE #7	MONROE GAS FIELD	9.9	TEXAS GAS TRANSMISSI
8100162	AO-3144	1711121758	108		GIBSON ESTATE #8	MONROE GAS FIELD	9.9	TEXAS GAS TRANSMISSI
8100161	AO-3145	1711121768	108		GIBSON ESTATE #9	MONROE GAS FIELD	9.9	TEXAS GAS TRANSMISSI
8100312	AO-3134	1711121337	108		HOPKINS ESTATE #1	MONROE GAS FIELD	13.0	TEXAS GAS TRANSMISSI
8100311	AO-3135	1711121338	108		HOPKINS ESTATE #2	MONROE GAS FIELD	13.0	TEXAS GAS TRANSMISSI
8100182	AO-3331	1711122194	103		JARMON ESTATE #1	MONROE GAS FIELD	30.0	TEXAS GAS TRANSMISSI
8100289	AO-3313	1711122195	103		JARMON ESTATE #2	MONROE GAS FIELD	30.0	TEXAS GAS TRANSMISSI
8100290	AO-3314	1711122196	103		JARMON ESTATE #3	MONROE GAS FIELD	30.0	TEXAS GAS TRANSMISSI
8100183	AO-3330	1711122198	103		JARMON ESTATE #5	MONROE GAS FIELD	30.0	TEXAS GAS TRANSMISSI
8100194	AO-3329	1711122199	103		JARMON ESTATE #6	MONROE GAS FIELD	30.0	TEXAS GAS TRANSMISSI
8100195	AO-3328	1711122201	103		JARMON ESTATE #8	MONROE GAS FIELD	30.0	TEXAS GAS TRANSMISSI
8100310	AO-3136	1711121802	108		WELLS #1	MONROE GAS FIELD	17.0	TEXAS GAS TRANSMISSI
*AMOCO PRODUCTION CO					RECEIVED: 10/01/80 JA: LA			
8100023	AO-3434	1770520099	103		S/L 862 #13	VERMILION 14	1241.0	TRUNKLINE GAS CO
8100024	AO-3433	1770520099	103		S/L 862 #13D	VERMILION 14	840.0	TRUNKLINE GAS CO
8100269	AO-3347	1770520097	103		STATE LEASE 861 NO 11	VERMILION BLOCK 14 FIELD	3650.0	TRUNKLINE GAS CO
8100001	AO-2769	1702321294	102		VUA MIAMI CORP T NO 1	SOUTH PECAN LAKE	1800.0	COLUMBIA GAS TRANSMI
*ARKLA EXPLORATION COMPANY					RECEIVED: 10/01/80 JA: LA			
8100112	AO-3396	1706120202	103		MATTHEWS #3	RUSTON	220.0	MISSISSIPPI RIVER TR
*ASHLAND EXPLORATION INC					RECEIVED: 10/01/80 JA: LA			
8100287	AO-3311	1707321082	103		RAE GREEN NO 14	MONROE	24.2	SOUTHERN NATURAL GAS
8100288	AO-3312	1707321139	103		RAE GREEN NO 15	MONROE	33.0	SOUTHERN NATURAL GAS
8100176	AO-3310	1707320974	103		STOVALL DRILLING CO FEE NO 8	MONROE	27.0	SOUTHERN NATURAL GAS
*AZTEC PETROLEUM CORP					RECEIVED: 10/01/80 JA: LA			
8100077	AO-3367	1711122180	103		SCHULTZE NO 1	MONROE	18.0	WEST MONROE GAS GATH
8100074	AO-3370	1711122255	103		SCHUTZE NO 2	MONROE	10.0	WEST MONROE GAS GATH
8100076	AO-3368	1711122440	103		SCHUTZE NO 3	MONROE	9.0	WEST MONROE GAS GATH
8100075	AO-3369	1711122636	103		SCHUTZE NO 4	MONROE	7.0	WEST MONROE GAS GATH
*BARTON OIL & GAS CO INC					RECEIVED: 10/01/80 JA: LA			
8100204	AO-3393	1710922220	103		BABIN HEIRS NO 1	BOURG II FIELD	365.0	UNITED GAS PIPE LINE
*BASS ENTERPRISES PRODUCTION CO					RECEIVED: 10/01/80 JA: LA			
8100186	AO-3389	1706120219	103		CV DAVIS RA SUBD L G HANNA #1	UNIONVILLE	365.0	UNITED GAS PIPE LINE

JD NO	JA DKT	API NO	SEC	U	WELL NAME	FIELD NAME	PROD	PURCHASER
=BURK ROYALTY CO					RECEIVED: 10/01/80 JA: LA			
8100073	AO-3371	1710700307	108		MASS SU 176 FISHER LBR CO #B-6	BUCKHORN	14.0	MID LOUISIANA GAS CO
=CALLON PETROLEUM COMPANY					RECEIVED: 10/01/80 JA: LA			
8100178	AO-3308	1710720345	103		SMITH NO A-1	DELTA BRIDGE	275.0	LOCUST RIDGE GAS PRO
8100177	AO-3309	1710720338	103		SMITH NO 1	DELTA BRIDGE	540.0	LOCUST RIDGE GAS PRO
=CHARLES A ONIELL JR ET AL					RECEIVED: 10/01/80 JA: LA			
8100114	AO-3397	1705721647	103		VUA GISCLAIR #1	GOLDEN MEADOW	146.0	SOUTH COAST GAS CO I
=CHEVRON U S A INC					RECEIVED: 10/01/80 JA: LA			
8100281	AO-3340	1771520151	103		S L 4238 NO 13	SOUTH TIMBALIER BLOCK 8	1095.0	TEXAS GAS TRANSMISSI
=CONOCO INC					RECEIVED: 10/01/80 JA: LA			
8100202	AO-3395	1709920776	103		CONOCO FEE A NO 26	ST MARTINVILLE	10.0	
=CRYSTAL OIL COMPANY					RECEIVED: 10/01/80 JA: LA			
8100184	AO-3391	1701320430	103		FLORRIE FELTS #1	WEST ARCADIA	234.6	TEXAS GAS TRANSMISSI
=DUNAGAN & RAYMOND					RECEIVED: 10/01/80 JA: LA			
8100163	AO-3327	1707321308	103		DUNAGAN & RAYMOND FEE #1	MONROE	6.1	UNITED GAS PIPELINE
=ELI REBICH					RECEIVED: 10/01/80 JA: LA			
8100305	AO-3148	1703100908	108		BAGLEY NO 4 (SN 111405)	CANADIAN BAYOU	18.0	TEXAS EASTERN TRANSM
=ERGON INC					RECEIVED: 10/01/80 JA: LA			
8100153	AO-3128	1711122176	103		MARY PHILLIPS NO 4	MONROE (6824)	9.3	TEXAS GAS TRANSMISSI
8100152	AO-3129	1711122457	103		W T MILLER NO 4,	MONROE (6824)	9.3	TEXAS GAS TRANSMISSI
=EXCALIBUR RESOURCES INC					RECEIVED: 10/01/80 JA: LA			
8100280	AO-3341	1703121260	103		CONTINENTAL CAN #3	CHEMARD LAKE	300.0	LOUISIANA INTRASTATE
=EXXON CORPORATION					RECEIVED: 10/01/80 JA: LA			
*8100256	AO-3217	1711320984	107		EXXON FEE-PECAN IS NO 84	PECAN ISLAND	1000.0	COLUMBIA GAS TRANS C
=FLYNN ENERGY CORP					RECEIVED: 10/01/80 JA: LA			
8100306	AO-3168	1705721662	103		EXXON FEE NO 1	LAKE FIELDS	529.0	
=FRANK CONCANNON					RECEIVED: 10/01/80 JA: LA			
8100045	AO-3262	1707320402	108		A G PUCKETT NO 1 (SN 142773)	MONROE	2.3	MID LOUISIANA GAS CO
8100124	AO-3228	1706720515	108		B B EUBANKS NO 1 (SN 142808)	MONROE	0.5	MID LOUISIANA GAS CO
8100247	AO-3236	1707320386	108		CASE-MEEKS NO 1 (SN 142772)	MONROE	1.4	MID LOUISIANA GAS CO
8100146	AO-3238	1707320410	108		COLE NO 1 (SN 142839)	MONROE	12.5	MID LOUISIANA GAS CO
8100206	AO-3235	1707320439	108		COLE NO 2 (SN 143304)	MONROE	3.5	MID LOUISIANA GAS CO
8100248	AO-3234	1707320434	108		COLE NO 3 (SN 143265)	MONROE	4.1	MID LOUISIANA GAS CO
8100040	AO-3245	1707320441	108		COLE NO 6 (SN 143306)	MONROE	18.9	MID LOUISIANA GAS CO
8100127	AO-3251	1707320417	108		COLEMAN NO 1 (SN 142927)	MONROE	2.5	MID LOUISIANA GAS CO
8100249	AO-3233	1706720549	108		COULTER NO 1 (SN 143249)	MONROE	1.1	MID LOUISIANA GAS CO
8100144	AO-3240	1706720550	108		COULTER NO 2 (SN 143250)	MONROE	2.0	MID LOUISIANA GAS CO
8100098	AO-3226	1706720551	108		COULTER NO 3 (SN 143251)	MONROE	1.7	MID LOUISIANA GAS CO
8100223	AO-3221	1706720439	108		E JOHNSON NO 1 (SERIAL NO 141020)	MONROE	1.0	MID LOUISIANA GAS CO
8100226	AO-3218	1706720527	108		ETHEL PICKETT NO 1 (SN 142945)	MONROE	8.6	MID LOUISIANA GAS CO
8100055	AO-3260	1707320473	108		FRED HILL NO 1-A (SN 144335)	MONROE	1.4	MID LOUISIANA GAS CO
8100054	AO-3261	1707320536	108		FRED HILL NO 2 (SN 144803)	MONROE	2.6	MID LOUISIANA GAS CO
8100251	AO-3231	1706720523	108		G EUBANKS NO 1-A (SN 142862)	MONROE	4.6	MID LOUISIANA GAS CO
8100250	AO-3232	1706720513	108		G EUBANKS NO 2 (SN 142726)	MONROE	4.6	MID LOUISIANA GAS CO
8100130	AO-3254	1706720526	108		GARNIER NO 1 (SN 142925)	MONROE	1.7	MID LOUISIANA GAS CO
8100131	AO-3253	1707320373	108		J N COON NO 1 (SN 140999)	MONROE	0.8	MID LOUISIANA GAS CO
8100255	AO-3250	1706720505	108		JAMES P MADISON NO 3 (SN 142715)	MONROE	3.9	MID LOUISIANA GAS CO
8100298	AO-3222	1707320421	108		JOHN LANDRUM NO 1 (SN 143006)	MONROE	2.1	MID LOUISIANA GAS CO
8100043	AO-3242	1707320411	108		L RAMSEY NO 1 (SN 142849)	MONROE	4.8	MID LOUISIANA GAS CO
8100035	AO-3263	1707320491	108		LAVERNE RAMSEY #1 (SN 144462)	MONROE	0.5	MID LOUISIANA GAS CO
8100041	AO-3244	1706720553	108		LIEBER ESTATE #2 (SN 143253)	MONROE	2.1	MID LOUISIANA GAS CO

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8100123	AO-3229	1706720552	108		LIEBER ESTATE NO 1 (SN 143252)	MONROE	1.4	MID LOUISIANA GAS CO
8100297	AO-3223	1706720554	108		LIEBER ESTATE NO 3 (SN 143254)	MONROE	2.0	MID LOUISIANA GAS CO
8100042	AO-3243	1707320432	108		LIEBER ET AL #2 (SN 143197)	MONROE	1.6	MID LOUISIANA GAS CO
8100034	AO-3237	1707320431	108		LIEBER ET AL NO 1 (SN 143196)	MONROE	2.6	MID LOUISIANA GAS CO
8100036	AO-3249	1707320433	108		LIEBER ET AL NO 3 (NO 143198)	MONROE	1.6	MID LOUISIANA GAS CO
8100044	AO-3241	1706720445	108		MADISON NO 1 (SN 141082)	MONROE	13.2	MID LOUISIANA GAS CO
8100224	AO-3220	1706720509	108		MADISON NO 2 (SN 142697)	MONROE	8.5	MID LOUISIANA GAS CO
8100099	AO-3225	1706720529	108		MILTON PICKETT NO 1 (SN 142975)	MONROE	1.2	MID LOUISIANA GAS CO
8100033	AO-3264	1706720616	108		OLLIE WHITE #2 (NO 144253)	MONROE	2.3	MID LOUISIANA GAS CO
8100037	AO-3248	1706720611	108		OLLIE WHITE NO 1 (SN 144065)	MONROE	3.4	MID LOUISIANA GAS CO
8100252	AO-3230	1706720573	108		PHILLEY NO 1 (SN 143480)	MONROE	8.2	MID LOUISIANA GAS CO
8100145	AO-3239	1706720443	108		PICKETT NO 1 (SN 141045)	MONROE	0.7	MID LOUISIANA GAS CO
8100225	AO-3219	1706720444	108		PICKETT NO 2 (SN 141073)	MONROE	3.7	MID LOUISIANA GAS CO
8100126	AO-3252	1706720522	108		RAMSEY NO 2 (SN 142653)	MONROE	1.3	MID LOUISIANA GAS CO
8100100	AO-3224	1706720521	108		RAY YARBROUGH NO 1 (SN 142827)	MONROE	6.8	MID LOUISIANA GAS CO
8100039	AO-3246	1707320427	108		STELLA ONEAL #1 (SN 143121)	MONROE	7.1	MID LOUISIANA GAS CO
8100038	AO-3247	1707320428	108		STELLA ONEAL #2 (SN 143122)	MONROE	6.1	MID LOUISIANA GAS CO
8100095	AO-3257	1706720557	108		W B WILLIAMS NO 1 (SN 143271)	MONROE	3.9	MID LOUISIANA GAS CO
8100094	AO-3258	1706720598	108		W B WILLIAMS NO 2 (SN 143817)	MONROE	3.6	MID LOUISIANA GAS CO
8100056	AO-3259	1706720599	108		W B WILLIAMS NO 3 (SN 143818)	MONROE	4.8	MID LOUISIANA GAS CO
8100125	AO-3227	1706720510	108		Z D PICKETT NO 1, (SN 142698)	MONROE	0.6	MID LOUISIANA GAS CO
8100129	AO-3255	1706720555	108		Z D PICKETT NO 2 (SN 143255)	MONROE	0.7	MID LOUISIANA GAS CO
8100147	AO-3256	1706720556	108		Z D PICKETT NO 3 (SN 143256)	MONROE	0.9	MID LOUISIANA GAS CO
-FRANK SPOONER					RECEIVED: 10/01/80 JA: LA			
8100271	AO-3348	1702120507	103		VUA OLINKRAFT NO 16 (161460)	SWIM LAKE	100.0	LOUISIANA INTRASTATE
8100270	AO-3349	1702120579	103		VUA OLINKRAFT NO 17 (163727)	SWIM LAKE	100.0	LOUISIANA INTRASTATE
-FRANKS & PETROFUNDS INC					RECEIVED: 10/01/80 JA: LA			
8100088	AO-3266	1701320375	103		HOSS B SUL E W MERRITT A NO 1	WEST BRYCELAND	360.0	TEXAS EASTERN TRANSM
8100128	AO-3265	1701320410	103		HOSS B SUQ STREETMAN NO 2	WEST BRYCELAND	292.0	UNITED GAS PIPELINE
-FRANKS-EVANS					RECEIVED: 10/01/80 JA: LA			
8100307	AO-3167	1701320374	103		HOSS B SUGQ ROCHELLE NO 1	WEST BRYCELAND	117.0	LOUISIANA GAS PURCHA
-GAS RESOURCES INC					RECEIVED: 10/01/80 JA: LA			
8100072	AO-3372	1711122393	103		EXXON #17 (#168281)	MONROE	21.0	IMC PIPELINE CO INC
-GAS TRANSPORTATION CORPORATION					RECEIVED: 10/01/80 JA: LA			
8100294	AO-3289	1711122169	108		DIGBY NO 1	MONROE	1.1	PETRO-LEWIS FUNDS IN
8100193	AO-3293	1711122155	108		GTC-L NOLAN NO 1	MONROE	3.8	PETRO-LEWIS FUNDS IN
8100268	AO-3292	1711122156	108		GTC-L NOLAN NO 2	MONROE	3.8	PETRO-LEWIS FUNDS IN
8100295	AO-3290	1711122178	108		GTC-L NOLAN NO 3	MONROE	3.8	PETRO-LEWIS FUNDS IN
8100296	AO-3291	1711122095	108		GTC-O NOLAN NO 1	MONROE	2.0	PETRO-LEWIS FUNDS IN
-GATOR HAWK GAS CO					RECEIVED: 10/01/80 JA: LA			
8100090	AO-3283	1707321420	103		BARDIN #5	MONROE GAS	25.7	UNITED GAS PIPELINE
8100091	AO-3282	1707321421	103		BARDIN #6	MONROE GAS	23.6	UNITED GAS PIPELINE
-GLENDA PETROLEUM CORP					RECEIVED: 10/01/80 JA: LA			
8100101	AO-3401	1711120613	108		EXXON ARCO 14 A #1 S/N 148295	MONROE	20.0	MID LOUISIANA GAS CO
8100102	AO-3403	1711120614	108		EXXON ARCO 14 A #2 S/N 148296	MONROE	21.0	MID LOUISIANA GAS CO
8100104	AO-3405	1711120616	108		EXXON ARCO 14 A NO 4 S/N 148298	MONROE	20.0	MID LOUISIANA GAS CO
8100106	AO-3406	1711120649	108		EXXON ARCO 14-A #5 S/N 148778	MONROE	17.0	MID LOUISIANA GAS CO
8100105	AO-3404	1711120615	108		EXXON-ARCO 14-A #3 S/N 148297	MONROE	19.0	MID LOUISIANA GAS CO
8100025	AO-3432	1711121593	108		EXXON-ARCO 35 #1 S/N 160930	MONROE	6.9	MID LOUISIANA GAS
8100103	AO-3402	1711120721	108		KELTON HOWARD NO 2 S/N 150154	MONROE	12.0	MID LOUISIANA GAS CO
8100109	AO-3423	1711120605	108		L & M SMITH NO 1 S/N 147916	MONROE	0.0	MID LOUISIANA GAS CO
8100032	AO-3425	1711120565	108		MAGGIE SMITH C-2 S/N 147525	MONROE	20.0	MID LOUISIANA GAS CO
8100111	AO-3424	1711120521	108		MAGGIE SMITH E-1 S/N 146989	MONROE	17.0	MID LOUISIANA GAS CO

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8100108	AO-3407	1711120522	108		MAGGIE SMITH E-2 S/N 146990	MONROE	11.0	MID LOUISIANA GAS CO
8100107	AO-3421	1711120609	108		MAGGIE SMITH H-3 S/N 148095	MONROE	20.0	MID LOUISIANA GAS CO
8100110	AO-3422	1711120764	108		MAGGIE SMITH J NO 2 S/N 150680	MONROE	13.0	MID LOUISIANA GAS CO
8100031	AO-3426	1711121790	108		WEST NO 1 S/N 162492	MONROE	1.0	MID LOUISIANA GAS CO
8100030	AO-3427	1711121791	108		WEST NO 2 S/N 162493	MONROE	6.2	MID LOUISIANA GAS CO
8100027	AO-3430	1706721279	108		WHITAKER NO 12 S/N 163897	MONROE	4.0	MID LOUISIANA GAS CO
8100028	AO-3429	1706721281	108		WHITAKER NO 14 S/N 163899	MONROE	4.0	MID LOUISIANA GAS CO
8100029	AO-3428	1706721282	108		WHITAKER NO 15 S/N 163900	MONROE	4.0	MID LOUISIANA GAS CO
8100026	AO-3431	1706721274	108		WHITAKER NO 9 S/N 161429	MONROE	4.0	MID LOUISIANA GAS CO
-GULF OIL CORPORATION					RECEIVED: 10/01/80 JA: LA			
8100205	AO-3392	1707522620	103		SL 195 QQ #182	GRAND BAY	3000.0	UNITED GAS PIPELINE
-HADDOX PETROLEUM CORP					RECEIVED: 10/01/80 JA: LA			
8100265	AO-3191	1711122574	103		CARLILE SANDERS #1	MONROE	0.0	IMC PIPELINE COMPANY
8100264	AO-3192	1711122233	103		MOBIL-IP NO 2	MONROE	0.0	MID LOUISIANA GAS CO
-HERD PRODUCING COMPANY INC					RECEIVED: 10/01/80 JA: LA			
8100231	AO-3201	1702720635	103		SMK C RA SUG MORELAND A-1	EAST HAYNESVILLE	120.0	LOUISIANA GAS INTRAS
-IMC EXPLORATION COMPANY					RECEIVED: 10/01/80 JA: LA			
8100214	AO-3181	1711122078	108		GRAYLING #N-257	MONROE	15.0	IMC PIPELINE CO INC
8100217	AO-3179	1711122063	108		GRAYLING #N-259	MONROE	3.0	IMC PIPELINE CO INC
8100216	AO-3180	1711122038	108		LA GAS LANDS #22	MONROE	20.3	IMC PIPELINE CO INC
-JAMES A WHITSON JR					RECEIVED: 10/01/80 JA: LA			
8100179	AO-3307	1705721451	103		PELTO NO 2	NORTH THIBODEAUX	365.0	SUGAR BOWL GAS CORP
-JUSTISS-MEARS OIL CO INC					RECEIVED: 10/01/80 JA: LA			
8100160	AO-3146	1702120676	103		HADDEN RA SU A DUNN #1	NORTH CLARKS	0.0	LOUISIANA INTRASTATE
-KERR-MCGEE CORPORATION					RECEIVED: 10/01/80 JA: LA			
8100002	AO-2791	1710121079	102		BESSIE L CARTER NO 1	JEANERETTE	735.0	TEXAS GAS TRANSMISSI
8100113	AO-3398	1772620185	103		S L 2000 NO 52	BRETON SOUND BLOCK 20	123.0	SOUTHERN NATURAL GAS
8100115	AO-3399	1772620162	103		S L 2326 NO 38	BRETON SOUND BLOCK 20	121.0	SOUTHERN NATURAL GAS
8100118	AO-3400	1772620162	103		S L 2326 NO 38-D	BRETON SOUND BLOCK 20	131.0	SOUTHERN NATURAL GAS
-LAMOMA GAS COMPANY					RECEIVED: 10/01/80 JA: LA			
8100293	AO-3288	1707300000	108		JOHN T COLE #1	MONROE GAS ROCK FIELD	0.0	IMC EXPLORATION CO
8100235	AO-3285	1707300110	108		JOHN T COLE #13	MONROE GAS ROCK FIELD	0.0	IMC EXPLORATION CO
8100086	AO-3287	1707300105	108		JOHN T COLE #4	MONROE GAS ROCK FIELD	0.0	IMC EXPLORATION CO
8100087	AO-3286	1707300106	108		JOHN T COLE #7	MONROE GAS ROCK FIELD	0.0	IMC EXPLORATION CO
8100089	AO-3284	1707300145	108		PACE LAKE #2	MONROE GAS ROCK FIELD	0.0	IMC EXPLORATION CO
-LANKFORD & NANCE					RECEIVED: 10/01/80 JA: LA			
8100267	AO-3189	1711122280	103		BEASLEY NO 1	MONROE GAS	20.0	TEXAS GAS TRANSMISSI
8100266	AO-3190	1711122281	103		BROWN NO 1	MONROE	20.0	TEXAS GAS TRANSMISSI
8100149	AO-3132	1711122529	103		BROWN NO 2	MONROE	20.0	TEXAS GAS TRANSMISSI
8100151	AO-3130	1711122530	103		BROWN NO 3	MONROE	22.0	TEXAS GAS TRANSMISSI
8100148	AO-3133	1711122283	103		HAILE NO 2	MONROE	10.0	TEXAS GAS TRANSMISSI
8100150	AO-3131	1711122284	103		J B LANKFORD NO 1	MONROE	8.0	TEXAS GAS TRANSMISSI
-M T HERBST					RECEIVED: 10/01/80 JA: LA			
8100304	AO-3149	1707321036	108		SHO VAN #1 (SN 157185)	MONROE GAS ROCK FIELD	20.4	UNITED GAS PIPE LINE
-MALMAC ENERGY					RECEIVED: 10/01/80 JA: LA			
8100070	AO-3374	1711122228	103		EXXON 12 #1	MONROE GAS FIELD	36.0	TEXAS GAS TRANSMISSI
8100071	AO-3373	1711122229	103		EXXON 12 #2	MONROE GAS FIELD	0.0	TEXAS GAS TRANSMISSI
8100068	AO-3375	1711122366	103		EXXON 12 #5	MONROE GAS FIELD	35.0	TEXAS GAS TRANSMISSI
-MARATHON OIL COMPANY					RECEIVED: 10/01/80 JA: LA			
8100282	AO-3339	1711900701	108		CU SU HUNT MEYERS #1	COTTON VALLEY	0.0	UNITED GAS P L CO
8100185	AO-3390	1711901185	108		CVSU HUNT DAVIS ET AL #2	COTTON VALLEY	3.0	UNITED GAS PIPE LINE
-MAY PETROLEUM INC					RECEIVED: 10/01/80 JA: LA			

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8100174	AO-3334	1703120721	102		ROD RA SUC BROWN #1 (157113)	BETHANY-LONGSTREET	840.0	ARKANSAS LOUISIANA G
8100175	AO-3333	1703120753	102		ROD RA SUM JONES #1 (158247)	BETHANY-LONGSTREET	600.0	ARKANSAS LOUISIANA G
8100284	AO-3337	1703120677	102		ROD RA SUK GAMBLE #2 (155771)	BETHANY-LONGSTREET	540.0	ARKANSAS LOUISIANA G
8100285	AO-3336	1703120706	102		ROD RA SUL GAMBLE A #1 (156644)	BETHANY-LONGSTREET	900.0	ARKANSAS LOUISIANA G
8100286	AO-3335	1703120691	102		ROD RA SUP BURFORD #1 (156158)	BETHANY-LONGSTREET	48.0	ARKANSAS LOUISIANA G
-MID LOUISIANA GAS COMPANY					RECEIVED: 10/01/80 JA: LA			
8100219	AO-3383	1711121495	108		MLGC FEE GAS NO 691	MONROE FIELD	15.8	
8100189	AO-3384	1711121489	108		MLGC FEE GAS NO 697	MONROE FIELD	17.1	
8100188	AO-3385	1711121486	108		MLGC FEE GAS NO 700	MONROE FIELD	17.9	
8100173	AO-3317	1711121537	108		MLGC FEE GAS NO 720	MONROE FIELD	18.7	
8100172	AO-3318	1711121545	108		MLGC FEE GAS NO 728	MONROE FIELD	12.7	
8100166	AO-3324	1711121650	108		MLGC FEE GAS NO 749	MONROE FIELD	11.2	
8100201	AO-3379	1711121837	108		MLGC FEE GAS NO 775	MONROE FIELD	18.8	
8100199	AO-3380	1711121849	108		MLGC FEE GAS NO 783	MONROE FIELD	11.1	
8100200	AO-3381	1711121860	108		MLGC FEE GAS NO 794	MONROE FIELD	21.1	
8100198	AO-3382	1711121822	108		MLGC FEE GAS NO 804	MONROE FIELD	3.1	
8100171	AO-3319	1711121918	108		MLGC FEE GAS NO 806	MONROE FIELD	19.6	
8100170	AO-3320	1711121969	108		MLGC FEE GAS NO 839	MONROE FIELD	10.2	
8100169	AO-3321	1711121970	108		MLGC FEE GAS NO 840	MONROE FIELD	17.3	
8100167	AO-3323	1711121972	108		MLGC FEE GAS NO 842	MONROE FIELD	12.4	
8100168	AO-3322	1711121988	108		MLGC FEE GAS NO 849	MONROE FIELD	8.9	
8100261	AO-3195	1711122053	103		MLGC FEE GAS NO 855	MONROE FIELD	78.5	
8100260	AO-3196	1711122054	103		MLGC FEE GAS NO 856	MONROE FIELD	67.9	
8100259	AO-3197	1711122055	103		MLGC FEE GAS NO 857	MONROE FIELD	41.6	
8100164	AO-3326	1711122325	103		MLGC FEE GAS NO 869	MONROE FIELD	29.2	
8100258	AO-3198	1711122420	103		MLGC FEE GAS NO 884	MONROE FIELD	17.2	
8100257	AO-3199	1711122437	103		MLGC FEE GAS NO 888	MONROE FIELD	25.5	
-PATRICK PETROLEUM CORP (MI)					RECEIVED: 10/01/80 JA: LA			
8100053	AO-3267	1705721404	102		BOWIE LBR CO LTD #10-D (156928)	SOUTH BAYOU BOEUF FIELD	0.7	LOUISIANA RESOURCES
8100052	AO-3268	1705721472	102		BOWIE LBR CO LTD #11-D (162741)	SOUTH BAYOU BOEUF FIELD	1.0	LOUISIANA RESOURCES
8100051	AO-3269	1705721429	102		BOWIE LBR CO LTD #12-D (157119)	SOUTH BAYOU BOEUF FIELD	1.3	LOUISIANA RESOURCES
8100050	AO-3270	1705721553	102		BOWIE LBR CO LTD #14-D (162142)	SOUTH BAYOU BOEUF FIELD	1.0	LOUISIANA RESOURCES
8100049	AO-3271	1705721584	102		BOWIE LBR CO LTD #15 (162398)	SOUTH BAYOU BOEUF	1.3	LOUISIANA RESOURCES
8100048	AO-3272	1705721608	102		BOWIE LBR CO LTD #17-D (163755)	SOUTH BAYOU BOEUF FIELD	1.0	LOUISIANA RESOURCES
-PENNZOIL PRODUCING COMPANY					RECEIVED: 10/01/80 JA: LA			
8100263	AO-3193	1711121514	108		FEE 61 NO 38	MONROE	14.0	UNITED GAS PIPE LINE
8100262	AO-3194	1711121515	108		FEE 61 NO 39	MONROE	14.0	UNITED GAS PIPE LINE
-PRIMOS PRODUCTION CO					RECEIVED: 10/01/80 JA: LA			
8100229	AO-3204	1707321396	103		CULPEPPER ET AL #1	MONROE GAS	6.2	MID LOUISIANA GAS CO
8100228	AO-3205	1707321397	103		CULPEPPER ET AL #2	MONROE GAS	7.2	MID LOUISIANA GAS CO
8100227	AO-3206	1707321398	103		CULPEPPER ET AL #3	MONROE GAS	8.2	MID LOUISIANA GAS CO
8100244	AO-3304	1706721332	108		GEORGIA PACIFIC B #10	MONROE GAS FIELD	3.4	UNITED GAS PIPELINE
8100274	AO-3356	1706721327	108		GEORGIA PACIFIC B #11	MONROE GAS FIELD	3.4	UNITED GAS PIPELINE
8100181	AO-3305	1706721336	108		GEORGIA PACIFIC B #18	MONROE GAS FIELD	3.4	UNITED GAS PIPELINE
8100192	AO-3294	1706721333	108		GEORGIA PACIFIC B #19	MONROE GAS FIELD	3.4	UNITED GAS PIPELINE
8100191	AO-3295	1706721334	108		GEORGIA PACIFIC B #20	MONROE GAS FIELD	3.4	UNITED GAS PIPELINE
8100242	AO-3302	1706721331	108		GEORGIA PACIFIC B #8	MONROE GAS FIELD	3.4	UNITED GAS PIPELINE
8100243	AO-3303	1706721325	108		GEORGIA PACIFIC B #9	MONROE GAS FIELD	3.4	UNITED GAS PIPELINE
8100237	AO-3297	1706721348	108		GEORGIA PACIFIC C #10	MONROE GAS FIELD	4.2	UNITED GAS PIPELINE
8100238	AO-3298	1706721354	108		GEORGIA PACIFIC C #11	MONROE GAS FIELD	4.2	UNITED GAS PIPELINE
8100239	AO-3299	1706721358	108		GEORGIA PACIFIC C #12	MONROE GAS FIELD	6.3	UNITED GAS PIPELINE
8100240	AO-3300	1706721349	108		GEORGIA PACIFIC C #13	MONROE GAS FIELD	7.4	UNITED GAS PIPELINE

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8100241	AO-3301	1706721351	108		GEORGIA PACIFIC C #15	MONROE GAS FIELD	7.4	UNITED GAS PIPELINE
8100236	AO-3296	1706721357	108		GEORGIA PACIFIC C #9	MONROE GAS FIELD	7.4	UNITED GAS PIPELINE
8100190	AO-3332	1707321171	103		LIEBER NO 8	MONROE FIELD	39.1	UNITED GAS PIPELINE
8100254	AO-3207	1711122400	103		PETRO LEWIS NOLAN HEIRS #1	MONROE GAS FIELD	20.5	PETRO-LEWIS FUNDS IN
8100246	AO-3215	1711122472	103		PETRO LEWIS UNION POWER #11	MONROE GAS FIELD	14.4	PETRO LEWIS FUNDS IN
8100078	AO-3366	1711122439	103		PETRO-LEWIS E NICHOLS #2	MONROE	10.3	PETRO-LEWIS FUNDS IN
8100079	AO-3365	1711122486	103		PETRO-LEWIS J S HANDY #2	MONROE	11.3	PETRO-LEWIS FUNDS IN
8100253	AO-3208	1711122401	103		PETRO-LEWIS NOLAN HEIRS #2	MONROE GAS FIELD	17.5	PETRO-LEWIS FUNDS IN
8100212	AO-3209	1711122402	103		PETRO-LEWIS NOLAN HEIRS #3	MONROE GAS FIELD	24.7	PETRO-LEWIS FUNDS IN
8100057	AO-3362	1711122403	103		PETRO-LEWIS NOLAN HEIRS #4	MONROE	17.5	PETRO-LEWIS FUNDS IN
8100318	AO-3363	1711122404	103		PETRO-LEWIS NOLAN HEIRS #5	MONROE	16.4	PETRO-LEWIS FUNDS IN
8100211	AO-3210	1711122406	103		PETRO-LEWIS PENNZOIL FEE 119 #5	MONROE GAS FIELD	16.4	PETRO-LEWIS FUNDS IN
8100210	AO-3211	1711122407	103		PETRO-LEWIS PENNZOIL FEE 119 #6	MONROE GAS FIELD	15.4	PETRO-LEWIS FUNDS IN
8100080	AO-3364	1711122368	103		PETRO-LEWIS PENNZOIL FEE 65 #5	MONROE	12.3	PETRO-LEWIS FUNDS IN
8100276	AO-3357	1711122464	103		PETRO-LEWIS UNION POWER #1	MONROE GAS	13.3	PETRO-LEWIS FUNDS IN
8100207	AO-3214	1711122471	103		PETRO-LEWIS UNION POWER #10	MONROE GAS FIELD	20.5	PETRO-LEWIS FUNDS IN
8100275	AO-3358	1711122465	103		PETRO-LEWIS UNION POWER #2	MONROE GAS	15.4	PETRO-LEWIS FUNDS IN
8100209	AO-3212	1711122466	103		PETRO-LEWIS UNION POWER #3	MONROE GAS FIELD	8.2	PETRO-LEWIS FUNDS IN
8100208	AO-3213	1711122467	103		PETRO-LEWIS UNION POWER #4	MONROE GAS FIELD	15.4	PETRO-LEWIS FUNDS IN
8100278	AO-3359	1711122468	103		PETRO-LEWIS UNION POWER #5	MONROE GAS	13.3	PETRO-LEWIS FUNDS IN
8100277	AO-3360	1711122469	103		PETRO-LEWIS UNION POWER #6	MONROE GAS	18.5	PETRO-LEWIS FUNDS IN
8100279	AO-3361	1711122470	103		PETRO-LEWIS UNION POWER #7	MONROE GAS	14.8	PETRO-LEWIS FUNDS IN
-PRIMOS-TOMLINSON					RECEIVED: 10/01/80 JA: LA			
8100218	AO-3178	1706721555	103		HART #1	MONROE GAS	15.4	LOUISIANA GAS SERVIC
-R L ZINN					RECEIVED: 10/01/80 JA: LA			
8100245	AO-3216	1701920832	102		ZINN-VERRET #1 (SN 162761)	NORTH HAYES	45.0	CONTINENTAL OIL CO
-RANGER OIL CO					RECEIVED: 10/01/80 JA: LA			
8100180	AO-3306	1700720250	107		BROWNELL-KIDD NO 3	BAYOU GROSBEC	175.0	MONTEREY PIPELINE CO
-RELIANCE TR-JV					RECEIVED: 10/01/80 JA: LA			
8100069	AO-3376	1711122213	103		H J JOHNSON #1	MONROE GAS FIELD	30.0	TEXAS GAS TRANSMISSI
8100067	AO-3377	1711122214	103		H J JOHNSON #2	MONROE GAS FIELD	30.0	TEXAS GAS TRANSMISSI
8100234	AO-3184	1711122532	103		HOPKINS #4	MONROE GAS FIELD	30.0	TEXAS GAS TRANSMISSI
8100233	AO-3185	1711122613	103		HOPKINS ESTATE #6	MONROE GAS FIELD	0.0	TEXAS GAS TRANSMISSI
8100066	AO-3378	1711122212	103		T BAKER #2	MONROE GAS FIELD	30.0	TEXAS GAS TRANSMISSI
-RELIANCE TRUSTS					RECEIVED: 10/01/80 JA: LA			
8100213	AO-3183	1711122109	103		OLINKRAFT #36	MONROE GAS FIELD	30.0	TEXAS GAS TRANSMISSI
8100215	AO-3182	1711122531	103		T L JAMES #2	MONROE GAS FIELD	30.0	TEXAS GAS TRANSMISSI
-RESOURCES INVESTMENT CORPORATION					RECEIVED: 10/01/80 JA: LA			
8100197	AO-3342	1708920403	103		R C MILLING #1	LAKE DES ALLEMANDES	330.0	LOUISIANA INTRASTATE
-ROY M TEEL					RECEIVED: 10/01/80 JA: LA			
8100046	AO-3274	1706720168	108		BENNET-MORGAN #1	MONROE GAS ROCK FIELD	0.1	GEORGIA-PACIFIC
8100097	AO-3151	1706720160	108		C J JACKSON #1	MONROE GAS ROCK FIELD	15.9	GEORGIA PACIFIC
8100085	AO-3275	1706720158	108		C J JACKSON #2	MONROE GAS ROCK FIELD	0.4	GEORGIA-PACIFIC
8100011	AO-3446	1707321281	108		COLE HEIRS #26	MONROE GAS ROCK FIELD	13.9	IMC PIPELINE CO INC
8100010	AO-3447	1707321282	108		COLE HEIRS #27	MONROE GAS ROCK FIELD	0.0	IMC PIPELINE CO INC
8100015	AO-3442	1707321283	108		COLE HEIRS #28	MONROE GAS ROCK FIELD	17.2	IMC PIPELINE CO INC
8100014	AO-3443	1707321284	108		COLE HEIRS #29	COLE HEIRS #29	13.5	IMC PIPELINE CO INC
8100082	AO-3278	1711120923	108		EXXON 29-2	MONROE GAS ROCK FIELD	12.8	LOUISIANA POWER AND
8100081	AO-3279	1711121017	108		EXXON 31-1	MONROE GAS ROCK FIELD	11.0	LOUISIANA POWER AND
8100047	AO-3273	1706700104	108		FREELAND-ODOM #2	MONROE GAS ROCK FIELD	0.0	GEORGIA-PACIFIC
8100084	AO-3276	1706720574	108		J C SANDIDGE ET AL #1	MONROE GAS ROCK FIELD	0.0	UNITED GAS PIPE LINE
8100083	AO-3277	1707300804	108		JOHN T COLE #6	MONROE GAS ROCK FIELD	0.0	IMC EXPLORATION CO

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8100302	AO-3153	1706721267	108		KENO #3	MONROE GAS ROCK FIELD	9.9	IMC PIPELINE CO INC
8100301	AO-3154	1706721268	108		KENO #4	MONROE GAS ROCK FIELD	21.2	IMC-PIPELINE CO INC
8100300	AO-3155	1706721269	108		KENO #5	MONROE GAS ROCK FIELD	14.2	IMC PIPELINE CO INC
8100299	AO-3156	1706721270	108		KENO #6	MONROE GAS ROCK FIELD	4.0	IMC PIPELINE CO INC
8100141	AO-3157	1706721276	103		KENO #7	MONROE GAS ROCK FIELD	20.1	IMC PIPELINE CO INC
8100013	AO-3444	1707321235	108		NACHTRIEB #10	MONROE GAS ROCK FIELD	8.8	IMC PIPELINE CO INC
8100012	AO-3445	1707321234	108		NACHTRIEB #11	MONROE GAS ROCK FIELD	8.8	IMC PIPELINE CO INC
8100096	AO-3152	1706721223	108		PATTON #3	MONROE GAS ROCK FIELD	9.1	UNITED GAS PIPE LINE
8100093	AO-3280	1707320962	108		SHO VAN #1	MONROE GAS ROCK FIELD	19.9	UNITED GAS PIPE LINE
-S TEEL					RECEIVED: 10/01/80 JA: LA			
8100303	AO-3150	1707321050	108		SHO VAN #1 (SN 157361)	MONROE GAS ROCK FIELD	14.1	UNITED GAS PIPE LINE
-SAND HILL LTD					RECEIVED: 10/01/80 JA: LA			
8100232	AO-3186	1711223190	103		RAMSEY ET AL NO 1	MONROE	19.0	PETRO-LEWIS FUNDS IN
8100165	AO-3325	1711122320	103		RAMSEY ET AL NO 2	MONROE	25.0	PETRO-LEWIS FUNDS IN
8100092	AO-3281	1711122321	103		RAMSEY ET AL NO 3	MONROE	27.0	PETRO-LEWIS FUNDS IN
-SUN OIL COMPANY (DELAWARE)					RECEIVED: 10/01/80 JA: LA			
8100221	AO-3345	1710121077	103		BI N VU A NO 8-6	BELLE ISLE	365.0	UNITED GAS PIPE LINE
8100292	AO-3316	1700120879	102		HAYES B NO 3	EGAN	0.0	TEXAS EASTERN TRANSM
8100196	AO-3343	1700120832	103		LAPLEAU NO 6	MIDLAND	730.0	TENNESSEE GAS PIPELI
8100222	AO-3344	1700120690	103		U HMSK E RC SUB FALCON HRS #1	RAYNE	1460.0	
-TEE OPERATING CO					RECEIVED: 10/01/80 JA: LA			
8100272	AO-3354	1701920861	103		PREAGER #5 (SN 164731) (MIOCENE)	GILLIS ENGLISH BAYOU	98.9	CONTINENTAL OIL CO
8100273	AO-3355	1701920861	103		PREAGER #5 (SN 164731)(5800' SAND)	GILLIS ENGLISH BAYOU	270.0	CONTINENTAL OIL CO
-TEEL 78 A					RECEIVED: 10/01/80 JA: LA			
8100132	AO-3166	1706721463	103		KENO A #12	MONROE GAS ROCK FIELD	11.0	IMC PIPELINE CO INC
8100058	AO-3466	1706721414	108		PATTON A #1	MONROE GAS ROCK	15.3	UNITED GAS PIPELINE
8100021	AO-3436	1706721415	108		PATTON A #2	MONROE GAS ROCK	20.1	UNITED GAS PIPELINE
8100020	AO-3437	1706721474	108		PATTON A #3	MONROE GAS ROCK	21.2	UNITED GAS PIPELINE
8100022	AO-3435	1706721404	108		SANDIDGE A #10	MONROE GAS ROCK FIELD	21.2	UNITED GAS PIPELINE
8100138	AO-3160	1706721397	108		SANDIDGE A #2	MONROE GAS ROCK FIELD	15.7	UNITED GAS PIPELINE
8100140	AO-3158	1706721399	108		SANDIDGE A #4	MONROE GAS ROCK FIELD	11.3	UNITED GAS PIPELINE
8100139	AO-3159	1706721400	108		SANDIDGE A #5	MONROE GAS ROCK FIELD	15.3	UNITED GAS PIPELINE
8100018	AO-3439	1706721402	108		SANDIDGE A #8	MONROE GAS ROCK	5.9	UNITED GAS PIPELINE
8100019	AO-3438	1706721403	108		SANDIDGE A #9	MONROE GAS ROCK FIELD	21.2	UNITED GAS PIPELINE
8100017	AO-3440	1706721405	108		SANDIDGE A NO 7	MONROE GAS ROCK FIELD	3.7	UNITED GAS PIPELINE
8100016	AO-3441	1706721340	108		SANDIDGE A 1	MONROE GAS ROCK FIELD	1.8	UNITED GAS PIPELINE
8100137	AO-3161	1707321153	108		SMITH A #1	MONROE GAS ROCK	6.6	UNITED GAS PIPE LINE
8100136	AO-3162	1707321157	108		SMITH A #2	MONROE GAS ROCK	7.3	UNITED GAS PIPE LINE
8100135	AO-3163	1707321173	108		SMITH A #3	MONROE GAS ROCK	5.5	UNITED GAS PIPE LINE
8100134	AO-3164	1707321174	108		SMITH A #4	MONROE GAS ROCK	6.2	UNITED GAS PIPE LINE
8100133	AO-3165	1707321175	108		SMITH A #5	MONROE GAS ROCK	8.8	UNITED GAS PIPE LINE
-TEEL 79 A					RECEIVED: 10/01/80 JA: LA			
8100007	AO-3450	1707321268	108		COLE HEIRS A #11	MONROE GAS ROCK	16.4	IMC PIPELINE CO INC
8100064	AO-3460	1707321269	108		COLE HEIRS A #12	MONROE GAS ROCK	18.3	IMC PIPELINE CO INC
8100063	AO-3461	1707321270	108		COLE HEIRS A #13	MONROE GAS ROCK	14.6	IMC PIPELINE CO INC
8100008	AO-3449	1707321271	108		COLE HEIRS A #14	MONROE GAS ROCK	11.7	IMC PIPELINE CO INC
8100009	AO-3448	1707321272	108		COLE HEIRS A #15	MONROE GAS ROCK	11.0	IMC PIPELINE CO INC
8100006	AO-3451	1707321273	108		COLE HEIRS A #16	MONROE GAS ROCK	11.0	IMC PIPELINE CO INC
8100116	AO-3456	1707321261	108		COLE HEIRS A #4	MONROE GAS ROCK	11.7	IMC PIPELINE CO INC
8100120	AO-3457	1707321262	108		COLE HEIRS A #5	MONROE GAS ROCK	11.0	IMC PIPELINE CO INC
8100119	AO-3458	1707321263	108		COLE HEIRS A #6	MONROE GAS ROCK	9.9	IMC PIPELINE CO INC
8100065	AO-3459	1707321266	108		COLE HEIRS A #9	MONROE GAS ROCK	9.9	IMC PIPELINE CO INC
8100061	AO-3463	1707321236	108		NACHTRIEB A #10	MONROE GAS ROCK FIELD	4.0	IMC PIPELINE CO INC

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8100062	A0-3462	1707321237	108		NACHTRIEB A #11	MONROE GAS ROCK FIELD	6.2	IMC PIPELINE CO INC
8100003	A0-3454	1707321238	108		NACHTRIEB A #12	MONROE GAS ROCK FIELD	11.3	IMC PIPELINE CO INC
8100004	A0-3453	1707321239	108		NACHTRIEB A #13	MONROE GAS ROCK FIELD	5.5	IMC PIPELINE CO INC
8100005	A0-3452	1707321240	108		NACHTRIEB A #14	MONROE GAS ROCK FIELD	3.7	IMC PIPELINE CO INC
8100117	A0-3455	1707321209	108		NACHTRIEB A #3	MONROE GAS ROCK FIELD	19.7	IMC PIPELINE CO INC
8100059	A0-3465	1707321233	108		NACHTRIEB A #7	MONROE GAS ROCK FIELD	13.1	IMC PIPELINE CO INC
8100060	A0-3464	1707321241	108		NACHTRIEB A #8	MONROE GAS ROCK FIELD	6.9	IMC PIPELINE CO INC
-TEXACO INC					RECEIVED: 10/01/80 JA: LA			
8100220	A0-3346	1770720091	103		S L 340 MOUND POINT NO 70	MOUND POINT	2200.0	KAISER ALUMINUM & CH
*8100158	A0-3170	1770720086	103		S/L 340 MOUND POINT NO 64	MOUND POINT	1460.0	KAISER ALUMINUM & CH
*8100157	A0-3171	1770720086	103		S/L 340 MOUND POINT NO 64-D	MOUND POINT	2477.0	KAISER ALUMINUM & CH
*8100156	A0-3172	1770720085	103		S/L 340 MOUND POINT NO 65	MOUND POINT	2920.0	KAISER ALUMINUM & CH
*8100159	A0-3169	1770720089	103		S/L 340 MOUND POINT NO 68	MOUND POINT	2190.0	KAISER ALUMINUM & CH
*8100143	A0-3174	1770720090	103		S/L 340 MOUND POINT NO 69	MOUND POINT	7300.0	KAISER ALUMINUM & CH
*8100142	A0-3175	1770720091	103		S/L 340 MOUND POINT NO 70	MOUND POINT	3650.0	KAISER ALUMINUM & CH
*8100155	A0-3173	1770720093	103		S/L 340 MOUND POINT NO 72	MOUND POINT	1900.0	KAISER ALUMINUM & CH
-THE STONE OIL CORPORATION					RECEIVED: 10/01/80 JA: LA			
8100230	A0-3203	1705320619	107		ALICE ROY PRIMEAUX #1	ANDRUS COVE	2555.0	
8100187	A0-3388	1711320983	107		EXXON FEE #11	LAC BLANC	2008.0	
-THE SUPERIOR OIL COMPANY					RECEIVED: 10/01/80 JA: LA			
8100203	A0-3394	1710922047	103		SOUTHDOWN INC #A-7	SUNRISE	1460.0	UNITED GAS PIPE LINE
-UNION OIL COMPANY OF CALIF					RECEIVED: 10/01/80 JA: LA			
8100291	A0-3315	1710922246	103		STATE LEASE 2826 NO 41	CAILLOU ISLAND	50.0	TENNESSEE GAS PIPELI
-VIKING RESOURCES CORPORATION					RECEIVED: 10/01/80 JA: LA			
8100121	A0-3188	1707321348	108		HATCHER-EVANS NO 1	MONROE	4.0	PETRO-LEWIS FUNDS IN
8100122	A0-3187	1707321350	108		HATCHER-EVANS NO 2	MONROE	4.0	PETRO-LEWIS FUNDS IN
-WHITE & ELLIS DRILLING INC					RECEIVED: 10/01/80 JA: LA			
8100283	A0-3338	1703121015	103		PSU R BURFORD #1 (163954)	BETHANY-LONGSTREET	36.0	ARKANSAS LOUISIANA G

BILLING CODE 6450-85-C

Other Purchasers—Volume No. 299

8100142 American Cyanamid Co.
8100143 American Cyanamid Co.
8100155 American Cyanamid Co.
8100156 American Cyanamid Co.
8100157 American Cyanamid Co.
8100158 American Cyanamid Co.
8100159 American Cyanamid Co.
8100256 Monterey P L Co.

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" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before November 6, 1980.

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32996 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA81-1-000]

Arizona Fuels Corp.; Filing of Petition for Review Under 42 U.S.C. 7194

October 10, 1980.

Take notice that Arizona Fuels Corporation on October 2, 1980, filed a Petition for Review under 42 U.S.C. § 7194(b) (1977 Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before October 27, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before October 27, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32842 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-53]

Art Frost Leasing Co. (Glendale Automotive Services); Filing of Petition for Review Under 42 U.S.C. 7194

October 10, 1980.

Take notice that Art Frost Leasing Co. on June 24, 1980, filed a Petition for Review under 42 U.S.C. § 7194(b) (1977 Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the Petition for Review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before October 27, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before October 27, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue SW., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St. NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32843 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES80-83]

Central Illinois Light Co.; Application

October 10, 1980.

Take notice that on September 30, 1980, Central Illinois Light Company (Applicant) filed an application seeking authority pursuant to Section 204 of the Federal Power Act to issue up to $66,000,000 prinicpal amount of short-term debt to be issued from time to time with maturities not later than December 31, 1983.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 30, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32855 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3412]

City of Oxford, Kans.; Application for Preliminary Permit

October 9, 1980.

Take notice that the City of Oxford, Kansas (Applicant) filed on August 28, 1980, an application for preliminary

permit [pursuant to the Federal Power Act, 16 U.S.C. Sections 791(a)–825(r)] for proposed Project No. 3412 to be known as the Oxford Mill Project located on the Arkansas River in the City of Oxford, Sumner County, Kansas.

Correspondence with the Applicant should be directed to: Mayor N.R. Nelson, City Hall, Oxford, Kansas 67119.

Project Description—The proposed project would consist of the existing main dam, secondary dam, canal, Mill Building and tailrace canal in Oxford. The Applicant intends to study the feasibility of restoring two existing turbine-generator units with a total rated capacity of 300 kW located within the Mill Building. The project would be capable of generating up to 2,100,000 kWh annually saving the equivalent of 3,450 barrels of oil or 1,000 tons of coal annually.

Purpose of Project—Energy generated at the project would be sold to Kansas Gas and Electric Company for distribution to its customers.

Proposed Scope and Cost of Studies under Permit—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $8,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described applications for preliminary permits. (A copy of each application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of permits and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Completing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before November 17, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than January 16, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (as amended 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d), (as amended, 44 FR 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about these applications should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the Requirements of the Commission's Rules of Practice and Procedure, 18 CFR Section 1.8 or Section 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comment, protest, or petition to intervene must be filed on or before November 17, 1980, and must specify which of the above applications is being addressed. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32844 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-145]

Columbia Gulf Transmission Co.; Proposed Changes in FERC Gas Tariff

October 10, 1980.

Take notice that Columbia Gulf Transmission Company (Columbia Gulf), on September 30, 1980, tendered for filing proposed changes to its FERC Gas Tariff as follows:

Original Volume No. 1

Twenty-sixth Revised Sheet No. 7

Original Volume No. 2

Seventh Revised Sheet No. 72
Seventh Revised Sheet No. 73
Fourth Revised Sheet No. 92
Fourth Revised Sheet No. 93
Fourth Revised Sheet No. 126
Fifth Revised Sheet No. 145
Fifth Revised Sheet No. 146
Fourth Revised Sheet No. 263
Third Revised Sheet No. 320
Third Revised Sheet No. 337
Third Revised Sheet No. 386
Third Revised Sheet No. 387
Second Revised Sheet No. 416
Second Revised Sheet No. 417
Third Revised Sheet No. 440
Third Revised Sheet No. 484
Third Revised Sheet No. 493
Third Revised Sheet No. 567
Third Revised Sheet No. 596
Second Revised Sheet No. 628
First Revised Sheet No. 663
First Revised Sheet No. 677
First Revised Sheet No. 702
Second Revised Sheet No. 750
Second Revised Sheet No. 820
Second Revised Sheet No. 821
Second Revised Sheet No. 848
Second Revised Sheet No. 849
First Revised Sheet No. 937
First Revised Sheet No. 1052
First Revised Sheet No. 1097

The revised tariff sheets proposed to become effective November 1, 1980, reflects an increase in Columbia Gulf's revenue of $44,066,538 based on a cost of service for the test period twelve months ended May 31, 1980, as adjusted, compared with revenue based on April 26, 1980 level cost of service under the Stipulation and Agreement at Docket No. RP78–19. Columbia Gulf further states that the increased rates are required because of increases in labor and materials expense; an increase in the company's overall rate of return; and other cost changes more fully explained in the filing.

Columbia Gulf specifically requests that the Commission shorten the period of suspension for the subject rate filing, and permit the the rates to go into effect, subject to refund, on November 1, 1980.

Copies of this filing were served by the Company upon each of its jurisdictional customers.

Any person desiring to be heard or to protests said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 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 and 1.10). All such petitions or protests should be filed on or before October 24, 1980. 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 msut file a petition to intervene. Copies of Columbia Gulf's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32851 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3326]

Continental Hydro Corp.; Application for Preliminary Permit

October 10, 1980.

Take notice that the Continental Hydro Corporation (Applicant) filed on August 18, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3326 to be known as the Huntington Lake Dam Hydroelectric Project located at the U.S. Army Corps of Engineers' Huntington Dam and Lake flood control project, on the Wabash River near Huntington, Huntington County, Indiana. Correspondence with the Applicant should be directed to: A. Gail Staker, President, 141 Milk Street, Suite 1143, Boston, Massachusetts 02109.

Project Description—The proposed project would consist of: (1) a penstock from the existing sluice gates; (2) a powerhouse to be located on the northwest bank of the river; (3) transmission lines; and (4) other appurtenances. Applicant estimates the capacity of the project to be 2.13 MW, and the annual energy output to be 8.5 GWh.

Purpose of Project—Energy developed at Project No. 3326 would be sold to the Indiana and Michigan Electric Company for distribution to its customers.

Proposed Scope and Cost of Studies under Permit—The Applicant seeks issuance of a preliminary permit for a period of 36 months. The work to be performed under the preliminary permit would consist of gathering necessary data, completing surveys and environmental studies, obtaining necessary Federal, State and local permits, and preparing necessary documentation for the Commission's licensing requirements. Applicant estimates that the cost of works to be performed under the permit would not exceed $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 15, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 13, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (as amended, 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33(a) and (d), (as amended, 44 FR 61328, October 25, 1979.)

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before December 15, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32850 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3356]

Continental Hydro Corp.; Application for Preliminary Permit

October 10, 1980.

Take notice that Continental Hydro Corporation (Applicant) filed on August 25, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3356 to be known as Wister Dam Project located on the Poteau River in the Town of Wister, Le Flore County, Oklahoma. Correspondence with the Applicant should be directed to: A. Gail Staker, President, 141 Milk Street, Suite 1143, Boston, Massachusetts 02109.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' Wister Dam and would consist of: (1) a 320-foot-long penstock located along the right (south) bank; (2) a powerhouse containing a generating unit having a rated capacity of 4,700 kW; (3) a short tailrace; and (4) appurtenant facilities. Project energy would be transmitted to existing power lines serving the dam or to Oklahoma Gas and Electric's 161 kV transmission lines within several miles of the project. Applicant estimates the annual generation would average about 19,100,000 kWh.

Purpose of Project—Project energy would be sold to Oklahoma Gas and Electric.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would prepare studies of the hydraulic construction, economic, environmental, historic, and recreational aspects of the project. Depending upon the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $65,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and

environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 15, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 13, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (as amended, 44 F.R. 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33 (a) and (d), (as amended, 44 FR 61328, October 25, 1979.)

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Fedral Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before December 15, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32847 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3366]

Continental Hydro Corp.; Application for Preliminary Permit

October 10, 1980.

Take notice that Continental Hydro Corporation (Applicant) filed on August 25, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3366 to be known as the Fishtrap Project located on the Levisa Fork, Big Sandy River in the Town of Fishtrap, Pike County, Kentucky. Correspondence with the Applicant should be directed to: Mr. A. Gail Staker, 141 Milk Street, Suite 1143, Boston, Massachusetts 02109.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers Fishtrap Dam and Reservoir and would consist of a powerhouse with one or more generating units having a total rated capacity of 2 MW, and a 1-mile-long transmission line. The project would be capable of generating up to 8,800,000 kWh annually saving the equivalent of 14,500 barrels of oil or 4,100 tons of coal.

Purpose of Project—Energy generated at the project would likely be sold to Kentucky Power Company for distribution to it's customers.

Proposed Scope and Cost of Studies under Permit—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $60,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 15, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 16, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (as amended, 44 F.R. 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33(a) and (d), (as amended, 44 F.R. 61328, October 25, 1979.)

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to interve in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before December 15, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32849 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-68]

Crossroads Shell; Filing of Petition for Review Under 42 U.S.C. 7194

October 10, 1980.

Take notice that Crossroads Shell on April 28, 1980, filed a Petition for Review under 42 U.S.C. § 7194(b) (1977 Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before October 27, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before October 27, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32837 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TC81-5-000]

El Paso Natural Gas Co.; Tariff Sheet Filings

October 10, 1980.

Take notice that on October 1, 1980, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. TC81-5-000 tariff sheets pursuant to Part 281 of the Commission's Regulations under the Natural Gas Policy Act of 1978 to its FERC Gas Tariff, Original Volume No. 1 to become effective November 1, 1980, reflecting a periodic update to the seasonal base volumes of El Paso's affected customers.

El Paso states that the changes to its currently effective Index of Base Volumes are contained on tendered Fifth Revised Sheet No. 100 and Second Revised Sheet Nos. 101 through 103 and 105 through 107, and the changes to El Paso's Index of Priority Limitations are contained on tendered Second Revised Sheet Nos. 131, 135, 138, 144 and 152, Third Revised Sheet Nos. 132, 146, and 151, and First Revised Sheet Nos. 157 and 158.

Further it is indicated that the changes reflected in the seasonal base volumes contained in the Index of Base Volumes and the Index of Priority Limitations, for each affected customer, encompass the accumulation of data furnished to El Paso in response to letters El Paso set to its system customers except those having only Priority 1 requirements, requesting the appropriate data from each of said customers. Such changes reflect data submitted to El Paso associated with each affected customer's current essential agricultural requirements, that is, increases or reductions in Priority 2(a), and the related reclassification to Priority 2(a), when necessary of end-users' requirements currently classified in Priority 2, 3, 4, or 5, it is asserted.

El Paso also states that as a result of an inadvertent computational error in the data submitted by Pacific Gas and Electric Company (PG&E) to El Paso in compliance with the Commission's Order No. 29, the data pertaining to PG&E contained in the Index of Priority Limitations presently on file with the Commission are in error. Accordingly, El Paso states that Third Revised Sheet No. 146 is tendered to correct the seasonal base volumes, by priority, of PG&E shown on currently effective Second Revised Sheet No. 146.

El Paso also states that due to assignment or sale of various properties the following changes in the Index of Base Volumes and the Index of Priority Limitations are necessitated:

Community Public Service Company to West Texas Gas, Inc. and
Magma Natural Gas Company to City of Mesa, Arizona, respectively.

El Paso also submitted a complete copy of the Data Verification Committee Report.

Any person desiring to be heard or to make any protest with reference to said tariff sheet filings should on or before October 24, 1980, 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32853 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-51 (PGA81-1)]

Great Lakes Gas Transmission Co.; Proposed Changes in FERC Gas Tariff Under Purchased Gas Adjustment Clause Provisions

October 10, 1980.

Take notice that Great Lakes Gas Transmission Company (Great Lakes), on September 30, 1980, tendered for filing Thirty-Sixth-A Revised Sheet No. 57, to its FERC Gas Tariff, First Revised Volume No. 1, proposed to be effective November 1, 1980.

Great Lakes states that the revised purchased gas cost adjustment reflects a reduction in the cost of gas purchased from TransCanada PipeLines Limited, its sole supplier of natural gas, as a result of a reduction in the heat content of the gas.

In addition, the revised tariff sheet reflects a purchased gas cost surcharge resulting from maintaining an unrecovered purchased gas cost account for the period commencing March 1, 1980 and ending August 31, 1980 as well as an adjustment for changes in the compressor fuel cost from that reflected in the base tariff rates. The compressor fuel adjustment is required in accordance with Article III of the Stipulation and Agreement in Docket No. RP79-10 which was approved by the Commission on March 31, 1980.

Great Lakes also states that copies of this filing have been served upon its customers and the Public Service Commissions of Minnesota, Wisconsin and Michigan.

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 and

Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before October 24, 1980. 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. 80-32836 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-121]

Jack Halbert; Filing of Petition for Review Under 42 U.S.C. 7194

October 10, 1980.

Take notice that Jack Halbert on September 26, 1980, filed a Petition for Review under 42 U.S.C. § 7194(b) (1977 Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before October 27, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before October 27, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, S.W. Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32838 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-53 (PGA81-1)]

Kansas-Nebraska Natural Gas Co., Inc.; Proposed Changes in FERC Gas Tariff

October 10, 1980.

Take notice that Kansas-Nebraska Natural Gas Co., Inc. (Kansas-Nebraska) on September 30, 1980 tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1. The proposed changes will adjust its rates charged its jurisdictional customers pursuant to the Purchased Gas Cost Adjustment provision (Section 19) and its Incremental Pricing Surchages provision (Section 20) of the General Terms and Conditions of its FERC Gas Tariff, Third Revised Volume No. 1. The proposed changes would incease the commodity rate under each of Kansas-Nebraska's jurisdictional rate schedules by $0.5538 per MCF of which $0.5276 per MCF represents the increase in the base gas cost and $0.0262 per MCF the increase in the unrecovered gas cost surcharge. This filing is proposed to become effective December 1, 1980.

Copies of the filing were served upon the company's jurisdictional customers, interested public bodies and all direct and indirect customers which will be subject to the incremental pricing provisions.

Any person desiring to be heard or make any protest with reference to this filing should, on or before October 24, 1980, 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) under the Regulations of 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. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32839 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-48-000]

Michigan Wisconsin Pipe Line Co.; Proposed Changes in FERC Gas Tariff

October 10, 1980.

Take notice that on October 1, 1980, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered for filing Ninth Revised Sheet No. 7 to its F.E.R.C. Gas Tariff, Original Volume No. 1 and proposed an effective date of November 1, 1980.

This filing reflects a net increase in Michigan Wisconsin's one-part rates and the commodity component of the two-part rate of 16.98¢ per dekatherm (dth). This increase is the result of: (1) the effect of price increases on purchased gas in accordance with the NGPA; (2) the replacement of old low-cost sources of supply with new higher-cost sources; (3) a decrease of 8.82¢ in the surcharge adjustment; and (4) a decrease of .58¢ in the LFUT adjustment. Michigan Wisconsin also filed Third Revised Sheet No. 7a to reflect that zero MSAC's have been reported by its customers.

Michigan Wisconsin further states that it requests a waiver of the requirements of Part 154 of the Commission's Regulations under the Natural Gas Act to the extent that such waiver may be necessary to permit this filing of Ninth Revised Sheet No. 7 and Third Revised Sheet No. 7a to be made and to become effective November 1, 1980.

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, 1.10). All such petitions or protests should be filed on or before October 24, 1980. 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. 80-32840 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-49-000 (PGA 81-1)]

Montana-Dakota Utilities Co.; Purchased Gas Cost Adjustment Filing

October 10, 1980.

Montana-Dakota Utilities Co. ("MDU"), on October 1, 1980, submitted for filing as part of the its FERC Gas Tariff the following tariff sheets:

Originial Volume No. 4

Fifteenth Revised Sheet No. 3A

First Revised Volume No. 2

Eighth Revised Sheet No. 10

MDU states that this tariff filing is being made pursuant to its Purchased Gas Cost Adjustment Provisions. The proposed changes include a Gas Cost Adjustment of 59.325 cents per Mcf and a Surcharge Adjustment is 34.449 cents per Mcf. The proposed changes are supported by exhibits attached to the filing.

MDU states that it has reflected in the filing amounts refunded under Docket No. RP74-97 (PGA78-1) as a special twelve-month surcharge to reflect the decision of the United States Court of Appeals for the Eighth Circuit in *Montana-Dakota Utilities Co.* v. *Federal Energy Regulatory Commission*, No. 79-1915, issued August 21, 1980, which determined that conclusion of Powell II area gas costs in MDU's rates is proper. MDU states that the Gas Cost Adjustment of 59.325 cents per Mcf and the normal current surcharge of 13.224 cents per Mcf include gas costs from the Powell II unit in conformance with the decision.

MDU states that it has consulted with its jurisdictional customers and that they are agreeable to paying the special Powell II surcharge of 21.225 cents per Mcf over a twelve-month period.

The proposed effective date of MDU's PGA filing is November 1, 1980.

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 Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 24, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve the 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. Copies of the filing are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32852 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3223]

Northern California Power Agency and the Cities of Anaheim, Azusa, Banning, Colton, and Riverside, Calif.; Application for a New Major License

October 10, 1980.

Take notice that on June 20, 1980, the Northern California Power Agency and the Cities of Anaheim, Azusa, Banning, Colton, and Riverside, California (Applicants) filed an application with the Federal Energy Regulatory Commission under the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r), for new major license for the constructed Rock Creek-Cresta Project No. 3223 located on the North Fork Feather River in the Counties of Plumas, Butte, Yuba, and Sutter, California. The existing license for this project (Licensee: Pacific Gas and Electric Company) will expire on September 30, 1982. Correspondence with the Applicants should be directed to: Ms. Frances E. Francis, Attorney, Spiegel and McDiarmid, 2600 Virginia Avenue, NW., Suite 312, Washington, D.C. 20037. The project affects lands of the United States within the Plumas and Lassen National Forests.

The Rock Creek-Cresta Project, with a total installed capacity of 180,800 kW, consists of:

A. Rock Creek Development comprising: (1) the Rock Creek Reservior with a gross storage capacity of 4,400 acre-feet and a surface area of 118 acres at elevation 2,216.2 feet; (2) the Rock Creek Dam, a concrete gravity overflow structure, 126 feet high (from stream bed to the top of spillway gates), with a crest elevation of 2,230.2 feet and crest length of 567 feet; (3) a main spillway at elevation 2,188.2 feet containing two 124-foot wide bays, controlled by hydraulically operated drum gates; (4) a 22.5-foot wide supplementary spillway at elevation 2,210.2 feet, located to the west of the drum gates, controlled by a radial gate; (5) an intake structure within the reservior about 100 feet upstream of the dam near the western abutment; (6) a 25/19-foot diameter, 34,110-foot long tunnel; (7) a surge chamber; (8) two 12/9.75-foot diameter penstocks, 906 and 938 feet long; (9) a powerhouse containing two generating units with total installed capacity of 113,400 kW; and (10) a switchyard, adjacent to the powerhouse, containing two 13.8/230-kV transformer units.

B. Cresta Development comprising: (1) the Cresta Reservoir with a gross storage capacity of 4,140 acre:feet; and a surface area of 95 acres at elevation 1,681.2 feet; (2) the Cresta Dam, a concrete gravity overflow structure, 114 feet high (from stream bed to the top of spillway gates) with a crest elevation of 1,690.2 feet and crest length of 377.5 feet; (3) a main spillway at elevation 1,653.2 feet containing two 124-foot wide bays, controlled by hydraulically operated drum gates; (4) a 22.5-foot wide supplementary spillway at elevation 1,666.2 feet, located to the east of the drum gates, controlled by a radial gate; (5) an intake structure within the reservoir, about 100 feet upstream of the dam near the eastern abutment; (6) a 26/19-foot diameter, 21,080-foot long tunnel; (7) a surge chamber; (8) two 12-foot diameter penstocks, 800 and 775 feet long; (9) a powerhouse containing two generating units with a total installed capacity of 67,400 kW; and (10) a switchyard adjacent to the powerhouse containing two 11.5/230-kV transformer units.

C. Two 230-kV transmission lines, Rock-rio Oso Nos. 1 and 2, each about 72 miles long, extending from Rock Creek Switchyard to Rio Oso Substation, with Line No. 2 making a 1.4 mile loop into and out of Cresta Switchyard.

Existing recreational facilities within the project boundary consist of one highway rest stop. Applicant proposes to construct two fishing access areas on the shores of Rock Creek Reservoir and two traveller information sites along Highway 70. Applicant further proposes to provide additional shoreline fishing facilities at the project reservoirs, if needed, and recommended by governmental agencies.

Applicant would utilize the full output of the project to supply power to twelve consumer-owned utilities in northern and southern California for use by the Cities of Anaheim, Azusa, Banning, Colton, and Riverside, California.

Competing Applications—This application was filed as a competing application to the Pacific Gas and Electric Company's application for license for the Rock Creek-Cresta Project No. 1962 on the North Fork Feather River in the Counties of Plumas, Butte, Yuba, and Sutter, California, under 18 CFR 4.33 (as amended, 44 FR

61328, October 25, 1979), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before November 24, 1980. The Commission's address is: 825 North Capitol Street, N. E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32846 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3392]

Sequoia Energy Corp.; Application for Preliminary Permit

October 9, 1980.

Take notice that Sequoia Energy Corporation (Applicant) filed on August 27, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)—825(r)] for proposed Project No. 3392 to be known as Conchas Project located on the Canadian River in the Town of Grant, San Miguel County, New Mexico. Correspondence with the Applicant should be directed to: Mr. A. Gail Staker, 141 Milk Street, Suite 1143, Boston, Massachusetts 02109.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers Conchas Dam and Reservoir and would consist of a powerhouse with one or more generating units having a total rated capacity of 2.5 MW, and a transmission line. The project would be capable of generating up to 10,000,000 kWh annually saving the equivalent of 16,400 barrels of oil or 4630 tons of coal.

Purpose of Project—Energy generated at the project would likely be sold to Public Service Company of New Mexico for distribution to its customers.

Proposed Scope and Cost of Studies under Permit—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construction and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be 55,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 8, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 9, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), as amended, 44 FR 61328, (October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d), as amended, 44 FR 61328 (October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before December 8, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32845 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-147]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

October 10, 1980.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on September 29, 1980 tendered for filing as a part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following sheet:

First Revised Sheet No. 90

This tariff sheet is being filed in order to update the interest rate to be charged by Texas Eastern on overdue bills of its customers. The existing tariff interest rate of 7% has become outdated and no longer reflects present-day interest rates. The purpose of this tariff sheet is to change the interest rate to the same rate of interest prescribed for pipeline refunds according to Section 154.67(d)(2) of the FERC's Regulations.

The proposed effective date of the above tariff sheet is November 1, 1980.

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, DC 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 Oct. 24, 1980. 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. 80-32841 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3285]

Trinity River Authority of Tex.; Application for Preliminary Permit

October 10, 1980.

Take notice that Trinity River Authority of Texas (Applicant) filed on July 31, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3285 to be known as the Livingston Project located on the Trinity River in San Jacinto, Polk, Trinity, and Walker Counties Texas. Correspondence with the Applicant should be directed to: Danny F. Vance, General Manager, Trinity River Authority of Texas, P.O. Box 60, Arlington, Texas 76010.

Project Description—The proposed project would utilize the following existing facilities owned by the Applicant: (1) a 50-foot high, 13,480-foot long earthen dam; (2) a 646-foot long spillway section containing twelve 40-foot high by 32-foot wide, Tainter Gates; (3) a reservoir (Lake Livingston) with a surface area of 82,250 acres and a storage capacity of 1,750,000 acre-feet at elevation 131 feet mean sea level; (4) an outlet works; and (5) a stilling basin. Applicant proposes to study the feasibility of the installation of a powerhouse, between the east abutment and spillway section, containing four 15 MW turbine-generator units producing up to 175 million kWh annually and saving the equivalent of 287,400 barrels of oil or 81,000 tons of coal.

Purpose of Project—Energy generated by the project would be sold to either Gulf States Utilities Company or nearby electric power cooperatives.

Proposed Scope and Cost of Studies under Permit—The work proposed under this preliminary permit would include economic analysis, preparation of preliminary engineering plans, and environmental assessment studies. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the work to be performed under this permit would cost $1,000,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 15, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 13, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), as amended, 44 FR 61328, (October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d), as amended, 44 FR 61328 (October 25, 1979.)

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the proposed procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before December 15, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32848 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-50-000]

Valley Gas Transmission, Inc.; Purchased Gas Cost Adjustment Filing

October 10, 1980.

Valley Gas Transmission, Inc. ("Valley"), on October 1, 1980 submitted for filing as part of its FERC Gas Tariff, Original Volume No. 1, its proposed "Nineteenth Revised Sheet No. 2A". The proposed effective date is November 1, 1980.

Valley states that this tariff sheet is filed pursuant to its currently effective Purchased Gas Cost Adjustment Provision. The proposed changes involve Valley's "Current Surcharge Adjustment" and "Current Gas Cost Adjustment." The adjustments are supported by computations attached to the filing.

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 and 1.10). All such petitions or protests should be filed on or before October 24, 1980. 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 the filing are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32854 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

Advisory Committee on Revision of Rules of Practice and Procedure; Subcommittee on Review of Hearing Procedures; Meeting

October 17, 1980.

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 77), notice is hereby given that the Subcommittee on Review of Hearing Procedures of the Advisory Committee on Revision of Rules of Practice and Procedure will meet Thursday, November 6, 1980, from 9:30 a.m. until 5:00 p.m. at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 9306, Washington, D.C. If the business of the Subcommittee is not concluded on November 6, 1980, then the Subcommittee meeting will resume on Friday, November 7, 1980, at 9:30 a.m. until 5:00 p.m. at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 9306, Washington, D.C.

The purpose of the meeting is to discuss a second draft revision of the Commission's Rules of Practice and Procedure. A copy of the second draft revision is available at the FERC's Division of Public Information.

The meeting is open to the public. A transcript of the hearing will be available for public review at FERC's Division of Public Information, Room 1000, 825 North Capitol Street, NE., between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday except Federal holidays. In addition, any person may purchase a copy of the transcript from the reporter.

Kenneth F. Plumb,

Secretary

[FR Doc. 80–32826 Filed 10–21–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ER81–13–000]

Alabama Power Co.; Filing

October 14, 1980.

The filing Company submits the following:

Take notice that Alabama Power Company, on October 7, 1980, tendered for filing an initial rate schedule constituting a Transmission Service agreement between Alabama Power Company and Tennessee Valley Authority. The service under the rate schedule to commence on September 1, 1980. The Agreement between Alabama Power Company and Tennessee Valley Authority primarily provides for Alabama Power Company to receive compensation for transmission capacity made available by it for the delivery of power to customers of Tennessee Valley Authority, this delivery of power being made pursuant to long established interconnected operations between Tennessee Valley Authority and Alabama 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 sections 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 November 3, 1980. 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 Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–32940 Filed 10–21–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ER81–5–000]

Appalachian Power Co.; Filing

October 14, 1980.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation on behalf of its affiliate, Appalachian Power Company (APCo). Tendered for filing on October 6, 1980, Modification No. 5 and Modification No. 6 to the Federal Energy Regulatory Commission's APCo Rate Schedule No. 24 which represents an Interconnection Agreement with Carolina Power & Light Company. These proposed Modifications are stated to be a filing in compliance with the Federal Energy Regulatory Commission's Order No. 84, issued May 7, 1980.

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, 1.10). All such petitions or protests should be filed on or before November 3, 1980. 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. 80–32959 Filed 10–21–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. TC81–12–000]

Arkansas Louisiana Gas Co.; Tariff Filing

October 16, 1980

Take notice that on October 1, 1980, Arkansas Louisiana Gas Company (Arkla), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. TC81–12–000, First Revised Sheet Nos. 3E through 3J, to its FERC Gas Tariff, First Revised Volume No. 1, to become effective November 1, 1980, pursuant to Part 281 of the Regulations under the Natural Gas Policy Act of 1978.

Section 281.204 of the Regulations requires interstate pipelines to file no later than October 1, 1980, tariff sheets containing an updated index of the high-priority and essential agricultural use entitlements of each of their customers. Arkla states that First Revised Sheet Nos. 3E through 3J contain the updated Index of Entitlements required under Section 281.204 of the Regulations.

Any person desiring to be heard or to make any protest with reference to said filing should on or before October 27, 1980, file with the Federal Energy 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). 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–32953 Filed 10–21–80; 8:45 am]

BILLING CODE 6450–85–M

[Project No. 3284]

Ashuelot Paper Co., Inc.; Application for Preliminary Permit

October 15, 1980.

Take notice that the Ashuelot Paper Company, Inc., (Applicant) filed on July 31, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for

proposed Project No. 3284 to be known as the Ashuelot Paper Company Dam Project located on the Ashuelot River in Cheshire County, New Hampshire. Correspondence with the Applicant should be directed to: Mr. Edward J. McCormick, Executive Vice President, Ashuelot Paper Company, Inc., Hinsdale, New Hampshire 03451.

Project Description—The proposed project would consist of: (1) an existing concrete-face rock-fill dam having a height of 10 feet and a length of 110 feet; (2) a reservoir having a surface area of three acres and negligible storage capacity; (3) a 4,000-foot long penstock; (4) a proposed powerhouse having an installed generating capacity of 3,100 kW; and (5) appurtenant works. It is estimated that the average annual energy output of the project would be 15,000,000 kWh.

Purpose of Project—Project energy would be sold to a local public utility.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time Applicant would investigate the hydrologic, hydraulic, structural, and financial aspects of the project. Depending upon the outcome of the studies, the Applicant would proceed with the preparation of an application for license. Applicant estimates the cost of studies under the permit would be $39,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 5, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 10, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (*as amended*, 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33 (a) and (d), (*as amended*, 44 FR 61328, October 25, 1979.)

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 5, 1981. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32941 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-10-000]

Central Louisiana Electric Co., Inc.; Cancellation

October 14, 1980.

The filing company submits the following:

Take notice that on October 6, 1980, Central Louisiana Electric Company, Inc. (CLECO) tendered for filing a Notice of Cancellation of the Agreement for Electric Service between CLECO and the City of Franklin, Louisiana (City) dated July 7, 1978 (Rate Schedule FERC No. 35).

CLECO states that its proposal for the operation and possible ultimate transfer of ownership of City's electric system was approved by a majority of votes cast by the qualified electors of the City in an election held on August 23, 1980. CLECO and the City have agreed that CLECO will assume administration of the system on October 3, 1980 and the agreement covering firm power purchases by the City should be cancelled concurrently.

CLECO has requested waiver of the notice requirements of Part 35 in order to assume operation and maintenance of the system as agreed upon with the City.

Copies of the Notice of Cancellation were served upon the City and upon the Louisiana Public Service Commission.

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). All such petitions or protests should be filed on or before November 3, 1980. 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. 80-32961 Filed 10-21-80; 8:45 a.m.]

BILLING CODE 6450-85-M

[Docket No. CP80-400]

Columbia Gas Transmission Corp. Petition To Amend

October 14, 1980.

Take notice that on September 24, 1980, Columbia Gas Transmission Corporation (Petitioner), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP80-400 a petition to amend the order issued September 17, 1980, in the instant docket pursuant to section 7(c) of the natural gas Act so as to authorize the transfer of one point of delivery to Columbia Gas of Pennsylvania, Inc., all as more fully set forth in the petition to amend which is on file with the commission and open to public inspection.

Petitioner states that by order issued September 17, 1980, it was authorized to construct and operate 80 interconnecting tap facilities to provide additional points of delivery to certain of Petitioner's existing wholesale customers. One point of delivery, Petitioner states, was incorrectly requested for its customer, Columbia Gas of West Virginia, Inc.

Petitioner contends that the correct point of delivery should have been:
Request No. CPA–12–3:
Somerset County, Pa.
Paul Silbaugh
R.D. No. 1
Addison, Pa.
Residential 150

instead of:
Request No. CWV–12–14
Somerset County, W. Va.
Paul Silbaugh
3 Marilyn Road
Scott Depot, W. Va.
Residential 150

Petitioner proposes to transfer delivery from Columbia Gas of West Virginia, Inc. to Columbia Gas of Pennsylvania, Inc.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 3, 1980, 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.

Kennth F. Plumb,

Secretary.

[FR Doc. 80-32980 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER 81-8-000]

Consolidated Edison Co. of New York, Inc.; Filing

October 14, 1980.

The filing Company submits the following:

Take notice that Consolidated Edison Company of New York, Inc. (Con Edison) on October 6, 1980, tendered for filing as a rate schedule an executed agreement dated as of August 1, 1980 between Con Edison and the companies of the Northeast Utilities system (The Connecticut Light and Power Company, The Hartford Electric Light Company, and Western Massachusetts Electric Company, hereinafter collectively called NU). The proposed rate schedule provides for the sale of interruptible power and energy by Con Edison to NU.

The rate schedule provides for a capacity charge of $3.00 per megawatthour and an energy charge based upon the incremental cost of providing the energy.

Con Edison requests waiver of the notice requirements of Section 35.3 of the Commission's Regulations so that the proposed rate schedule can be made effective October 3, 1980 in accordance with the anticipated utilization by the parties.

Con Edison states that a copy of its filing was served on NU.

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 November 3, 1980. 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. 80-32991 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3371]

Continental Hydro Corp.; Application for Preliminary Permit

October 14, 1980.

Take notice that Continental Hydro Corporation (Applicant) filed on August 25, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3371 to be known as the East Sidney Project located on the Ouleout Creek in the Town of East Sidney, Delaware County, New York. Correspondence with the Applicant should be directed to: A. Gail Staker, President, 141 Milk Street, Suite 1143, Boston, Massachusetts 02109.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' East Sidney Dam and would consist of: (1) a 150-foot-long penstock located along the left (south) bank; (2) a powerhouse containing a generating unit having a rated capacity of 1,110 kW; (3) a short tailrace; and (4) appurtenant facilities. Project energy would be transmitted over existing power lines serving the dam or to New York Gas and Electric Company's transmission lines within several miles of the project. Applicant estimates the annual generation would average about 4,460,000 kWh.

Purpose of Project—Project energy would be sold to New York Gas and Electric Company.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic, and recreational aspects of the project. Depending upon the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $48,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 11, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 8, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (*as amended*, 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), (*as amended*, 44 FR 61328, October 25, 1979.)

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to

intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before December 11, 1980. The Commission's address is: 825 North Capitol Street, NE, Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32966 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3372]

Continental Hydro Corp.; Application for Preliminary Permit

October 15, 1980.

Take notice that Continental Hydro Corporation (Applicant) filed on August 25, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3372 to be known as the Pine Creek Project located on the Little River in McCurtain County, Oklahoma. Correspondence with the Applicant should be directed to: A. Gail Staker, President, 141 Milk Street, Suite 1143, Boston, Massachusetts 02109.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers Pine Creek Dam and would consist of: (1) a 400-foot-long penstock located along the left (east) bank; (2) a powerhouse containing a generating unit having a rated capacity of 5,950-kW; (3) a short tailrace; and (4) appurtenant facilities. Project energy would be transmitted over existing power lines serving the dam or to Oklahoma Gas & Electric Company's 138-kV transmission lines within 20 miles of the project. Applicant estimates the annual generation would average about 23,800,000 kWh.

Purpose of Project—Project energy would be sold to Oklahoma Gas & Electric Company.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic, and recreational aspects of the project. Depending upon the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $75,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 19, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 17, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (as amended, 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33 (a) and (d), (as amended, 44 FR 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before December 19, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32943 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3370]

Continental Hydro Corp.; Application for Preliminary Permit

October 15, 1980.

Take notice that Continental Hydro Corporation (Applicant) filed on August 25, 1980 an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)—825(r)] for proposed Project No. 3370 to be known as the Belton Project located on the Leon River in the Town of Belton, Bell County, Texas. Correspondence with the Applicant should be directed to: Mr. A. Gail Staker, 141 Milk Street, Suite 1143, Boston, Massachusetts 02109.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers Belton Dam and Reservoir and would consist of a powerhouse with one or more generating units having a total rated capacity of 2.5 MW, and a 1.5-mile long transmission line. The project would be capable of generating up to 11,000,000 kWh annually saving the equivalent of 18,000 barrels of oil or 5,100 tons of coal.

Purpose of Project—Energy generated at the project would likely be sold to Texas Power and Light Company for distribution to its customers.

Proposed Scope and Cost of Studies under Permit—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project.

Applicant estimates that the cost of the work to be performed under the preliminary permit would be $52,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 19, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 17, 1981. A notice of intent must conform with the requirements of 18 CFR § 4.33 (b) and (c), as amended 44 FR 61328 (October 25, 1979). A competing application must conform with the requirements of 18 CFR § 4.33 (a) and (d), as amended, 44 FR 61328 (October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before December 19, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32944 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3358]

Continental Hydro Corp.; Application for Preliminary Permit

October 10, 1980.

Take notice that Continental Hydro Corporation (Applicant) filed on August 25, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3358 to be known as the Chatfield Project located on the South Platte River in Douglas County, Colorado. Correspondence with the Applicant should be directed to: Mr. A. Gail Staker, 141 Milk Street, Suite 143, Boston, Massachusetts 02109.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers Chatfield Dam and Reservoir and would consist of a powerhouse with one or more generating units having a total rated capacity of 3.6 MW, and a 2-mile-long transmission line. The project would be capable of generating up to 14,600,000 kWh annually saving the equivalent of 24,000 barrels of oil or 6,800 tons of coal.

Purpose of Project—Energy generated at the project would likely be sold to Public Service Company of Colorado for distribution to its customers.

Proposed Scope and Cost of Studies under Permit—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize constuction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 15, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 13, 1981. A notice of intent must conform with the requirements of 18 C.F.R. 4.33(b) and (c), (*as amended*, 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33(a) and (d), (*as amended*, 44 FR 61328, October 25, 1979.)

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure 18 CFR, § 1.8, or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before December 15, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the

Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 32835 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3375]

Continental Hydro Corp.; Application for Preliminary Permit

October 14, 1980.

Take notice that Continental Hydro Corp. (Applicant) filed on August 25, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for proposed East Fork Dam Project, FERC Project No. 3375, to be located at the U.S. Army Corps of Engineers' East Fork Dam and Reservoir, a flood control project, on the East Fork of the Little Miami River near Batavia, Clermont County, Ohio. Correspondence with the Applicant should be directed to: Mr. A. Gail Staker, President, Continental Hydro Corp., 141 Milk St., Suite 1143, Boston, Massachusetts 02109.

Project Description—The proposed project would utilize an existing U.S. Army Corps of Engineers' dam and reservoir. Project No. 3375 would consist of: (1) a proposed penstock extending from the outlet works downstream; (2) a proposed powerhouse located on the right bank of the river; (3) transmission lines; and (4) appurtenant facilities. Applicant estimates the capacity of the proposed project to be 2.72 MW, and the annual energy output to be 10.9 GWH.

Purpose of Project—Energy produced at the proposed project would be sold to Cincinnati Gas and Electric Company.

Proposed Scope and Cost of Studies under Permit—Applicant has requested a 36-month permit to prepare a definitive project report, including preliminary design and economic feasibility studies, hydrological studies, environmental and social studies, and soil and foundation data. The cost of the aforementioned activities along with obtaining agreements with other Federal, State and local agencies is estimated to be $72,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 12, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 10, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (*as amended* 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), (*as amended*, 44 FR 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before December 12, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32963 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3377]

Continental Hydro Corp.; Application for Preliminary Permit

October 14, 1980.

Take notice that Continental Hydro Corporation (Applicant) filed on August 25, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Orwell Dam project, FERC No. 3377, to be located at the U.S. Army Corps of Engineers' Orwell Dam and reservoir, a flood control project, on the Otter Tail River near Fergus Falls, in Otter Tail County, Minnesota. Correspondence with the Applicant should be directed to: Mr. A. Gail Staker, President, Continental Hydro Corporation, 141 Milk Street, Suite 1143, Boston, MA 02109.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' dam and reservoir. Project No. 3377 would consist of: (1) a proposed penstock extending from the outlets works; (2) a proposed powerhouse located on the northwestern bank of the river; (3) transmission lines; and (4) appurtenant facilities. Applicant estimates the capacity of the proposed project to be 2.4 MW, and the annual energy output to be 7.4 GWh.

Purpose of Project—Energy produced at the proposed project would be sold to Otter Tail Power Company.

Proposed Scope and Cost of Studies Under Permit—Applicant has requested a 36 month permit to prepare a definitive project report, including preliminary design and economic feasibility studies, hydrological studies, environmental and social studies, and soils and foundation data. The cost of the aforementioned activities along with obtaining agreements with other Federal, State and local agencies is estimated to be $47,500.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power,

and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 15, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 16, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), *as amended*, 44 FR 61328, (October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), *as amended*, 44 FR 61328 (October 25, 1979).

Comments, Protests, or Petitions to Intervene—Any desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before December 15, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32965 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Projects Nos. 3391, 3393, and 3399]

Continental Hydro Corp.; Application for Preliminary Permit

October 16, 1980.

Take notice that Continental Hydro Corp. (Applicant) filed on August 27, 1980, three applications for preliminary permits [pursuant to the Federal Power Act, 16 U.S.C. Sections 791(a)–825(r)] for the projects described below. Correspondence with the Applicant on these projects should be addressed to: Mr. A Gail Staker, President, Continental Hydro Corp., 141 Milk Street Suite 1143, Boston, MA 02109.

The proposed projects are located as follows:

(i) Cecil M. Harden Dam Project No. 3391 would be located at the U.S. Army Corps of Engineers' Cecil M. Harden Dam and Lake, a flood control project, on the Raccoon Creek near Ferndale, in Parke and Putnam Counties, Indiana.

(ii) Brookville Dam Project No. 3393 would be located at the U.S. Army Corps of Engineers' Brookville Dam and Lake, a flood control project, on the East Fork of Whitewater River near Brookville, in Franklin County, Indiana.

(iii) Cagles Mill Dam Project No. 3399 would be located at the U.S. Army Corps of Engineers' Cagle Mill Dam, a flood control project, on the Mill Creek River near Cloverdale, Putman County, Indiana.

Projects Descriptions—The three proposed projects would utilize existing U.S. Army Corps of Engineers' dams and reservoirs.

Project No. 3391—would consist of: (1) a penstock extending from the outlet conduit; (2) a powerhouse located on the southwest bank of the river; (3) transmission lines; and (4) appurtenant facilities. Applicant estimates the capacity of the project to be 1.0 MW, and the annual energy output to be 4.2 GWh.

Project No. 3393—would consist of: (1) a penstock extending from the outlet conduit; (2) a powerhouse located on the east bank of the river; (3) transmission lines; and (4) appurtenant facilities. Applicant estimates the capacity of the project to be 3.1 MW, and the annual energy output to be 12.7 GWh.

Project No. 3399—would consist of: (1) a penstock extending from a 12-foot outlet conduit; (2) a powerhouse on the northern bank of the river; (3) transmission lines; and (4) appurtenant facilities. Applicant estimated the capacity of the project to be 1.2 NW and the annual energy output to be 5.3 GWh.

Purpose of Project—Energy produced at proposed Projects Nos. 3391 and 3399 would be sold to Public Service Company of Indiana, while proposed Project No. 3393 would sell energy to Indiana and Michigan Electric Company.

Proposed Scope and Cost of Studies Under Permits—The Applicant has requested a 36-month permit to prepare a definitive report for each project, including preliminary design and economic feasibility studies, hydrological studies, environmental and social studies, and soils and foundation data. The cost of the aforementioned activities along with obtaining agreements with other Federal, State and local agencies are estimated by the Applicant to be $50,000 each for Projects Nos. 3391 and 3393, while proposed Project No. 3399 is estimated to cost $48,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described applications for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 22, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 20, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (*as amended*, 44

FR 61328 (October 25, 1979). A competing application must confrom with the requirements of 18 CFR 4.33 (a) and (d), *as amended* 44 FR 61328 (October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about these applications should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the Requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comment, protest, or petition to intervene must be filed on or before December 22, 1980, and must specify which of the above applications is being addressed. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32968 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3394]

Continental Hydro Corp.; Application for Preliminary Permit

October 14, 1980.

Take notice that Continental Hydro Corp. (Applicant) filed on August 27, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for the proposed Harlan County Dam project, FERC No. 3394, to be located at the U.S. Army Corps of Engineers' Harlan County Dam and Reservoir, a flood control project, on the Republican River near Republican City, Harlan County, Nebraska. Correspondence with the Applicant should be directed to: Mr. A. Gail Staker, President, Continental Hydro Corp., 141 Milk Street, Suite 1143, Boston, MA 02109.

Project Discription—The proposed project would utilize an existing U.S. Army Corps of Engineers' dam and reservoir. Project No. 3394 would consist of : (1) a proposed penstock extending from the outlet works below the dam; (2) a proposed powerhouse located on the south bank of the river; (3) transmission lines; and (4) appurtenant facilities. Applicant estimates the capacity of the proposed project to be 2.3 MW, and the annual energy output to be 10.1 GWh.

Purpose of Project—Energy produced at the proposed project would be sold to Nebraska Public Power System Company.

Proposed Scope and Cost of Studies under Permit—Applicant has requested a 36-month permit to prepare a definitive project report, including preliminary design and economic feasibility studies, hydrological studies, environmental and social studies, and soil and foundation data. The cost of the aforementioned activities along with obtaining agreements with other Federal, State, and local agencies is estimated to be $55,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 12, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 11, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), *as amended,* 44 FR 61328 (October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d), *as amended,* 44 FR 61328 (October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to interevene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before December 12, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32964 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3400]

Continental Hydro Corp. Application for Preliminary Permit

October 14, 1980.

Take notice that Continental Hydro Corporation (Applicant) filed on August 27, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for the proposed Buckhorn Dam project, FERC No. 3400 to be located at the U.S. Army Corps of Engineers' Buckhorn Dam and Reservoir, a flood control project, on the Middle Fork Kentucky River near Buckham, Perry County, Kentucky. Correspondence with the Applicant should be directed to: Mr. A. Gail Staker, President, Continental Hydro Corporation, 141 Milk Street, Suite 1143, Boston, Massachusetts 02109.

Project Description—The proposed project would utilize an existing U.S. Army Corps of Engineers' dam and reservoir. Project No. 3400 would consist of: (1) a proposed penstock extending from the outlet conduit; (2) a powerhouse located on the western bank of the river; (3) transmission lines; and (4) appurtenant facilities. Applicant estimates the capacity of the proposed project to be 2.8 MW, and the annual energy output to be 10.5 GWh.

Purpose of Project—Energy produced at the proposed project would be sold to Kentucky Power Company.

Proposed Scope and Cost of Studies under Permit—Applicant has requested a 36 month permit to prepare a definitive project report, including preliminary design and economic feasibility studies, hydrological studies, environmental and social studies, and soil and foundation data. The cost of the aforementioned estimates along with obtaining agreements with other Federal, State and local agencies is estimated to be $52,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 15, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 11, 1981. A notice of intent must conform with the requirements of 18 CFR. 4.33(b) and (c), *as amended* 44 FR 61328, (October 25, 1979). A competing application must conform with the requirements of 18 CFR. 4.33(a) and (d), *as amended*, 44 FR 61328 (October 25, 1979).

Comments, Protest, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protest. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before December 15, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32974 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TC81-3-000]

East Tennessee Natural Gas Co.; Tariff Filing

October 10, 1980.

Take notice that on October 2, 1980, East Tennessee Natural Gas Company (East Tennessee), Tenneco Building, P.O. Box 2511, Houston, Texas 77001, filed in Docket No. TC81-3-000, First Revised Sheet Nos. 85 through 99, to become effective November 1, 1980, which revise its FERC Gas Tariff, Sixth Revised Volume No. 1, pursuant to Part 281 of the Regulations under the Natural Gas Policy Act of 1978.

Section 281.204 of the Regulations requires interstate pipelines to file no later than October 1, 1980, tariff sheets containing an updated index of the high-priority and essential agricultural use entitlements of each of their customers. East Tennessee states that First Revised Sheet Nos. 85 through 99 contain the updated Index of Entitlements required under Section 281.204 of the Regulations and that copies of the filing have been mailed to its customers and interested State Commissions.

East Tennessee also states that this filing includes a copy of the Final Report of its Data Verification Committee.

Any person desiring to be heard or to make any protest with reference to said filing should on or before October 24, 1980, 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). 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32828 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-89]

Eastern Shore Natural Gas Co.; Settlement Conferences

October 14, 1980.

Settlement conferences will be held for the purpose of discussing all issues in the above-captioned proceeding at 10:00 a.m. on October 22, 1980, and October 29, 1980, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. The location of the conference room will be posted on the second floor of the Commission's offices at 825 North Capitol Street, NE, on the day of the conference.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32976 filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-16-000]

El Paso Electric Co. Filing of Agreement for Sale and Interchange of Energy

October 14, 1980.

The filing company submit the following:

Take notice that on October 8, 1980, El Paso Electric Company (EPEC) submitted for filing, as an initial rate filing, an "Agreement For Sale and Interchange of Energy Between El Paso Electric Company and The Public Service Department of the City of Burbank" dated July 14, 1980 (Agreement). EPEC states that this Agreement provides a basis, and on an economy basis. EPEC has requested that this Agreement be accepted for filing and made effective on October 8, 1980, and that waiver of the notice provisions and other requirements of the Commission's Regulations be granted as appropriate.

EPEC further states that copies of this filing have been served upon the Public Utility Commission of Texas, the New

Mexico Public Service Commission, and The Public Service Department of the City of Burbank.

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, 1.10). All such petitions or protests should be filed on or before November 3, 1980. 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 area available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32985 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-15-000]

El Paso Electric Co.; Filing of Agreement for Sale and Interchange of Energy

October 14, 1980.

The filing company submits the following:

Take notice that on October 8, 1980, El Paso Electric Company (EPEC) submitted for filing, as an initial rate filing, an "Agreement For Sale and Interchange of Energy Between El Paso Electric Company and The City of Glendale" dated September 30, 1980 (Agreement). EPEC states that this Agreement provides a basis for the exchange and sale of energy between the parties on a non-firm basis as available, on a returnable basis, and on an economy basis. EPEC has requested that this Agreement be accepted for filing and made effective on October 8, 1980, and that waiver of the notice provisions and other requirements of the Commission's Regulations be granted as appropriate.

EPEC further states that copies of this filing have been served upon the Public Utility Commission of Texas, the New Mexico Public Service Commission, and The City of Glendale.

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, 1.10). All such petitions or protests should be filed on or before November 3, 1980. 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. 80-32990 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. Cp61-92]

El Paso Natural Gas Co.; Amendment To Petition To Amend

October 14, 1980.

Take notice that on September 23, 1980, El Paso Natural Gas Company (Petitioner), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP61-92 and amendment to its petition to amend the order issued in the instant docket on January 11, 1965 [1] pursuant to Section 7(c) of the Natural Gas Act so as to authorize the establishment of a new delivery point between Petitioner and Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Petitioner, in its petition to amend filed in the instant docket on July 9, 1980, requested authorization to establish the Abraham Unit No. 1 well in Roger Mills County, Oklahoma, as a new delivery point to Northern under the existing service agreement dated August 17, 1962, as amended, between Applicant and Northern, it is said.

Subsequently, Petitioner states that it has been advised by Northern that Northern has quantities of residue gas available from Amoco Production Company's Slaughter Plant, which Northern desires to make available for delivery to Petitioner as a part of the authorized exchange arrangement as set forth in a letter agreement dated July 2, 1980.

Petitioner submits that it has constructed and now operates approximately 2.80 miles of 12¾-inch O.D. pipeline with appurtenances including a 6⅝-inch O.D. standard orifice purchase meter which connect the Slaughter Plant to Petitioner's existing Dumas mainline in Hockley and Cochran Counties, Texas. Petitioner seeks to include its connection with the Slaughter Plant as a new delivery point with Northern.

Petitioner asserts that Northern may cause the delivery of up to 2,000 Mcf of natural gas per day to Petitioner from the Slaughter Plant which Petitioner would redeliver to Northern as part of the total exchange volumes now authorized. Petitioner states that it would receive from Northern 2.0 cents for each Mcf of natural gas which it transports from the Slaughter Plant for the account of Northern.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before November 3, 1980, 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. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32982 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[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.

[Docket No. ER81-14-000]

El Paso Electric Co.; Filing of Agreement for Sale and Interchange of Energy

October 14, 1980.

The filing company submits the following:

Take notice that on October 8, 1980, El Paso Electric Company (EPEC) submitted for filing, as an initial rate filing, an "Agreement For Sale and Interchange of Energy Between El Paso Electric Company and The Department of Water and Power of the City of Pasadena" dated September 29, 1980 (Agreement). EPEC states that this Agreement provides a basis for the exchange and sale of energy between the parties on a non-firm basis as available, on a returnable basis, and on an economy basis. EPEC has requested that this Agreement be accepted for filing and made effective on October 8,

1980, and that waiver of the notice provisions and other requirements of the Commission's Regulations be granted as appropriate.

EPEC further states that copies of this filing have been served upon the Public Utility Commission of Texas, the New Mexico Public Service Commission, and The Department of Water and Power of the City of Pasadena.

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 November 3, 1980. 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. 80-32972 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-17-000]

El Paso Electric Co.; Filing of Agreement for Sale and Interchange of Energy

October 14, 1980

The filing company submits the following:

Take notice that on October 8, 1980, El Paso Electric Company (EPEC) submitted for filing, as an initial rate filing, an "Agreement For Sale and Interchange of Energy Between El Paso Electric Company and The Department of Water and Power of the City of Los Angeles" dated August 21, 1980 (Agreement). EPEC states that this Agreement provides a basis for the exchange and sale of energy between the parties on a non-firm basis as available, on a returnable basis, and on an economy basis. EPEC has requested that this Agreement be accepted for filing and made effective on October 8, 1980, and that waiver of the notice provisions and other requirements of the Commission's Regulations be granted as appropriate.

EPEC further states that copies of this filing have been served upon the Public Utility Commission of Texas, the New Mexico Public Service Commission, and The Department of Water and Power of the City of Los Angeles.

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 November 3, 1980. 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. 80-32988 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3457]

French Broad Electric Membership Corp.; Application for Preliminary Permit

October 16, 1980

Take notice that French Broad Electric Membership Corporation (Applicant) filed on September 11, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3457 to be known as the Capitola Dam Project located on the French Broad River in Madison County, North Carolina. Correspondence with the Applicant should be directed to: Mr. Charles R. Tolley, General Manager, P.O. Box 9, Marshall, North Carolina 28753.

Project Description—The proposed project would consist of: (1) an existing 500-foot long and 9-foot high concrete dam; (2) an existing 25 acre reservoir with 225 acre-feet of storage capacity; (3) an existing 575-foot long intake canal; (4) a powerhouse with an installed generating capacity of 3.0 MW and (5) appurtenant facilities. The average annual energy generation is estimated to be 16,500 MWh.

Purpose of Project—The French Broad Electric Membership Corporation proposes to develop the Hydroelectric potential of the project and to utilize the power to offset the utility's power purchases.

Proposed Scope and Cost of Studies under Permit—The Applicant seeks issuance of a preliminary permit for a period of 36 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if the findings are positive, describe the steps required for implementation. The report will be prepard so that the information presented will be useful in preparing an application for license for the project. The Applicant's estimated total cost for performing a feasibility study is $86,070.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 22, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file a competing application no later than February 20, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), *as amended,* 44 FR 61328 (October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d), *as amended,* 44 FR 61328 (October 25, 1979).

Comments, protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 and 1.10 (1979). Comments not in the nature of a protest

may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before December 22, 1980. the Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32970 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. RP74-86 and RP76-97]

Gulf Energy & Development Corp.; Order Remanding Proceeding for Further Hearing

Issued: October 10, 1980.

This proceeding involves a claim by Gulf Energy & Development Corporation (Gulf Energy) for an acquisition adjustment amounting to approximately $260,000. The proposed adjustment stems from a 1963 transaction in which Gulf Resources, Inc., Gulf Energy's predecessor, acquired from Delhi-Taylor Company Delhi's 50 percent interest in Natural Gas Gathering Company (NGG). NGG and Gulf Resources were equal co-owners of a natural gas gathering pipeline known as the Zapata System. gulf Resources purchased Delhi's NGG stock for a price which was some $618,433 in excess of the net book value of NGG's share of the Zapata properties. Approxiamtely $358,000 of the purchase premium has been written off by Gulf Energy. It seeks to amortize the remaining $260,000 in its rates over a 10 year period and to include unamortized portions of the adjustment in its rate base.

Following heraings ordered by the Federal Power Commission, the presiding judge on March 4, 1977, issued his initial decision recommending that the adjustment be denied. The judge's decision was affirmed by the Commission in an order dated July 25, 1978.

The Commission's decision was appealed by Gulf Energy to the United States Court of Appeals for the D.C. Circuit. On February 14, 1980, the court reversed the Commission's decision and remanded the case for further consideration. *Gulf Energy and Development Corp.* v. *F.E.R.C.*, 616 F. 2d 1211 (D.C. Cir. 1980). The court concluded that the Commission and the presiding judge had failed to make findings necessary to support denial of the claimed acquisition adjustment. The court went on to suggest additional considerations and information which might be relevant in deciding the matter. Among other things the court suggested that an attempt be made to establish the value of Delhi's NGG stock as of the date of acquisition by Gulf Energy.

Upon review of this matter, the Commission finds that the record in this proceeding is not adequate to meet the requirements set forth by the court. The proceeding shall therefore be remanded for further hearings in light of and consistent with the court's instructions.

The Commission orders: (A) this proceeding is remanded for further hearing.

(B) A presiding administrative law judge to be designated by the Chief administrative law judge shall preside at the hearing initiated by this order, with full authority to establish and change all procedural dates and to rule on all motions as provided in the rules of practice and procedure.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-32879 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. G-4282, et al.]

Gulf Oil Corp., et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

October 14, 1980.

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.

Any person desiring to be heard or to make any protest with reference to said applications should on or before October 31, 1980, file with the Federal Energy Regulatory Commission, Washington, D. C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction 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 unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft [3]	Pressure base
G-4282, D, Sept. 2, 1980	Gulf Oil Corporation, P.O. Box 2100, Houston, Texas.	Natural Gas Pipeline Company of America, Boonesville Field, Jack County, Texas.	The only well on the lease has ceased to produce and the lease expired 7-15-80.	[4]
G-6378, D, Sept. 3, 1980	Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, Okla. 73125.	Colorado Interstate Gas Company, Keyes Field, Cimarron County, Oklahoma.	Lease expired due to lack of commercial production and has been released of record.	
G-14718-000, D, Oct. 1, 1980	do	Northern Natural Gas Company, Rosston Area, also called South Glenwood Field, Beaver County, Oklahoma.	Well has been plugged and lease has been released of record.	

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft ³	Pressure base
G–17019, D, Aug. 6, 1980	Gulf Oil Corporation	El Paso Natural Gas Company, Bisti Field, San Juan County, New Mexico.	Leases have expired	
G–17309, Aug. 27, 1980 [1]	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	El Paso Natural Gas Company, Tubb and Blinebry Field, Lea County, New Mexico.	([2])	14.65
G–17571, D, July 30, 1980	do	El Paso Natural Gas Company, Mocane-Laverne Area, Beaver County, Oklahoma.	Wells have been plugged and abandoned and leases have lapsed.	
G–19062, D, Sept. 2, 1980	Gulf Oil Corporation	Tennessee Gas Pipeline Company, a Division of Tenneco, Inc., Lake Washington Field, Plaquemines Parish, Louisiana.	Portion of lease has been surrendered to the State of Louisiana.	
CI75–538, C, Sept. 8, 1980	Mobil Oil Exploration and Producing Southeast Inc., Nine Greenway Plaza—Suite 2700, Houston, Texas 77046.	Trunkline Gas Company, Grand Isle Block 95 Field, South Addition, Federal Offshore Louisiana.	([3])	15.025
CI76–734, C, Sept. 8, 1980	do	Trunkline Gas Company, Grand Isle Block 93 Field, South Addition, Federal Offshore Louisiana.	([4])	15.025
CI76–778, C, Aug. 12, 1980	Shell Oil Company, One Shell Plaza, P.O. Box 2463, Houston, Texas 77001.	Transcontinental Gas Pipe Line Corporation, OCS–G–3119 Well No. 1 located in Vermilion Block 21, Offshore Louisiana.	([5])	15.025
CI77–18, C, Sept. 5, 1980	Transco Exploration Company, P.O. Box 1396, Houston, Texas 77001.	do	([6])	15.025
CI78–37, C, Sept. 8, 1980	The Superior Oil Company, P.O. Box 1521, Houston, Texas 77001.	Michigan Wisconsin Pipe Line Company, OCS–G–2596 Well No. A–8 located in Block 244 of the South Marsh Island Block 243 Field, Offshore Louisiana.	([7])	15.025
CI78–208, C, Aug. 29, 1980	Chevron U.S.A. Inc., P.O. Box 7643, San Francisco, Ca. 94120.	Southern Natural Gas Company, OCS–G–2603 No. 2 Well in Eugene Island, Block 65 (E ½), Offshore Louisiana.	([8])	15.025
CI78–1216, F, Sept. 9, 1980 [9]	Phillips Petroleum Company (Succ. in Interest to the Estate of Lewis T. Lohman), 5 C4 Phillips Building, Bartlesville, Okla. 74004.	Arkansas Louisiana Gas Company, SE/4 Section 21, the SW/4 Section 22, the NW/4 Section 27, and the NE/4 Section 28, all in Township 18 North Range 8 West, Webster Parish, Louisiana.	([8])	15.025
CI80–405, E, July 7, 1980	Placid Oil Company (Succ. to Bodcaw Company), 1600 First Natl. Bank Bldg., Dallas, Texas 75202.	United Gas Pipe Line Company, Caster Field, Bienville Parish, Louisiana.	([9])	15.025
CI80–407, E, July 7, 1980	do	Texas Gas Transmission Corporation, Northwest Cotton Valley Area, Webster Parish, Louisiana.	([9])	15.025
CI80–456, F, July 30, 1980 [10]	Shell Oil Company (Partial Successor in Interest to Conoco Inc.), One Shell Plaza, P.O. Box 2463, Houston, Texas 77001.	El Paso Natural Gas Company, Aneth Field, San Juan County, Utah.	([5])	15.025
CI80–491, A, Aug. 26, 1980	Mobil Oil Exploration and Producing Southeast, Inc., Nine Greenway Plaza—Suite 2700, Houston, Texas 77046.	Michigan Wisconsin Pipe Line Company, Vermilion Block 182 Field, Federal Offshore Louisiana.	([11])	14.73
CI80–492, A, Aug. 26, 1980	do	Michigan Wisconsin Pipe Line Company, Eugene Island Block 296 "10 Sand" and "X Sand", Federal Offshore Louisiana.	([12])	15.025
CI80–493, F, Aug. 27, 1980	Amoco Production Company (Succ. in Interest to Petroleum Inc.), 1754 Amoco Bldg., Denver, Colorado 80202.	Northern Natural Gas Company, Mocane-Laverne Gas Area, Beaver County, Oklahoma.	([13])	14.65
CI80–495, B, Aug. 19, 1980	W. Carlton Weaver, *et al.*, 1820 Bank & Trust Tower, Corpus Christi, Texas 78477.	Tennessee Gas Pipeline Company, Leal (Miocene 2200) and El Oro (3150) Fields, Duval County, Texas.	All production ceased on the Glasscock Ranch in July, 1979 and wells were plugged on order of Railroad Commission of Texas.	
CI80–496, F, Aug. 28, 1980	Conoco Inc., P.O. Box 2197, Houston, Texas 77001.	Natural Gas Pipeline Company of America, Dagger Draw Field Area, Eddy County, New Mexico.	([14])	14.65
CI80–497, F, Aug. 28, 1980	do	do	([14])	14.65
CI80–498, F, Aug. 29, 1980	do	do	([14])	14.65
CI80–499, A, Sept. 2, 1980	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	El Paso Natural Gas Company, Matagorda Island Block 526, Offshore Texas.	([15])	14.65
CI80–500, A, Sept. 2, 1980	The Superior Oil Company, P.O. Box 1521, Houston, Texas 77001.	Columbia Gas Transmission Corporation, Block 36, Vermilion Block 14 Field, Vermilion Area, Offshore Louisiana.	([5])	15.025
CI80–502, (G–14351), B, Sept. 3, 1980.	Union Oil Company of California, Union Oil Center, Boc 7600, Los Angeles, Ca. 90051.	Transcontinental Gas Pipe Line Corporation, Block 66, Block 76 Field, Vermilion Area, Offshore Louisiana.	Gas reserves were depleted and the wells were plugged and abandoned. The leases were released to the Bureau of Land Management.	
CI80–503, (G–9872), B, Sept. 2, 1980.	Gulf Oil Corporation, P.O. Box 2100, Houston, Texas 77001.	Texas Gas Pipe Line Corporation, Big Hill Field, Jefferson County, Texas.	The only lease covered by this contract expired 1–30–79 after the last well was plugged and abandoned 11–30–78.	
CI80–504, (G–14741), B Sept. 2, 1980.	do	United Gas Pipe Line Company, Maxie-Pistol Ridge Field, Forrest, Lamar and Pearl River Counties, Mississippi.	([16])	
CI80–506, A, Sept. 8, 1980	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Tennessee Gas Pipeline Company, Vermilion Area Block 119, Offshore Louisiana.	([17])	15.025
CI80–507, (CI75–505), B, Sept. 9, 1980.	Cities Service Company, P.O. Box 300, Tulsa, Oklahoma 74102.	Panhandle Eastern Pipe Line Company, Section 1–5N–9ECM, Cimmarron County, Oklahoma.	([18])	
CI80–508, A, Sept. 11, 1980	Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, Okla. 73125.	Natural Gas Pipeline Company of America, Block 143, South Marsh Island Area, Offshore Louisiana.	([19])	15.025
CI80–509 A, Sept. 11, 1980	Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, Okla. 73125.	Natural Gas Pipeline Company of America, Blocks 115 and 116, West Cameron Area, Offshore Louisiana.	([20])	15.025
CI80–510, A, Sept. 11, 1980	do	Natural Gas Pipeline Company of America, Block 265, South Marsh Island Area, Offshore Louisiana.	([21])	15.025

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft [3]	Pressure base
CI80-511, (CI61-1795), B, Sept. 15, 1980.	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	Panhandle Eastern Pipe Line Company, J. C. White Lease N/2 Section 22, S/2 Section 15-4N-10ECM, Texas County, Oklahoma.	([25])	
CI80-512, B, Sept. 2, 1980	Gulf Oil Corporation, P.O. Box 2200, Houston, Texas 77001.	J. L. Davis and Tipperary Resources Corporation, Lea "GI" Lease, Dean Permo Penn Pool, Lea County, New Mexico.	Production from last well on lease has ceased. Lease expired by its own terms when workover operations ceased.	
CI80-513, A, Sept. 16, 1980	Alminex U.S.A., Inc., P.O. Box 1521, Houston, Texas 77001.	Michigan Wisconsin Pipe Line Company, Block A-555, High Island Area, Offshore Texas.	([5])	14.65
CI80-514, A, Sept. 16, 1980	Canadian Superior Oil (U.S.) Ltd., P.O. Box 1521, Houston, Texas 77001.	Michigan Wisconsin Pipe Line Company, Block A-555, High Island Area, Offshore Texas.	([5])	14.65
CI80-515, A, Sept. 15, 1980	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Tennessee Gas Pipeline Company, Logansport Field, DeSoto Parish, Louisiana.	([23])	15.025
CI80-516, A, Sept. 16, 1980	Samedan Oil Corporation, P.O. Box 909, Ardmore, Okla. 73401.	Texas Eastern Transmission Corporation, a portion of West Cameron Block 522, Offshore Louisiana.	([24])	15.025
CI80-517, A, Sept. 18,1980	CNG Producing Company, Suite 3100, One Canal Place, New Orleans, La. 70130.	Columbia Gas Transmission Corporation, Ship Shoal Block 249, produced on "D" Platform, Ship Shoal Block 248, Offshore Louisiana.	([25])	14.73
CI80-518, A, Sept. 18,1980	....do	Consolidated Gas Supply Corporation "B" Plateform, South Marsh Island Block 143, Offshore Louisiana.	([26])	15.025
CI80-519, A, Sept. 18, 1980	Amoco Production Company, P.O. Box 50879, New Orleans, La. 70150.	Southern Natural Gas Company and United Gas Pipe Line Company, Ship Shoal Block 84, Offshore Louisiana.	([20])	15.025
CI80-520, B, Sept. 19, 1980	Vessels Oil & Gas Company, Suite 1220, Cherry Creek Plaza, 600 South Cherry, Denver, Colorado 80222.	Panhandle Eastern Pipeline Company, Morris Letterly No. 1 Well SW/SW, Section 4-2S-65W, Adams County, Colorado.	Due to decrease in wellhead pressure, well cannot deliver any volume into Buyer's high-pressure system.	
CI80-521, B, Sept. 19, 1980	....do	Panhandle Eastern Pipeline Company, Kreitzer No. 1 Well NE/NE Section 4-2S-65W, Adams County, Colorado.	Same as above	
CI80-523, A, Sept. 22, 1980	ARCO Oil and Gas Company, Division of Atlantic Richfield Company (Operator), P.O. Box 2819, Dallas, Texas 75221.	Transcontinental Gas Pipe Line Corporation, North Padre Island Block 967 Field (Block 956), Offshore Texas.	([27])	14.65
CI80-522, A, Sept. 22, 1980	....do	Transcontinental Gas Pipe Line Corporation, North Padre Island Block 967 Field (Block 967 and 968D), Offshore Texas.	([27])	14.65
CI80-524 (CI60-414), B, Sept. 22, 1980.	Cabot Corporation, One Houston Center, Suite 1000, Houston, Texas 77002.	Panhandle Eastern Pipeline Company, Section 141, Block 45 of the H & TC Survey, NE/4 and W/2 of Section 141 Lease No's T-354 and T-567, Hansford County, Texas.	([28])	
CI80-525 (CI78-907), B, Sept. 22, 1980.	General American Oil Company of Texas, Meadows Building, Dallas, Texas 75206.	Lone Star Gas Company, Velma Field, Stephens County, Oklahoma.	All gas sold under the rate schedule has been finally determined to qualify under Section 103 of the NGPA of 1978.	
CI80-526, A, Sept. 26, 1980	The Offshore Company, P.O. Box 2765, Houston, Texas 77001.	Southern Natural Gas Company, East Cameron Block 23, Offshore Louisiana.	([5])	15.025
CI80-527, A, Sept. 26, 1980	Sonat Exploration Company, 5599 San Felipe, Houston, Texas 77056.	Southern Natural Gas Company, East Cameron Block 23, Offshore Louisiana.	([5])	15.025
CI81-1-000, A, Oct. 1, 1980	Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, Okla. 73125.	Transcontinental Gas Pipe Line Corporation, Block A-156, Galveston Area, Offshore Texas.	([29])	14.65
CI81-2-000, F, Oct. 2, 1980 [30]	Bethlehem Steel Corporation (Partial Successor in Interest to Shell Oil Company), Bethlehem, Pa. 18016.	Southern Natural Gas Company, Federal Lease Nos. OCS-G-1106 and OCS-G-1107, Blocks 133 and 134, West Delta Area, South Addition, Offshore Louisiana.	([31])	15.025
CI67-1828, D, Sept. 22, 1980	Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, Okla. 73125.	Texas Gas Transmission Corporation, Terryville Field, Lincoln Parish, Louisiana.	Depleted, wells have been plugged and Applicant's leases have been released of record.	
CI77-518-002, C, Oct. 6, 1980	Exxon Corporation, P.O. Box 2180, Houston, Texas 77001.	Northern Natural Gas Company, East Cameron Block 335 Field, Offshore Louisiana.	([5])	15.025
CI80-528, A, Sept. 30, 1980	Texaco Inc., P.O. Box 60252, New Orleans, La. 70160.	Natural Gas Pipeline Company of America, Vermilion Block 380 Field, Offshore Louisiana.	([33])	15.025
CI80-3-000, A, Oct. 2, 1980	Texoma Production Company, P.O. Box 90996, Houston, Texas 77090.	Natural Gas Pipeline Company of America, Sabine Pass Block 9, Well No. 2, Offshore Louisiana.	([32])	15.025
CI81-4-000, B, Oct. 3, 1980	Texaco Inc., P.O. Box 2420, Tulsa, Okla. 74102	Arkansas-Louisiana Gas Company, Hillsdale, N.E., Grant County, Oklahoma.	Depleted, abandonment of the well, and reversion of the lease to the landowners.	
CI81-5-000, A, Oct. 3, 1980	Cities Service Company, P.O. Box 300, Tulsa, Oklahoma 74102.	Southern Natural Gas Company, Main Pass Block 311, Offshore Louisiana.	([34])	15.025

[1] Adds additional delivery point at tailgate of Warren Petroleum Company Eunice plant.
[2] Applicant is filing under Amendatory Agreement dated 6-30-80, amending Gas Purchase Agreement dated 6-10-58.
[3] Applicant is filing under Gas Sales contract dated 2-27-76, as amended, and Amendment dated 12-3-79.
[4] Applicant is filing under Gas Sales contract dated 8-8-76, as amended, and Amendment dated 12-3-79.
[5] Applicant is willing to accept a certificate establishing the initial rate as the maximum lawful rate authorized by the NGPA of 1978.
[6] Applicant is filing under Gas Sales Contract dated 9-15-77, amended by Amendment No. 1 dated 6-30-80.
[7] Phillips acquired a partial interest in the Davis "O" Lease from the Estate of Lewis T. Lohman effective 8-1-77. Production attributable to the interest of the Estate of Lewis T. Lohman was marketed pursuant to the certificate authority received by F. Julius Fohs and Lucerne Corporation at Docket No. G-7424.
[8] Phillips proposes to continue the sale of natural gas attributable to this acerage to Arkansas Louisiana Gas Company pursuant to Gas Purchase Contract dated 3-24-50, as amended.
[9] On 10-11-79, the new Bodcaw Company sold and conveyed to Placid all the mineral properties and oil and gas production owned by Bodcaw Company. Applicant requests that the Commission issue a Certificate of Public convenience and Necessity, effective 10-11-79, authorizing Placid Oil Company to succeed to the sale formerly made by Bodcaw Company, and that the certificate of Public Convenience and Necessity issued to Bodcaw Company on 9-1-71 in docket No. CS71-304 be cancelled.
[10] By various assignments, Shell Oil company has acquired an interest in three sections in the Aneth Field, San Juan County, Utah, from Conoco Inc. (formerly Continental Oil Company). Applicant is seeking authority to continue service to El Paso Natural Gas Company as a partial successor in interest to Conoco Inc. authorized at Docket No. CI64-1301.

[11] Applicant is willing to accept an initial rate determined in accordance with the NGPA of 1978, Part 271, Subpart D, Section 102(d) for natural gas from a new OCS reservoir on an old OCS lease, and Part 271, Subpart D, Section 104 for post-1974 gas, 1973-1974 biennium gas and recompletion gas.

[12] Applicant is willing to accept the Major Producer rate for gas produced from the "X Sand", determined in accordance with the NGPA of 1978, Section 104, and 18 C. F. R. 271, Subpart D, Taibe II, for post-1974 gas. 1973-1974 biennium gas and recompletion gas. For gas produced from the "10 Sand", Applicant submits that the rate applicable is the Small Producer rate for 1973-1974 biennium gas.

[13] Applicant, by virtue of an Assignment effective 6-16-78, from Petroleum, Inc., *et. al.*, been assigned certain interests in a certain oil and gas lease located in Beaver County, Oklahoma. Said lease is subject to a certain Gas Sales Contract dated 5-17-67, between Petroleum, Inc., as Seller, and Northern Natural Gas Company, as Buyer and Applicant proposes to sell natural gas to Northern Natural Gas Company under and in accordance with the terms and conditions of said Gas Sales Contract.

[14] Conoco has acquired the Roger C. Hanks interest in the Dagger Draw Field Area, Eddy County, New Mexico by letter agreement dated 12-13-79. Roger C. Hanks was issued a Small Producer Certificate in Docket No. CS72-929.

[15] Applicant is filing under Gas Purchase Contract dated 7-11-80.

[16] All of the wells covered by the 2-25-58 Agreement have ceased production and have been plugged and abandoned. The leases covering the acreage attributable to the wells have expired.

[17] Applicant is filing under Gas Purchase Contract dated 7-31-80.

[18] Production from the Whisennand "C" No. 1 Well declined until the well was no longer capable of producing gas. The well was plugged and abandoned on 3-16-78, and the acerage attributable to the unit is non-productive. by an Amendment to Gas Purchase and Sales Agreement dated 7-16-80, Panhandle and Cities have agreed to cancel the Gas Purchase and Sales Agreement subject to FERC approval.

[19] Applicant is filing under Gas Purchase Contract dated 7-7-80.

[20] Applicant is filing under Gas Purchase Contract dated 7-8-80.

[21] Applicant is filing under Gas Purchase Contract dated 7-3-80.

[22] The only producing well, the White-Rhoton No. 1 was plugged and abandoned on 6-21-79. the reserves are considered depleted and the lease has reverted to the mineral owner. The operator of the well, W. C. McBride-Silurian Oil Comapny, was granted abandonment authorization for their portion of the sale in Docket No. CI78-917.

[23] Applicant is filing under Gas Purchase Contract dated 8-13-80.

[24] Applicant is filing under Gas Purchase Contract dated 6-17-80.

[25] Applicant is willing to accept a certificate conditioned to the applicable national rate as determined by the NGPA of 1978 (assumes initial deliveries occur in fourth quarter of 1980) plus the adjustments and escalations provided for in 18 CFR 2.56a and in the NGPA of 1978.

[26] Applicant is filing under Gas Purchase Contract dated 8-20-80.

[27] Applicant is filing under Gas Purchase Contract dated 8-5-80.

[28] All gas reserves have been depleted to the extent that the continuance of gas service is unwarranted. The only remaining well on the lease was plugged and abandoned on 9-4-79.

[29] Applicant is filing under Gas Purchase Contract dated 9-29-80.

[30] By two Assignments of Operating Rights dated as of 9-24-76, and 7-6-79, Bethlehem Steel secured the interests from Shell in West Delta Blocks 133 and 134.

[31] Applicant is filing under Ratification Agreement dated as of 6-20-80.

[32] Applicant is filing under Gas Purchase Contract dated 6-20-80.

[33] Applicant is filing under Gas Sales Contract dated 5-1-80.

[34] Applicant is filing under an Agreement dated 9-5-80.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acerage. D—Amendment to delete acerage. E—Total Succession. F—Partial Succession.

[FR Doc. 80-32975 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3324]

Hartford Electric Light Co.; Application for Preliminary Permit

October 15, 1980.

Take notice that The Hartford Electric Light Company (Applicant) filed on August 15, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3324 to be known as the Tariffville Project located on the Farmington River in Tariffville, Hartford County, Connecticut. Correspondence with the Applicant should be directed to: Mr. William G. Counsil, Vice-President, Northeast Utilities Service Company, P.O. Box 270, Hartford, Connecticut 06101.

Project Description—The proposed project would consist of: (1) a new 30-foot high, 250-foot long concrete dam at the site of a previously existing but currently breached dam of the same approximate size; (2) a reservoir with a surface area of 15 acres at a water surface elevation of 138 feet (m.s.l.); (3) a new powerhouse containing a single 1.5 MW turbine-generator unit; and (4) appurtenant facilities. Total estimated average annual generation would be up to 8,000,000 kWh saving the equivalent of 13,100 barrels of oil or 3,700 tons of coal.

Purpose of Project—Power generated at the project would be utilized by the Applicant for distribution to its customers.

Proposed Scope and Cost of Studies under Permit—The work proposed under the preliminary permit would include preliminary designs and economic analysis and a study of environmental impacts. No ground disturbing activities are contemplated. Applicant states that sufficient geologic information on the site already exists. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $85,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic and environmental feasibility of the proposed project, the market for the power, and all other information necesary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 19, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 17, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), as amended 44 FR 61328, (October 25, 1979). A competing must conform with the requirements of 18 CFR 4.33(a) and (d), as amended, 44 FR 61328 (October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest

may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before December 19, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32946 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA81-2-000]

Hergert Oil Co.; Filing of Petition for Review Under 42 U.S.C. 7194

October 15, 1980.

Take notice that Hergert Oil Company on October 6, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977) Supp. from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before October 30, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before October 30, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, S.W. Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32984 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 693]

Town of Highlands, N.C.; Application for Short-Form License (Minor)

October 15, 1980.

Take notice that the Town of Highlands (Applicant) filed on March 14, 1980, an application for license pursuant to the Federal Power Act, U.S.C. §§ 791(a)-825(r) for construction and operation of a water power project to be known as the Highlands Project No. 693. The project would be located on the Cullasaja River in Macon County, North Carolina, near the Town of Highlands. Approximately 5 acres of the project lands are located within the Nantahala National Forest. Correspondence with the Applicant should be directed to: Mr. Harry R. Wright, Mayor, Town of Highlands, Highlands, North Carolina 28741.

Project Description—The project would consist of: (1) an existing concrete arch dam, 208 feet long and 25 feet high including a 160-foot long overflow spillway section; (2) a new 30-inch diameter steel penstock, 2,400 feet long; (3) an existing powerhouse in which a new turbine-generator unit of approximately 750 kW capacity will be installed; (4) a reservoir with a surface area of 93 acres at normal pool elevation of 3,606 feet, m.s.l.; and (4) appurtenant facilities. The estimated average annual output is 4,200,000 kWh.

Purpose of Project—To provide peaking power for the Town of Highlands' system.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the applicant. If an agency does not file comments within the time set below, it will be presumed to have no comment.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 1, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 31, 1981. A notice of intent must conform with the requirements of 18 CFR. 4.33 (b) and (c), (as amended 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR. 4.33 (a) and (d), (as amended, 44 FR 61328 October 25, 1979).

Comments, Protest, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a portest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a portest may also be submitted by conforming to the procedures specified in Section 1.10 for protest. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervent in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before December 1, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32942 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-3-000]

Indiana & Michigan Electric Co.; Filing

October 14, 1980.

The filing company submits the following:

Take notice that on October 3, 1980, Indiana and Michigan Electric Company (I&M) submitted for filing certain certificates of assignment.

Pursuant to the assignments, the members of the Wabash Valley Power Association (Wabash) have assigned all of their right, title, and interest to receive service under I&M's Electric Tariff REC-1 to Wabash. The certificates executed by I&M indicate its assent to the assignments, and reserve I&M's right to collect from the Assignors any amounts which Wabash fails to pay for power and energy delivered to the delivery points of such Assignor.

The members of Wabash are Fruit Belt Electric Cooperative, Jay County Rural Electric Membership Corp., Noble County Rural Electric Membership Corp., Paulding-Putnam Electric Cooperative, United Rural Electric Membership Corp., and Whitley County Rural Electric Membership Corp.

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 or 1.10). All such petitions or protests should be filed on or before November 3, 1980. 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. 80-32956 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-566]

Inland Gas Co., Inc.; Application

October 9, 1980.

Take notice that on September 18, 1980, Inland Gas Company, Inc., 340-17th Street, Ashland, Kentucky 41101, filed in Docket No. CP80-566 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 certain natural gas facilities for service to Kentucky Revised Statutes (KRS) customers, all as more fully set forth in the application which is on file with Commission and open to public inspection.

Applicant proposes to construct and operate gas service taps and metering facilities for the following 98 KRS customers in Boyd, Floyd, Johnson, Knott, Lawrence and Magoffin Counties, Kentucky.

Name, Address and County

1. [1]Jennings Ritchie, RR 3, Kendallville, Indiana 46755—Knott
2. Elcy Williams, Box 41, Royalton, Kentucky 41464—Magoffin
3. Elmer Laughran, Sassafras, Kentucky 41759—Knott
4. Ballard Combs, Fisty, Kentucky 41743—Knott
5. Ronaald Smith, RR No. 2, Box No. 30, Leburn, Kentucky 41831—Knott
6. Robert Boyd, P.O. Box 203, Betsy Layne, Kentucky 41605—Floyd
7. Fred Wells, Route 4, Box 249-G, Briarwood Drive, Catlettsburg, Kentucky 41129—Boyd
8. Norma Martin, Box 67, Garrett, Kentucky 41630—Floyd
9. Robert L. Adams, Box 367, Pinetop, Kentucky 41843—Knott
10. James V. Clark, 5339 Valley View Drive, Ashland, Kentucky 41101—Boyd
11. William R. Scott, Route 7, Box 281, Ashland, Kentucky 41101—Boyd
12. Samuel G. Burke, Star Route Box 30, Hager Hill, Kentucky 41222—Johnson
13. Herman V. Harmon, Hueysville, Kentucky 41640—Floyd
14. Charles E. Hackworth, Box 176, West Prestonsburg, KY 41668—Floyd
15. Norman Fraxier, Rt. 3, Box 576, Ashland, Kentucky 41101—Boyd
16. Billy J. Elkins, Abbott Road, Rt. No. 5, Box 136, Prestonsburg, Kentucky 41653—Floyd
17. James E. Adkins, II, Rt. 3, Box 117, Catlettsburg, Kentucky 41129—Boyd
18. Philip Thornsbury, P.O. Box 155, Wayland, Kentucky 41666—Floyd
19. Mickey Lawson, St. Rt. 4, Box 7, Prestonsburg, Kentucky 41653—Floyd
20. Grahn Slone, Route 201, Sitka, Kentucky 41255—Johnson
21. Elmo Shelton, Route 2, Box 391, Ashland, Kentucky 41101—Boyd
22. Elmo Shelton, Route 2, Box 391, Ashland, Kentucky 41101—Boyd
23. Elmo Shelton, Route 2, Box 391, Ashland, Kentucky 41101—Boyd
24. Ell Arnett, Rt. 1, Box 357, Martin, Kentucky 41649—Floyd
25. Johnny Pittman, General Delivery, Sassafras, Kentucky 41759—Knott
26. Roger Bartley, Route 6, Box 90, Ashland, Kentucky 41101—Boyd
27. [2]Charles M. Brown, 1621 Walnut Street, Kenova, West Virginia 25530—Boyd
28. Ford Honeycutt, General Delivery, Pinetop, Kentucky 41843—Knott
29. Monnie McGranahan, Rt. 3, Box 148-A, Catlettsburg, Kentucky 41129—Boyd
30. Lonnie D. Robbins, Rt. 3, Box 148-B, Catlettsburg, Kentucky 41129—Boyd
31. Lloyd Shepherd, RR 855, Box 51, David, Kentucky 41616—Floyd
32. Malcom Brown, St. Rt. 5, Prestonsburg, Kentucky 41653—Floyd
33. Olga Jackson, Royalton, Kentucky 41464—Magoffin
34. Kelly Ward, Box C-31, Route 1, Prestonsburg, Kentucky 41653—Floyd
35. Kelly Ward, Box C-31, Route 1, Prestonsburg, Kentucky 41653—Floyd
36. Paul E. Risner, Royalton, Kentucky 41464—Magoffin
37. Robert Short, Pinetop, Kentucky 41843—Knott
38. Jim Lafferty, Jr., Rt. 3, Box 390, Prestonsburg, Kentucky 41653—Floyd
39. Edgal Shepherd, RR 1, Box 402, Prestonsburg, Kentucky 41653—Floyd
40. Larry A. Wireman, Royalton, Kentucky 41464—Magoffin
41. [3]James W. Wiler, Jr., 523 North 4th Street, Flatwoods, Kentucky 41139—Boyd
42. Honus White, Box 166, Hindman, Kentucky 41822—Knott
43. Sherry H. Risner, Gunlock, Kentucky 41632—Floyd
44. Belura Crider, St. Rt. 1, Box C-53, Prestonsburg, Kentucky 41653—Floyd
45. Dixie Johnson, Box 57, Hueysville, Kentucky 41640—Floyd
46. Rex Lovely, R#1, Box 152, Salyersville, Kentucky 41465—Magoffin
47. Dave Bowling, Box 24, Sassafras, Kentucky 41759—Knott
48. Leonard Stephenson, P.O. Box 45, West Prestonsburg, KY 41668—Floyd
49. Roy Eillis Conley, Box 48, Stambaugh, Kentucky 41257—Lawrence
50. Bill Whitlock, Rt. 1, Box 434A, Catlettsburg, Kentucky 41129—Boyd
51. Betty Collins, Ivel, Kentucky 41642—Floyd
52. Robert Calhoun, Box 35, Talcum, Kentucky 41765—Knott
53. Odell Adams, Box 43A, Pinetop, Kentucky 41843—Knott
54. Onas Amburgey, Box 51, Rt. 1, Mallie, Kentucky 41836—Knott
55. Bill V. Terry, Hindman, Kentucky 41822—Knott
56. Nova Leigh Hammonds, Route 3, Watergap Road, Prestonsburg, Kentucky 41653—Floyd
57. Donald Ray Hale, Box 408, Royalton, Kentucky 41464—Magoffin
58. Ransom Greer, Rt. 5, Prestonsburg, Kentucky 41653—Floyd
59. Fred Ross, Box 337-Route 201, Blaine, Kentucky 41124—Lawrence
60. Robert D. Holder, Rt. 3, Box 215D, Catlettsburg, Kentucky 41129—Boyd
61. Robert G. Wilkinson, Ponderosa Estates, Rt. 4, Box 268D, Catlettsburg, Kentucky 41129—Boyd
62. Grant Horn, Hueysville, Kentucky 41640—Floyd
63. Ballard Jones, Box 384, Prestonsburg, Kentucky 41653—Floyd
64. John Adams, Pinetop, Kentucky 41843—Knott
65. Ralph B. Wells, Box 106, Prestonsburg, Kentucky 41653—Floyd
66. Henry Miller, P.O. Box 106, Prestonsburg, Kentucky 41653—Floyd
67. Bufford Owens, Lackey, Kentucky 41643—Floyd
68. Ell Howard, Rt. 1-B, Box 17, Hueysville, Kentucky 41640—Floyd
69. Billy Ray Perry, Box C-11, Pinetop, Kentucky 41843—Knott
70. Cora Bolen, Box 7, Vest, Kentucky 41772—Knott

[1]Tap will be located in Hindman, Kentucky 41822.

[2]Tap will be located in Catletts Creek, Boyd County, Kentucky.

[3]Tap will be located in Catlettsburg, Kentucky 41129.

71. Claude Amburgey, Emmalena, Kentucky 41740—Knott
72. Keith Slone, Rt. 2, Box 491, Catlettsburg, Kentucky 41129—Boyd
73. Fred Meade, Rt. 4, Box 249L, Catlettsburg, Kentucky 41129—Boyd
74. Donald Ray Amburgey, General Delivery, Emmalena, Kentucky 41740—Knott
75. James Prater, St. Rt. No. 5, Prestonsburg, Kentucky 41653—Floyd
76. Joe Daniel, Jr., Box 494, Lovely, Kentucky 41231—Johnson
77. Tom O'Bryan, Rt. 201, Sitka, Kentucky 41255—Johnson
78. Willie Ray Wilson, Webbville, Kentucky 41180—Lawrence
79. Ronnie Newsome, Rt. 3, Box 380, Prestonsburg, Kentucky 41653—Floyd
80. Thomas M. Devaney, Rt. No. 3, Box 289, Catlettsburg, Kentucky 41129—Boyd
81. Marvin Lewis, General Delivery, Tram, Kentucky 41663—Floyd
82. Albert Alan King, Rt. 1, Box 1195, Coldwater Branch, Harold, Kentucky 41635—Floyd
83. William N. Walters, Rt. 2, Box 78, Catlettsburg, Kentucky 41129—Boyd
84. Sondra Lee Risner, Rt. 2, Box 146, Hindman, Kentucky 41822—Knott
85. Sue A. Owens, Box 43, Hueysville, Kentucky 41640—Floyd
86. Dickie Jarvis, Star Rt. 1, Box 23-19, Prestonsburg, Kentucky 41653—Floyd
87. R. Percy Elkins, P.O. Box 98, Hazard, Kentucky 41701—Knott
88. Kindle Joseph, Box 124, Royalton, Kentucky 41464—Magoffin
89. Woodie Caudill, R. 3, Box 445, Prestonsburg, Kentucky 41653—Floyd
90. Vida Combs, Box No. 7, Sassafras, Kentucky 41759—Knott
91. J. R. Daniels, Jr., Rt. 3, Box 215-B3, Catlettsburg, Kentucky 41129—Boyd
92. Thurman Lafferty, Rt. 3, Box 380, Prestonsburg, Kentucky 41653—Floyd
93. Kenneth Ray Williams, P.O. Box 2297, Pinetop, Kentucky 41843—Knott
94. James E. Adkins, Ashland, Kentucky 41101—Boyd
95. J. R. Daniels, Ashland, Kentucky 41101—Boyd
96. Donny Williams, Royalton, Kentucky 41464—Magoffin
97. Ronnie Robinette, Rt. 3, Box 300, Catlettsburg, Kentucky 41129—Boyd
98. Mrs. Nola Stumbo, West Prestonsburg, KY 41668—Floyd

Applicant states that pursuant to a Kentucky statute, the 98 customers are entitled to gas service because they own property on or over a producing well or gas gathering pipeline. Moreover, it is stated, the statute provides that the gas service be furnished at rates and minimum monthly charges determined by the Public Service Commission of Kentucky. Applicant states that in accordance with the statute the customer would be responsible for constructing and maintaining service lines while it would provide and maintain the necessary gas meters.

It is asserted that the average cost of the taps is $225 for a total cost of $22,050 which would initially be financed from internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 29, 1980, 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 Art and 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. 80-32876 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-7-000]

Kansas City Power & Light Co.; Filing

October 14, 1980.

Take notice that on October 6, 1980, Kansas City Power & Light Company ("KCPL) tendered for filing First Amendatory Agreement dated September 11, 1980, to the Municipal Participation Agreement dated August 11, 1975, between KCPL and the City of Osawatomie, Kansas ("City"). This Agreement amends KCPL's Rate Schedule FERC No. 77.

KCPL states that the purpose of this filing is to eliminate the contractural provisions related to Transfer Service so as to conform the Municipal Participation Agreement to the terms of the Settlement Agreement achieved in FERC Docket Nos. ER76-131, ER76-552 and ER78-25. By Order dated February 21, 1980, the FERC accepted the Settlement Agreement to become effective June 1, 1979, and KCPL proposes that the First Amendatory Agreement filed herein also be made effective as of June 1, 1979.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy 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 November 3, 1980. 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. 80-32992 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-141]

Locust Ridge Gas Co.; Order Accepting for Filing Certain Tariff Sheets and Suspending Proposed Rate Increase Subject to Refund and Summarily Disposing Limited Issue

Issued: October 9, 1980.

On September 9, 1980, Locust Ridge Gas Company (Locust Ridge) filed revised tariff sheets proposing a rate increase which would reflect an increase in the gathering component to Michigan Wisconsin Pipeline Company from 16.96 cents per MMBtu to 61.98 cents per MMBtu, a 265% increase, resulting in increased revenues of approximately $896,177. The proposed effective date is October 10, 1980. The proposed increase rates are predicated on a test period based on actual costs for the twelve month period ending May 31, 1980, as adjusted for known increases scheduled to occur within nine months of that date or February 28, 1981.

Locust Ridge claims the proposed increase is necessary to recover the increased costs of operation and to earn a reasonable return on investment.

Locust Ridge calculated return expense in this application by capitalizing prior losses and proposing to earn a 15% return on this hypothetical equity capitalization. In addition, Locust Ridge has filed as an alternative, interim Revised Tariff Sheet No. 1–A which excludes the claimed equity return and Federal Income Tax on such return. Locust Ridge has requested a one-day suspension of the interim tariff sheet.

Based upon a review of Locust Ridge's filing, the Commission finds that the proposed tariff sheets have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept Locust Ridge's filing, suspend the effective date of the proposed tariff sheets, and make them subject to refund and the conditions outlined below.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it used to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[1] We have done this as a predicate to our acting on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and difficult balancing of producer and transporter interests with consumer and shipper interests, their primary purpose is to protect the consumer and shipper against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that there is good cause to believe that the increase may be unjust and unreasonable or that it may run afoul of other statutory standards. The governing statutes say that "*any* (emphasis added) rate or charge that is not just and reasonable is hereby * * * declared unlawful." [2] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable standards.

Particular circumstances may warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. Such circumstances are presented here. A one-day suspension is appropriate for the interim sheet on the basis of Locust Ridge's claim that its existing rates are inadequate for Locust Ridge to fully cover its out-of-pocket operating and interest costs. In addition, the Commission notes the special nature of this tariff sheet—it excludes any amount for equity return and associated taxes. Accordingly, we believe we should exercise our discretion to suspend the rate permitting the rate to take effect on October 11, 1980, subject to refund.

The Commission is not persuaded that particular circumstances exist with respect to the other tariff sheet. No showing has been made here that rigid adherence to the general policy for preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. Accordingly, we will suspend the Fourth Revised Sheet No. 1–A for a period of five months permitting the rate to take effect, subject to refund, on March 10, 1981.

Locust Ridge proposes in its Fourth Revised Sheet No. 1–A, but not in its interim sheet, a return calculation which deviates from traditional Commission methodology in that first, it provides for a dollar return of 10.5 percent on embedded debt cost and 15 percent on common equity and second, that the equity capitalization includes prior losses which Locust Ridge claims as "start-up costs" and on which Locust Ridge proposes to earn a 15 percent return. The claimed capitalization is more than double the adjusted rate base. Moreover, Locust Ridge does not use this capital structure to determine a rate of return to be applied to the net depreciated original cost rate base. Rather, Locust Ridge computes its allowed return dollars by multiplying 10.5 percent times the amount of debt outstanding in the hypothetical capitalization and then multiplies 15 percent times the equity figure in the hypothetical capitalization composed of their actual equity plus the capitalized losses. Then a tax component is computed and added to the "equity return."

For the reasons set forth below, we shall require, pursuant to Section 4 of the Natural Gas Act, that the proposed rates be modified to reflect elimination of the equity return and taxes associated with prior period losses. In requiring this change pursuant to Section 4 of the Natural Gas Act, the Commission notes that the hearing required by that section need not encompass a formal, evidentiary hearing when the matter presents issues solely of policy, not of law. In such cases, a hearing is not required, and the matter can be decided by summary disposition. *Tennessee Gas Pipeline Company* v. *FPC*, 561 F. 2d 955, 958 (D.C. Cir. 1977).

The matter pending before the Commission in this case does not raise any factual issues. The question presented is whether, as a matter of law, is it just and reasonable to have a tariff provision allowing the pipeline purchaser to recover past losses. In *Nader* v. *F.C.C.*,[3] the court held that regulated utilities may not set rates to recoup past losses. The Commission, therefore, accepts Locust Ridge's Fourth Revised Tariff Sheet No. 1–A on the condition that Locust Ridge file within 45 days of the issuance of this order, a revised tariff sheet reflecting elimination of the equity return and taxes associated with prior period losses; *i.e.*, that portion equal to the sum of (1) 15 percent times the portion of the equity component of the hypothetical capitalization equal to the prior period losses *plus* (2) taxes associated with that figure.

The Commission Orders:

(A) Subject to the conditions set forth below, Locust Ridge's interim Fourth Revised Sheet No. 1–A is accepted for filing and its effectiveness is suspended for one day until October 11, 1980, subject to refund.

(B) Pursuant to Section 4 of the Natural Gas Act, the Commission hereby summarily disposes of the legal issue of whether it is just and reasonable for Locust Ridge to have a tariff provision which includes the equity return and taxes associated with prior losses.

(C) Locust Ridge's Fourth Revised Sheet No. 1–A is accepted for filing and suspended for 5 months on the condition that within 45 days Locust Ridge files a Revised Tariff Sheet which eliminates the equity return and taxes associated with prior period losses to become effective March 10, 1981 subject to refund.

(D) The Commission Staff shall prepare and serve top sheets on or before January 12, 1981.

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[1] *Connecticut Light and Power Company* v. *Federal Energy Regulatory Commission*, ——F. 2d —— (D.C. Cir. May 30, 1980).

[2] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate Commerce Act.

[3] *Nader* v. *F.C.C.* 520 F. 2d 182 (D.C. Cir. 1975).

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-32880 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP81-2-000]

Michigan Wisconsin Pipe Line Co.; Tariff Filing

October 10, 1980.

Take notice that on October 1, 1980, Michigan Wisconsin Pipe Line Company ("Michigan Wisconsin") tendered for filing "Amendment No. 1 to Agreement of August 4, 1977 Between High Island Offshore System and Michigan Wisconsin Pipe Line Company" which amends Article IV of Michigan Wisconsin's Rate Schedule X-64 to its F.E.R.C. Gas Tariff, First Revised Volume No. 2 to be effective November 1, 1980.

Michigan Wisconsin states that this filing is made to restate the original intent of Michigan Wisconsin and the High Island Offshore System ("HIOS") that in recalculating its rate to HIOS on the annual November 1 contractual redetermination date, Michigan Wisconsin would utilize the same rate of return as Michigan Wisconsin's current systemwide rate of return reflected in filed rates being collected by Michigan Wisconsin on the November 1 redetermination date, whether or not subject to refund. Michigan Wisconsin states that such amendment is being filed because the Presiding Administrative Law Judge in *Michigan Wisconsin Pipe Line Company*, Docket No. RP80-3, concluded in an initial decision dated August 21, 1980 that Rate Schedule X-64 does not permit Michigan Wisconsin to utilize its current systemwide rate of return, whether or not subject to refund, in the racalculation of its rate to HIOS on the annual November 1 redetermnination date.

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 October 24, 1980. 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. 80-32833 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP81-2-000]

Michigan Wisconsin Pipe Line Co.; Supplement to Tariff Filing

October 15, 1980.

Take notice that on October 8, 1980, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered for filing First Revised Sheet No. 666 and Fourth Revised Sheet No. 667 of Rate Schedule X-64 of First Revised Volume No. 2 of its F.E.R.C. Gas Tariff, to be effective November 1, 1980.

Michigan Wisconsin states that this filing is being made to supplement its filing of October 1, 1980, at Docket No. RP81-2-000. On October 1, 1980, Michigan Wisconsin tendered for filing "Amendment No. 1 to Agreement of August 4, 1977 Between High Island Offshore System and Michigan Wisconsin Pipe Line Company" which amends Article IV of Michigan Wisconsin's aforementioned Rate Schedule X-64.

The revised Sheet Nos. 666 and 667 which have been revised to reflect this "Amendment No. 1" were not included in its filing of October 1, 1980. Therefore, Michigan Wisconsin is submitting them to the Commission at this time so that they may be considered in the context of its filing of October 1, 1980, at Docket RP81-2-000.

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 October 24, 1980. 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. 80-32983 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TC81-2-000]

Midwestern Gas Transmission Co.; Tariff Sheet Filings

October 10, 1980.

Take notice that on October 1, 1980, Midwestern Gas Transmission Company (Midwestern), 1100 Milam Building, Houston, Texas 77001, filed in Docket No. TC81-2-000, tariff sheets pursuant to Part 281 of the Commission's Regulations under the Natural Gas Policy Act of 1978 to become effective November 1, 1980, consisting of Original Sheet Nos. 108A and 108B and First Revised Sheet Nos. 113, 115, 116, 117, 125, and 128, to its FERC Gas Tariff, Third Revised Volume No. 1.

Midwestern states that the purpose of this tariff filing is to update its Index of End-Use Volumes to reflect changes in its customer's essential agricultural use requirements contained in Priority 2 of Midwestern's currently effective curtailment plan.

Midwestern also states that its filing includes a copy of the final report of its Data Verification Committee which found that the Indexes of End-Use Volumes was prepared in a uniform manner consistent with Order No. 29.

Any person desiring to be heard or to make any protest with reference to said tariff sheet filings should on or before October 24, 1980, 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32831 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-4-000]

Montaup Electric Co.; Filing

October 14, 1980.

The filing Company submits the following:

Take notice that Montaup Electric Company (Montaup) on October 3, 1980, tendered for filing a transmission service agreement between Montaup and the Newport Electric Corporation

(Newport) under which Montaup transmits for Newport 10,000 kW of capacity and energy from Northeast Utilities' Middletown Unit No. 4 for the period from November 1, 1980, through October 31, 1985. Exhibit A to be transmitted, and exhibit I shows that Montaup's twleve months estimated revenues from transmission of that capacity and energy will total $49,104.

Montaup requests waiver of the Commission's sixty (60) day notice requirement in order to allow an effective date of November 1, 1980.

Copies of this filing have been served on Newport and the Massachusetts Department of Public Utilities.

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 Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 31, 1980. 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. 80-32960 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-160]

Mountain Fuel Supply Co.; Amendment to Application

October 9, 1980.

Take notice that on September 10, 1980, Mountain Fuel Supply Company (Applicant), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP80-160 an amendment to its application in the instant docket filed pursuant to Section 7(c) of the Natural Gas Act so as to reflect the rendering of a long term gathering and transportation service with Natural Gas Pipeline Company of America (Natural) without the potential sale of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to perform a long term natural gas gathering and transportation service for Natural with redelivery to Natural being effected through the facilities of Colorado Interstate Gas Company (CIG). Pursuant to the parties' transportation agreement, to the extent practicable, thermally equivalent volumes would be accepted by Applicant and redelivered to Natural on a daily basis. Applicant asserts that CIG has advised it that a capacity constraint on its transmission system, particularly during winter season periods of peak demand, may render CIG unable to accept on a daily basis all of the gas available to be delivered by Applicant for Natural to CIG. Therefore it is stated Applicant and Natural entered into a delayed exchange agreement providing that Applicant would retain any volumes of gas rendered during any winter month (November through March) of 1979, 1980, or 1981 in which an imbalance occurs due to CIG's inability to receive the volumes tendered by Natural to Applicant. Applicant states that any such volumes of gas which it receives and cannot deliver to CIG during any winter months would be retained and delivered to CIG on a best-efforts basis during the summer months (April through October) of 1980, 1981 or 1982.

Applicant states that it and Natural have agreed in principle to amend their delayed exchange agreement of September 28, 1979, to the extent necessary and appropriate to eliminate the potential sales feature in order for such agreement to reflect and provide for a deferred volumetric exchange.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before October 29, 1980, 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. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32875 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TC81-11-000]

National Fuel Gas Supply Corp.; Tariff Filings

October 10, 1980.

Take notice that on October 2, 1980, National Fuel Gas Supply Corporation (National Fuel), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. TC81-11-000 revised tariff sheets pursuant to Part 281 of the Commission's Regulations under the Natural Gas Policy Act of 1978 to become effective November 1, 1980.

National Fuel has filed as part of its FERC Gas Tariff, Original Volume No. 1, First Revised Sheet No. 32(B), First Revised Sheet No. 32(C) and First Revised Sheet No. 32(D) superseding Original Sheet No. 32(B), Original Sheet No. 32(C) and Original Sheet No. 32(D), respectively.

Said revised tariff sheets are filed to update National Fuel's Index of Entitlements. Also submitted is the Final Report of National Fuel's Data Verification Committee.

Any person desiring to be heard or to make any protest with reference to said tariff sheet filing should on or before October 24, 1980, 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 Commissions'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 proceedings. 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. 80-32830 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-86]

Natural Gas Pipeline Co. of America; Petition To Amend

October 14, 1980.

Take notice that on September 29, 1980, Natural Gas Pipeline Company of America (Petitioner), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP80-86 a petition to amend the order issued February 6, 1980, pursuant to § 7(c) of the Natural Gas Act and § 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) so as to authorize the

construction and operation of gas purchase facilities in excess of the total cost limitation of $20,000,000, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it was authorized by order issued February 6, 1980, to construct and operate certain natural gas facilities with a maximum total cost of $20,000,000.

It is stated that 35 projects are at various stages of completion and would closely approximate the $20,000,000 total cost limitation.

Petitioner states it has identified ten other gas purchase facility projects which it plans to construct during the remainder of 1980. Petitioner requests amendment of the order of February 6, 1980, so as to authorize the construction and operation at a cost of $11,171,000 of the 10 projects.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32981 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-542]

Northern Natural Gas Co., Division of InterNorth, Inc.; Application

October 14, 1980.

Take notice that on September 9, 1980, Northern Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP80-542 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 facilities to accommodate the delivery of natural gas to certain of its utility customers for ultimate sale in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate three new delivery points for Peoples Natural Gas Company, Division of InterNorth, Inc. (Peoples), Wisconsin Gas Company and Iowa Public Service Company and to enlarge an existing delivery point serving a present Peoples' customer. It is asserted the new delivery points are required for the respective distributor to serve a new customer.

The proposed facilities would have a total estimated daily usage of 1,392 Mcf of natural gas and an annual usage of 48,532 Mcf of natural gas, it is asserted.

Applicant states that the cost to construct the proposed facilities is estimated at $75,900 to be financed by the appropriate utility.

Additional volumes to be delivered to the utilities through the proposed facilities are within present entitlements, it is asserted.

Any person desiring to be heard or to make any protest with reference to said tariff sheet filing should, on or before November 3, 1980, 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 Commissions'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 proceedings. 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. 80-32979 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-546]

Northern Natural Gas Co., Division of InterNorth, Inc.; Application

October 14, 1980.

Take notice that on September 11, 1980, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP80-546 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition and operation of certain existing intrastste pipeline facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to acquire by purchase from Tejas Gas Corp. (Tejas) and operate as part of its interstate transmission system an intrastate natural gas pipeline and appurtenances known as the Irion County Transmission System located in Irion, Tom Green and Sterling Counties, Texas.

Pursuant to a purchase agreement with Tejas dated August 28, 1980, Applicant would purchase Tejas' existing 8-inch, 6-inch and 4-inch lateral pipeline and appurtenances, it is stated. Applicant further states that the 8-inch pipeline is approximately 33 miles in length commencing in Irion County, following a north, northwesterly direction through Tom Green County, and terminating in Sterling County, Texas. The 4-inch lateral pipeline, approximately .8 miles in length, and the 6-inch lateral pipeline, approximately 1.7 miles in length, connect to the 8-inch pipeline in Irion County, it is said. In addition, Applicant proposes to acquire Tejas' 1,000 horsepower Irion County Compressor Station located in Irion County.

Applicant submits that it has acquired supplies of gas located in the vicinity of the Tejas system and has concluded the agreement with Tejas in order to avoid having to construct duplicate facilities to transport its gas.

Applicant would pay a cash consideration from its general corporate funds of $1,882,835 to Tejas for the facilities to be acquired, it is said.

Applicant asserts that it would connect to the Irion County transmission system pursuant to its budget authority.

Applicant states that the Irion County transmission system at present is being utilized by Tejas to transport natural gas purchased in Irion County by Valero Transmission Company (Valero) and Texas Utilities Fuel Company (Tufco). Applicant upon approval from the Commission for the purchase proposed herein, submits that it would provide similar transportation service for Valero and Tufco pursuant to Section 311(a)(1) of the Natural Gas Policy Act of 1978 and § 284.102 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 3, 1980, 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. It 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. 80-32967 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-11-000]

Pacific Gas & Electric Co.; Contract Filing

October 14, 1980.

The filing company submits the following:

Take notice that on October 6, 1980, Pacific Gas and Electric Company (PG and E) tendered for filing a contract dated August 6, 1980, entitled "Agreement for Sale of Electric Capacity and Energy by Pacific Gas and Electric Company to Shasta Dam Area Public Utility District" (Agreement). The Agreement provides for supplemental power deliveries from PG and E to Shasta Dam Area Public Utility District (District) in the event that District's current supplier, United States of America, Department of Energy (Department), is unable to satisfy District's full electric power requirements.

Copies of the filing were served upon District, Department, and the California Public Utilities 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 Capital 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 November 3, 1980. 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. 80-32989 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-9-000]

Puget Sound Power & Light Co.; Filing

October 14, 1980.

Take Notice that on October 6, 1980; Puget Sound Power & Light Company (Puget) tendered for filing as an initial rate schedule, an Exchange Agreement between Puget and Pacific Gas and Electric Company (PG and E).

The Agreement sets forth the Terms and conditions under which Puget will make available capacity and energy to PG and E during the months of July and August 1980. This capacity and energy will help PG and E meet its anticipated heavy air-conditioning loads on its system this summer. PG and E will make available this capacity and energy to Puget during the months of December 1980 and January 1981.

A copy of the filing has been sent to Pacific Gas and Electric.

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 Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 3, 1980. 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 wish 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. 80-32986 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. RP64-34, et al.]

South Georgia Natural Gas Co., et al.; Filing of Pipeline Refund Reports and Refund Plans

October 15, 1980.

Take notice that the pipeline listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before October 31, 1980. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

Appendix

Filing date	Company	Docket No.	Type filing
Sept. 23, 1980.	South Georgia Natural Gas Co.	RP64-34	Report.
Sept. 26, 1980.	East Tennessee Natural Gas Co.	RP75-114	Report.

Appendix—Continued

Filing date	Company	Docket No.	Type filing
Sept. 26, 1980.	Tennessee Gas Pipeline Co.	G-9279	Report.
Oct. 3, 1980.	Consolidated Gas Supply Corp.	RP72-157-035	Report.
Oct. 6, 1980.	South Georgia Natural Gas Co.	RP77-32	Report.

[FR Doc. 80-32962 Filed 10-21-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. RP80-102-001]

Southern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

October 14, 1980.

Take notice that Southern Natural Gas Company (Southern) on October 2, 1980, tendered for filing proposed changes in its FERC Gas Tariff, Sixth Revised Volume No. 1 and Original Volume No. 2. The revised tariff sheets would result in an increase in jurisdictional sales and service by $69,211,007 annually over currently effective rates.

Southern states that on May 1, 1980, Southern filed a general rate increase in Docket No. RP80-102 to become effective on June 1, 1980. By its order issued May 30, 1980, the Commission accepted revised tariff sheets for filing and suspended the use of certain sheets until November 1, 1980 subject to certain conditions.

Additionally, Southern has reflected the current level of purchased gas costs as represented in Southern's Purchased Gas Adjustment (PGA) filing of July 24, 1980 and further, Southern has eliminated storage costs associated with the Bear Creek Storage Service which was included in the original filing.

Southern requests that the proposed tariff sheets be allowed to be substituted for the tariff sheets previously suspended by the Commission's order of May 30, 1980. Since the proposed tariff sheets contain the same costs included in Southern's rate filing, modified in accordance with the Commission's May 30, 1980 order, Southern requests that the Commission grant any such waivers as are necessary so as to allow the proposed tariff sheets to become effective as contemplated by the Commission in Ordering Paragraph (B) of that order.

Copies of this filing have been served upon Southern's jurisdictional customers, interested state public service commissions and all parties of record.

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 October 24, 1980. 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. 80-32957 Filed 10-21-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. RP81-3-000]

Southwest Gas Corp.; Proposed Changes in FERC Gas Tariff

October 14, 1980.

Take notice that Southwest Gas Corporation ("Southwest") on October 6, 1980 tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1. The proposed changes would increase revenues from jurisdictional sales and service by $1,247,525 based on the twelve-month period ending July 31, 1981, as adjusted.

The reason for the proposed increase in rates is to compensate Southwest for increases in various items of cost, such as capital, labor, materials and supplies, taxes, and including a claimed rate of return of 13.35 percent.

Copies of the filing were served upon Southwest's jurisdictional customers, Sierra Pacific Power Company and CP National, including the California Public Utilities Commission and the Public Service Commission of Nevada.

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 October 24, 1980. 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. 80-32958 Filed 10-21-80; 8:45 am]
BILLING CODE 6450-85-M

[Project No. 3472]

Southwire Co.; Application for Preliminary Permit

October 16, 1980.

Take notice that Southwire Company (Applicant) filed on September 15, 1980, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)) for proposed Project No. 3472 to be known as the Wyre Wynd Project located on the Quinebaug River in Jewett City, new London County, Connecticut. Correspondence with the Applicant should be directed to: Fred W. Stackpole, Vice President, Wyre Wynd, Inc., Jewett City, Connecticut 06351.

Project Description—The proposed project would consist of: (1) an existing 19-foot high, 455-foot long concrete dam; (2) an existing reservoir with negligible storage capacity; (3) an existing 260-foot long, 60-foot wide canal with a 160-foot long overflow spillway along the west side of the canal; (4) a new powerhouse to be located at the end of the canal containing turbine-generator units with a total rated capacity of 1.2 MW; and (5) appurtenant facilities. Total energy produced at the project would amount to 6,500,000 KWH annually saving the equivalent of 10,700 barrel of oil or 3,000 tons of coal.

Purpose of Project—Energy produced at the project would be used in the Applicant's factory or sold to the local utility company.

Proposed Scope and Cost of Studies under Permit—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $135,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine

the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 19, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 18, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (as amended 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d), (as amended, 44 FR 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before December 19, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32969 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP75-376]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Petition To Amend Further

October 9, 1980.

Take notice that on September 22, 1980, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP75-376 a petition to amend further the order issued in the instant docket on July 24, 1975,[1] as amended, so as to authorize the delivery of natural gas to Haverhill Gas Company (Haverhill) under a new gas sales contract providing for revised daily volume limits by delivery points, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order issued December 2, 1975, the Commission amended its order of July 24, 1975, *inter alia*, to authorize it to serve Haverhill under its Rate Schedule DC-6. Petitioner further states that pursuant to a gas sales contract dated December 2, 1975, it sells a contract demand of 14,519 Mcf of natural gas per day to Haverhill and provides delivery as follows:

[In thousand cubic feet]

Delivery points	Daily volume limits
Wenham	2,500
Essex	1,200
Haverhill	12,669

Petitioner submits that the total of the daily volume limits exceeds Haverhill's contracted demand of 14,519 Mcf per day in order to provide Haverhill with operational flexibility among delivery points but that Haverhill is not entitled to take on any day a total of more than 14,519 Mcf at all delivery points.

Petitioner states that on September 16, 1980, it entered into an amended agreement with Haverhill which provides for revised daily volume limits by delivery points as follows:

[In thousands cubic feet]

Delivery point	Daily volume limit
Wenham	3,700
Essex	2,000
Haverhill	12,669

Petitioner asserts that such revised service would not increase or decrease the annual volumetric limitation received by Haverhill. It is further asserted that there would be no impact on Petitioner's other customers as a result of the changes in service herein.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 29, 1980, 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 (19 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (19 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32878 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TC81-4-000]

Tennessee Gas Pipeline Co., a Divison of Tenneco Inc.; Tariff Sheet Filings

October 14, 1980.

Take notice that on October 1, 1980, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), Tenneco Building, P.O. Box 2511, Houston, Texas 77001, filed in docket No. TC81-4-000, tariff sheets pursuant to Part 281 of the Commission's Regulations under the Natural Gas Policy Act of 1978 to become effective November 1, 1980, consisting of Original Sheet Nos. 45A and 113A, First Revised Sheet Nos. 5, 23, 25, 28, 29, 30, 42, 55, 82, 98, 99, 102, 104, 105, and 126, Second Revised Sheet Nos. 2, 4, 9, 10, 14, 16, 22, 31 through 34, 43, 57, 61, 87, 92, 93, 96, 111, 113, 118, 121 and 122, to its FERC Gas Tariff, Original Volume No. 1A.

Tennessee states that the purpose of this filing is to update its index of End-Use Volumes to reflect changes in its customers' essential agricultural use

[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.

requirements. The filings indicate that the net change in its system-wide Priority 2 volumes is an increase of 3,900,000 Mcf or 8 percent. The total in Priority 2 would be 56,200,000 Mcf. A significant portion of the increase would be due to the inclusion of volumes attributable to the U.S. Department of Agriculture's new definition of process fuel. Otherwise, according to the filings, most of the increases are due to increased requirements of existing customers or the addition of new customers that qualify as essential agricultural users.

Tennessee also states that its filing includes a copy of the final report of its Data Verification Committee which found that the revision to the Index of End-use Volumes was prepared in a uniform manner consistent with Order No. 29.

Any person desiring to be heard or to make any protest with reference to said tariff sheet filings should on or before October 24, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20462, 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 peron wishing to become a party to a proceeding or to participate as a party in any hearing therin must file a petition to intervene in accordance with the Commissions' Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32955 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TC80-95]

Tennessee Natural Gas Line, Inc.; Tariff Sheet Filings

October 10, 1980.

Take notice that on October 1, 1980, Tennessee Natural Gas Lines, Inc. (TNGL), 2000 Parkway Towers, Nashville, Tennessee, 37219, filed in Docket No. TC80-95, tariff sheets pursuant to Part 281 of the Commission's Regulations under the Natural Gas Policy Act of 1978 to become effective November 1, 1980, consisting of Second Revised Sheet Nos. 32, 33, and 34 to its FERC Gas Tariff, First Revised Volume No. 1.

TNGL states that the purpose of this filing is to update its Index of End-Use Volumes to reflect changes in its customers' essential agricultural uses.

Any person desiring to be heard or to make any protest with reference to said tariff sheet filings should on or before October 24, 1980, file with the Federal Energy Regulation 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32829 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-573]

Texas Gas Transmission Corp.; Application

October 9, 1980.

Take notice that on September 23, 1980, Texas Gas Transmission Corporation, P.O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP80-573 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the addition of a new delivery point and for permission and approval to abandon service to Louisiana Gas Service Company (Louisiana Gas) at a certain delivery point, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon the sale of up to 1,200 Mct of natural gas per day to Louisiana Gas for resale to Pellets Inc. (Pellets) which has ceased its operations. Such gas was delivered to Louisiana Gas at Mer Rouge, Louisiana.

Applicant further proposes to use the Mer Rouge delivery point to provide an additional delivery point to Louisiana Gas under an existing service agreement between the parties dated September 1, 1970. The proposed service would enable Louisiana Gas to serve an existing essential agricultural plant and other high-priority users. Applicant asserts that construction of new facilities would not be necessary nor would there be an increase in Louisiana Gas' existing contract demand and quantity entitlement.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 29, 1980, 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 157.70). 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 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. 80-32877 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-110]

Thunderbird Chevron Service; Filing of Petition for Review Under 42 U.S.C. 7194

October 14, 1980.

Take notice that Thunderbird Chevron Service on September 11, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977) Supp. from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all

participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before October 28, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before October 28, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H–025, 1000 Independence Avenue, S.W. Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection a Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32977 filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP72-99]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

October 10, 1980.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing Third Revised Sheet No. 229 to Second Revised Volume No. 1 of Transco's FERC Gas Tariff. This tariff sheet, which is proposed to be effective November 1, 1980, provides for increases in Annual Quantity Entitlements totalling 250,177 dekatherms (dt) for five small volume customers which requested such increases in accordance with Article VI of Transco's "Settlement Agreement as to Curtailment Rules" approved and adopted by the Commission in the above-referenced docket.

Transco states that the foregoing increases in entitlements for customers which purchase under Transco's Rate Schedule G and OG are being proposed in accordance with the provisions set forth in Section 13.2(b)(ii) of the General Terms and Conditions of Transco's FERC Gas Tariff, Second Revised Volume No. 1.

The Company states that copies of the filing have been mailed to each of its jurisdictional customers and interested State Commissions and to parties to Transco's curtailment proceeding in Docket No. RP72–99.

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 Sections 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 October 24, 1980. 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. 80-32834 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-562]

United Gas Pipe Line Co.; Application

October 9, 1980.

Take notice that on September 19, 1980, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP80–562 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Chevron Chemical Company (Chevron) and the construction and operation of related facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 12,000 Mcf of natural gas per day for Chevron for a term of two years and to construct and operate facilities necessary therefor pursuant to a gas transportation agreement between it and Chevron dated August 19, 1980.

Applicant submits that Chevron has acquired a new supply of natural gas in St. Mary Parish, Louisiana, attributable to the interest of Trunkline Gas Company (Trunkline). In order to transport gas for Chevron, Applicant proposes to construct and operate the necessary measuring and regulating facilities on its existing 16-inch Paradis Field Main Line No. 2 and 30-inch Lirette-Mobile Line located in St. Charles Parish, Louisiana, it is said. It is asserted that construction of the proposed facilities is estimated to cost $100,000 for which costs Chevron has agreed to reimburse Applicant and that after such reimbursement of costs Chevron would own the measuring and regulating facilities proposed herein.

It is stated that Chevron would deliver or cause to be delivered the subject gas to Applicant at an existing point of interconnection between facilities of Applicant and Trunkline in St. Mary Parish, Louisiana, and/or in LaSalle Parish, Louisiana. Applicant asserts that it would then redeliver to Chevron equivalent quantities of less volumes attributable to fuel and company-used gas, at the outlet side of the regulating station proposed herein.

Applicant states that for the transportation service Chevron would pay it an amount per Mcf equal to the rate in effect from time to time in Applicant's Southern or Northern Rate Zones as applicable less 2.3 percent for fuel and company-used gas. Applicant's current Southern and Northern Zone transportation rates are 13.68 and 19.32 cents, respectively, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 29, 1980, 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.

Kennth F. Plumb,

Secretary.

[FR Doc. 80-32827 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA81-2-000]

Upper Adams School District; Filing of Petition for Review Under 42 U.S.C. 7194

October 14, 1980.

Take notice that Upper Adams School District on October 6, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977) Supp. from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before October 28, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before October 28, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, S.W. Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32978 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3426]

Water Power Development Corp.; Application for Preliminary Permit

October 15, 1980.

Take notice that Water Power Development Corporation (Applicant) filed September 4, 1980, an application for preliminary permit [pursuant to the Federal Power Act 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3426 to be known as the Hopkinton-Everett Project located on the Piscataquog and Contoocook Rivers near the Towns of Hopkinton and Weare, Merrimack and Hillsborough Counties, New Hampshire. Correspondence with the Applicant should be directed to: Mr. Robert L. Winship, Director, Water Power Development Corporation, 141 Milk Street, Boston, Massachusetts 02109.

Project Description—The proposed project would consist of two developments described as follows:

(A) The Everett Development would utilize the existing Everett flood control dam and reservoir owned by the U.S. Army Corps of Engineers and would consist of a new powerhouse containing a single 215-KW turbine-generator and appurtenant facilities.

(B) The Hopkinton-Hoaque-Sprague Development would utilize the existing Hopkinton flood control dam and reservoir owned by the U.S. Army Corps of Engineers and the Hoaque-Sprague dam, located immediately below the Hopkinton dam, owned by the Hoaque-Sprague Company, would consist of: (1) three existing inletgates located at the Hoaque-Sprague dam; (2) an existing 400-foot long, 40-foot wide, 10 to 11 foot deep canal; (3) two existing eight-foot diameter, 200-foot long steel penstocks; (4) an existing powerhouse containing a single 400-KW turbine-generator; and (5) appurtenant facilities. Applicant would study the feasibility of the installation of additional capacity which would result in a total rated capacity of 800-KW at the development.

Purpose of Project—Energy generated at the project would be sold to the Public Service Company of New Hampshire when not used at the site.

Proposed Scope and Cost of Studies under Permit—The work proposed under this preliminary permit would include preparing engineering plans, and an environmental assessment. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the work to be performed under this preliminary permit would cost $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 24, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 23, 1981. A notice of intent must conform with the requirements of 18 CFR § 4.33 (b) and (c), (as amended 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, § 4.33 (a) and (d), (as amended, 44 FR 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will

consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before December 24, 1980. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32945 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85

[Docket No. RP81-4-000]

West Lake Arthur Corp.; FERC Gas Tariff

October 14, 1980.

Take notice that West Lake Arthur Corporation (WLAC), on October 7, 1980, tendered for filing a proposed FERC Gas Tariff, Original Volume No. 1. The proposed rates are based on the period ending June 30, 1980, as adjusted, for jurisdictional revenues of $1,773,974.

WLAC states that the proposed rates are necessary to permit it to recover its jurisdictional cost of service for the test period ended June 30, 1980, as adjusted. The cost of service reflects rates as contained on Original Sheet No. 4 of WLAC's proposed FERC Gas Tariff.

Copies of this filling have been served upon WLAC's jurisdictional customer and the Public Service Commission of the State of Louisiana.

Any person desiring to be heard or 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 petitions or protests should be filed on or before October 24, 1980. 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. 80-32954 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3415]

West Virginia Renewable Resources, Inc.; Application for Preliminary Permit

October 16, 1980.

Take notice that West Virginia Renewable Resources, Inc. (Applicant) filed on September 2, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3415 to be known as R. D. Bailey Project located on the Guyandot River in Mingo and Wyoming Counties, West Virginia. Correspondence with the Applicant should be directed to: Jeffrey M. Kossak, West Virginia Renewable Resources, Inc., Suite 1900, 14 Wall Street, New York, New York 10005.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' R. D. Bailey Dam and would consist of (1) a penstock utilizing the existing outlet works tunnel near the left bank; (2) a powerhouse containing generating units having a rated capacity of 5,000 kW; (3) a tailrace; (4) a transmission line; and (5) appurtenant facilities. Applicant estimates the annual generation would average about 22,000,000 kWh.

Purpose of Project—Applicant proposes to determine a purchaser for project energy from studies to be conducted during the preliminary permit period.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for period of three years during which time it would prepare studies of the hydraulic, construction, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $55,500.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 19, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 17, 1980. A notice of intent must conform with the requirements of 18 CFR 1.33 (b) and (c), (as amended, 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33 (a) and (d), (as amended, 44 FR 61328, October 25, 1979.)

Comments, Protest, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before December 19, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-32971 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-52 (PGA81-1]

Western Gas Interstate Co.; Proposed PGA Rate Adjustment

October 10, 1980.

Take notice that on Sept. 30, 1980, Western Gas Interstate Company ("Western") filed herein Fifteenth Revised Sheet No. 3A to its FERC Gas Tariff, Original Volume No. 1. Said tariff sheet is proposed to become effective on November 1, 1980.

Western states the proposed increase in rates is being filed in accordance with its Tariff's PGA clause which permits the recovery of increases in the cost of gas and of unrecovered purchased gas cost. Western further states the proposed Purchase Gas Cost Adjustment for the Northern Division is 77.66 cents per Mcf; for the Western Division it is 24.69 cents per Mcf; and for the Southern Division it is <1.49> cents per Mcf. The proposed surcharge adjustment is 21.09 cents per Mcf for the Northern Division; 3.98 cents per Mcf for the Western Division and 7.48 cents per Mcf for the Southern Division. The surcharge adjustments will only be effective over the six-month period November 1, 1980 through April 30, 1981.

Western states that copies of this filing were served upon Western's transmission system customers and the interested state regulatory 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 Sections 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 October 24, 1980. Protests will be considered by the Commission 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 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. 80-32832 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-6-000]

Wisconsin Power & Light Co.; Filing

October 14, 1980.

The filing Company submits the following:

Take notice that on October 6, 1980, Wisconsin Power and Light Company (WPL) tendered for filing an Amendment to the Wholesale Power Contract dated September 2, 1980, between the City of Cuba City (Grant Count), Wisconsin and WPL. WPL states that this Amendment proposes to modify WPL FPC Rate Schedule #79 (as supplemented).

WPL requests a proposed effective date of September 2, 1980 and, therefore, requests waiver of the notice requirements of the Commission's regulations. WPL states that a copy of the Amendment to the Wholesale Power Contract and the filing have been provided to the City of Cuba and the Public Service Commission of Wisconsin.

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 November 3, 1980. 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.

Kennety F. Plumb,

Secretary.

[FR Doc. 80-32987 Filed 10-21-80; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-66075; PH-FRL 1640-2]

Certain Pesticide Products; Intent To Cancel Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice lists the name of firms who have requested voluntary cancellation of registration of their pesticide products as provided for in section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended.

EFFECTIVE DATE: November 21, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460 (202-755-8050).

FOR FURTHER INFORMATION CONTACT: Lela Sykes (202-426-8540).

Supplementary information: EPA has been advised by the following firms of their intent to voluntarily cancel registration of their pesticide products.

EPA reg. No.	Product name	Registrant	Date reg.
99-97	Watkins Mothproofer Inproved with RBA	Watkins Inc., 150 Liberty St., Winona, MN 55987.	February 16, 1972.
241-64	Malathion 4 percent Dust Perthane 5 percent Dust.	American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540.	July 20, 1961.
477-279	Farmrite Perthane 4 EC	Central Chemical Corp., P.O. Box 918, Hagerstown, MD 21740.	December 23, 1969.
787-41	Pro-Tec License Liquid Mothproofing for Drycleaning.	Adco Inc., P.O. Box 999, Sedalia, MO 65301.	July 30, 1974.
4822-6	Raid Moth Proofer	S.C. Johnson & Sons, Inc., 1524 Home St., Racine, WI 53403.	November 16, 1955.
4822-146	Raid Mothproofer Pressurizer	Do	September 18, 1975.
10130-2	Rose Formula 55 M Moth Spray	Rose Exterminator Co., P.O. Box 1402, Troy, MI 48099.	June 24, 1968.
524-117	Stop Scald	Monsanto Co., 1101 17th St. NW., Washington, DC 20036.	July 8, 1960.
4185-433	Borden Nutro New Kill-All	Smith Douglas Div., Borden Chemical, Borden Inc., 5100 Virginia Beach Blvd., Norfolk, VA 23501.	June 20, 1969.
6311-5	Stock 6840-530-4762 Rodenticide Bait Anticoagulant Warfarin.	Tyler Products, 4525 5th St. NE., Puyallup, WA 98371.	December 21, 1967.
6311-6	Stock 6840-753-4973 Rodenticide Bait Anticoagulant Pivalyl.	Do	January 18, 1968.
6311-7	Stock 6840-753-4972 Rodenticide Anticoagulant Universal Concentrate.	Do	February 9, 1968.
6311-8	Stock 6840-L89-4664 Rodenticide, Diphacin, Bait Blooks Rodenticide.	Do	May 13, 1968.

The Agency has agreed that such cancellation shall be effective November 21, 1980, unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this action.

The Agency has determined that the sale and distribution of these products produced on or before the effective date of cancellation, may legally continue in commerce until the supply is exhausted, or for one year after the effective date of cancellation, whichever is earlier; provided that the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of FIFRA as amended. Production of these products as pesticide formulations after the effective date of cancellation will be considered to be a violation of the Act.

Requests that the registration of these products be continued may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS–767), Office of Pesticide Programs, Environmental Agency, 401 M St. SW Washington, DC 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[OPP–66075]" and the specific registration number. Any comments filed regarding this notice will be available for public inspection in the Document Control Office at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 6(a)(1) of FIFRA as amended 86 Stat. 973 89 Stat. 751, 7 U.S.C. 136))

Dated: October 10, 1980.

James M. Conlon,

Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-32891 Filed 10-21-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP-50502; PH-FRL 1640-01]

Elanco Products, Co.; Issuance of Experimental Use Permit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA has issued an experimental use permit to the following applicant. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS–767), Office of Pesticide Programs, Rm. E–351, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, (202–755–1397).

1471–EUP–67. Elanco Products Co., a Division of Eli Lilly Co., P.O. Box 1750, Indianapolis, IN 46206. This experimental use permit allows the use of 704 pounds of the herbicide fluridone (1-methyl-3-phenyl-5-[3-(trifluoromethyl)phenyl]-4-(1*H*)-pyridinone) on ponds and lakes to evaluate control of various aquatic weeds. A total of 437 surface acres are involved. The program is authorized in the 48 contiguous States. The program is effective from August 20, 1980 to August 20, 1981. A temporary tolerance for residues of fluridone in fish has been established.

Persons wishing to review the experimental use permit are referred to the Product Manager (PM), Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, DC 20460. Inquiries regarding this permit should be directed to the contact person given above. It is suggested that interested persons call before visiting the EPA Headquarters office so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 92 Stat. 819 as amended, (7 U.S.C. 136))

Dated: October 14, 1980.

Robert Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-32890 Filed 10-21-80; 8:45 am]

BILLING CODE 6560-01-M

[OPTS-51160; TSH-FRL 1639-6]

Esterified Polyamic Acid; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by November 28, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW., Washington, D.C. 20460, (202–755–8050).

FOR FURTHER INFORMATION CONTACT: George Bagley, Chemical Control Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–210, SW., Washington, D.C. 20460, (202–426–3936).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558—Initial) and July 29, 1980 (45 FR 50544—Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the

company claims confidentiality for the specific chemical identity of use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register**.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The Section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before November 28, 1980, submit to the Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW, Washington, DC 20460, written comments recording this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51160]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: October 15, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

PMN 80–268. The following summary is taken from data submitted by the manufacturer in the PMN.

Closed of Review Period. December 28, 1980.

Manufacturer's Identity. E.I. du Pont de Nemours & Co., Inc., 1007 Market St., Wilmington, DE 19898.

Specific Chemical Identity. Claimed confidential business information. Generic name provided. Esterified polyamic acid.

Use. Isolated intermediate.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data. Primary skin irritation and sensitization tests (guinea pigs)—Non-irritant and non-sensitizer at 5% suspension. Mild to non-irritant at 50% suspension.

Occupational Exposure.

Activity	Potential route(s)	Number of potentially exposed workers	Maximum duration of exposure
Manufacture	Dermal	2/shift	1 shift/day; 8 hours/shift; 5 days/year.
Customer	Dermal	2/shift	2 shifts/day; 8 hours/shift; 250 days/year.

Environmental Release/Disposal. Manfacture. E.I. du Pont states that environmental release will be minimal and incidental; solid waste from filtering operation is incinerated.

Customer's site. The manufacturer states that environmental release will be minimal; waste will be drummed by contractor for disposal.

[FR Doc. 80–32889 Filed 10–21–80; 8:45 am]

BILLING CODE 6560–01–M

[ER–FRL 1639–7]

Wastewater Treatment System in State of New York; Intent To Prepare an Environmental Impact Statement

AGENCY: U.S. Environmental Protection Agency—Region II.

ACTION: Notice of intent to prepare a draft environmental impact statement (EIS).

PURPOSE: In accordance with Section 102(2)(c) of the National Environmental Policy Act, the EPA has identified a need to prepare an EIS and therefore publishes this Notice of Intent pursuant to 40 CFR 1501.7.

FOR FUTURE INFORMATION CONTACT: Mr. Raymond Basso, Environmental Impacts Branch, USEPA—Region II, 26 Federal Plaza, Room 400, New York, New York 10278, Telephone—FTS 8–264–8675, Commercial (212) 264–8675.

SUMMARY:

1. Description of proposed action. The EPA action would be the approval of a facilities plan and award of grant monies pursuant to Section 201 of the Clean Water Act for the design and construction of a wastewater treatment system to serve the Village of Lake George, Hamlet of Bolton Landing, Hamlet of Warrensburg, and portions of the Towns of Lake George, Bolton, Warrensburg, and Queensbury in Warrent County, New York.

2. Description of alternatives. The alternatives to be evaluated in the EIS include no-action, in-basin, and regional.

Under the no-action alternative, the existing wastewater treatment systems (including septic tank system) would continue.

Under the in-basin alternative(s) facilities would be provided within the Lake George basin and in surrounding areas (notably the Town of Queensbury).

Under the regional alternative(s) all wastewater flows in the Lake George basin would be transferred out of the basin for treatment and discharge.

3. Public and private participation in the EIS process. a. Full participation by interested Federal, State and local agencies as well as other interested private organizations and parties is invited. The public will be involved to the maximum extent possible; a full-scale public participation program will be implemented, including establishment of a citizen advisory committee, three public meetings, and a public hearing.

b. Significant issues to be discussed in the EIS include: 1. the impacts of the proposed project upon population growth and distribution;

2. the water quality impacts including the non-point source pollution attributable to the projected growth.

c. Scoping: In accordance with the CEQ regulations (40 CFR Section 1501.7) and EPA procedures (40 CFR Part 6) a scoping meeting will be held on December 1, 1980, from 3:00 p.m. to 5:00 p.m. and from 7:00 p.m. to 10:00 p.m. at the Warren County Municipal Center—

Supreme Court, Lake George, New York 12345 (Telephone 518–792–9951).

d. Timing: The EPA estimates that the draft EIS will be available for public review and comment around March 1982.

e. Request for copies of draft EIS: All interested parties are encouraged to submit their names and address to the person indicated above for inclusion on the distibution list for the draft EIS and related public notices.

Dated: October 17, 1980.

William D. Dickerson,

Acting Director, Office of Environmental Review (A–104).

[FR Doc. 80–32888 Filed 10–21–80; 8:45 am]

BILLING CODE 6560–37–M

[WH–FRL 1637–7]

Request for EPA Determination That Aquifers in the Area North of the City of Broken Arrow, Okla., and Upstream on the Verdegris River Are the Sole and Principal Source of Drinking Water

A petition has been submitted requesting the Administrator to determine that the aquifers in the area north of the City of Broken Arrow, Oklahoma and upstream on the Verdegris River are the sole or principal drinking water source for that area.

Section 1424(a) of the Safe Drinking Water Act (P.L. 93–523) allows any person to petition the Administrator to have an area of a State (or States) designated as an area in which no new underground injection well may be operated during the period beginning on the date of the designation and ending on the date on which he applicable underground injection control program covering such area takes effect unless a permit for the operation of such well has been issued by the Administrator. The Administrator may so designate an area within a State if he finds that the area has the aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health.

The petition is reprinted as received.

Dated: October 15, 1980.

Alan Levin,

Director, State Programs Division, Office of Drinking Water, EPA.

Douglas M. Costle,

Administrator, United States Environmental Protection Agency, 401 "M" Street Southwest, Washington, D.C.

Amended Petition

Pursuant to Section 1424(a)(1) [42 U.S.A. 300h–3] of public law 93–523 of the 93rd Congress, S. 433 enacted December 16, 1974, and entitled the "Safe Drinking Water Act", COMES NOW the City of Broken Arrow Oklahoma, to petition that the Administrator designate the area north of the City of Broken Arrow and upstream on the Verdigris River, as an area in which no new underground injection wells for hazardous and toxic wastes may be operated.

The City of Broken Arrow is a municipal corporation organized and operated under the laws of the State of Oklahoma. The principal offices of the City of Broken Arrow are located in the City Hall in Broken Arrow, Oklahoma.

Mr. Allen West is a landowner who resides upstream from the City of Broken Arrow in the Port of Catoosa area and his address is Post Office Drawer 310, Catoosa, Oklahoma 74015.

Mr. P. R. Rhees is a landowner who resides upstream from the City of Broken Arrow in the Port of Catoosa area and his address is Post Office Drawer F, Catoosa, Oklahoma 74015.

Mr. Robert Caldwell is a landowner who resides upstream from the City of Broken Arrow in the Port of Catoosa area and his address is Post Office Box 447, Catoosa, Oklahoma 74015.

Mr. Donald Lane is a landowner in the Port of Catoosa area upstream from the City of Broken Arrow. Mr. Lane's address is Post Office Box 490, Catoosa, Oklahoma 74015.

The Catoosa Township Landowners Association is a non-profit organization organized and operated under the laws of the State of Oklahoma and its principle offices are located at 501 West First Street, Claremore, Oklahoma.

The above named landowners and the member of the Catoosa Township Landowners Association have water wells on their respective properties which are used for residential and agricultural purposes.

The sole and principle source of drinking water for the City of Broken Arrow is the Verdigris River of the Kerr-McClellan Waterway including the associated watershed area and related aquifers. The hydrological system which provides all the fresh drinking water for the City of Broken Arrow includes various underground aquifers which discharge into the City's municipal water supply. The construction and operation of new underground injection wells for hazardous and toxic waste will contaminate aquifers which presently contribute to the water supply of the City of Broken Arrow. If said aquifers become contaminated the entire water supply of the City of Broken Arrow will be destroyed.

The hydrological system which is the principle and sole source of drinking water for approximately 70,000 people to which this application applies covers an area from the City of Broken Arrow north upstream on the Verdigris River to the Oologah Dam. See the attached map for a precise definition of the area to be designated as unsafe for further waste injection wells.

The major fresh water aquifer which is in danger of being contaminated by the development of further injection wells in the area in question is the alluvial fill associated with the Verdigris River. The allivium is approximately 40–60 feet thick. It is located at the surface. It is composed of unconsolidated sands and gravel and other fill. Ground water is encountered at depth ranging from 15–60 feet.

The alluvium is subject to recharge by the Verdigris River in periods of high flow. The alluvium is also recharged by ground water percolation from the surrounding watershed. The alluvium is also in part recharged by the underlying aquifers including but not limited to the big lime and the Oswego limestone.

The alluvium is known to discharge into the Verdigris River in periods of moderate and low flow of said river. The alluvium is a part of the hydrological system involving the Verdigris River and as a source of drinking water, the alluvium and the river form an inseparable unit and constitute the same source of supply. The contamination of either the alluvium or the river will inevitably cause the contamination of both within a short period of time.

There are at least 2 dozen residential and agricultural water wells in the alluvium in the designated area which supply single family homes and farms. In the designated area, there are approximately 70,000 people which rely upon the alluvium and the associated Verdigris River as their sole and principal source of drinking water.

The geological column in the area in question includes the following aquifers:

The alluvium is an aquifer encountered at or near to the surface with a thickness between 40–60 feet. It is the source of fresh water supply and is located adjacent to the Verdigris River.

The big lime is the formation which underlies much of the area in which alluvial deposits exist. The big lime contains several porous and permeable zones which contain either salt water or fresh water depending upon location. This limestone will vary in thickness from 150 feet to zero depending upon location.

The Labette shale underlies the big lime. This is a bedded and fractured shale. This shale will range normally from 50–100 feet in thickness and it is possible that at various locations it will be absent due to erosion by the Verdigris River.

The Oswego limestone is an aquifer which can contain either salt water or fresh water depending upon location. It will vary between 25–100 feet in thickness and it underlies the Labette shale. It is probable that at various locations it directly underlies the alluvium or comes into contact with the Verdigris River channel.

Underlying the Oswego limestone is the balance of the Des Moinesian series, the Atokan series and the Morowan series, all of Pennsylvanian age. The composite of these series will be approximately 800 feet thick.

Underlying the Pennsylvanian system, the following Mississippian system can be expected: The Chesterian series, the Meramecian series, the Osagean series. The composite of the Mississippian series can be expected to be approximately 270–320 feet in thickness.

Underlying the Mississippian system, the Ordovician system will be encountered. The Burgen sand immediately underlies the Mississippian system and it is a highly porous sandstone. Underlying the Bergen sand will be the Arbuckle group which

consist of the Cotter dolomite, the Jefferson City dolomite, the Roubidoux formation, the Gasconade dolomite, the Eminence dolomite, the Boneterre dolomite, the Reagan sandstone. The Bergen sandstone and the Arbuckle group taken together will be approximately 1,300 feet in thickness. The Ordovician system in the area is presently full of fluid which consists mainly of brines. This fluid is known to have a high artesian pressure with a minimum potentiometric surface at plus 750 MSL. The average ground level elevation in the designated area is between 550–625 feet above sea level.

The Precambrian basement underlies the Arbuckle group and can be expected at depths between 2,000–2,000 feet in the designated area depending upon location.

Aerial photographs of the area in question show numerous fractures. The fracture zones are expected to be continuous from the surface to the basement complex. The fractures are known to be open in the Arbuckle group and it is believed that the fractures are also open and will permit the transmission of fluids in the shallower formations.

The area has been shown to be subject to earthquakes. A 1956 earthquake occurred with its calculated epicenter located at Catoosa, Oklahoma.

This has been an active area for oil and gas exploration. Numerous wells have been drilled to both the Pennsylvanian and the Mississippian series. There is oil and gas production in the Pennsylvanian series in the Bartlesville and Redfork sand. The Arbuckle formation has also been the subject of oil and gas exploration. In excess of 500 wells have been drilled in the designated area. No records exist on approximately ⅓rd of these wells and it is unknown how deep they were drilled or whether they were plugged. Many of the wells for which records exist show only mud or wood plugs.

It is known that the Arbuckle group and the Mississippian series were both exposed during and after deposition to weathering. Due to this weathering, it is known that secondary porosity in the form of solution channels and vugs exist in both of these formations. It is also believed that karst topography may have developed in either or both of these formations.

It is doubtful that any aquicludes exist in the area. The Woodford shale is a shale bed immediately overlying the Bergen sandstone and the Arbuckle group. This is a relatively thin bed of shale ranging from zero to 14 feet in thickness in the designated area. It is also highly fractured at all locations where it has been observed. The balance of the Mississippian series is also expected to be fractured. Data does not exist to establish whether or not the Mississippian shales are in fact fractured. The Labette shale which lies near the surface in the designated area is also known to be bedded and fractured. Sufficient information does not exist for the balance of the Pennsylvanian series to determine whether all the shale beds are bedded and fractured.

The Arbuckle formation is an artisan aquifer with its recharge areas in northeastern Oklahoma and southwestern Missouri. It is likely that the designated area is a discharge area for the Arbuckle formation. The shallower Mississippian and Pennsylvanian formations show very similar water to the water found in the Arbuckle formation in this area. The fact that similar water exists in shallower formations supports the conclusion that there is some transmission of fluids vertically from the Arbuckle formation to the Mississippian and Pennsylvanian formations.

The Bergen sand and Arbuckle group are the target formation for hazardous waste disposal injection wells. At the present time, there exists one injection well in the designated area located in Section 9, Range 15 East, Township 29. It is not known the precise amount of fluids injected into the Arbuckle formation by this injection well. This well is an onsite disposal well for the Agrico Company. It is believed that they are injecting in excess of 10 million gallons yearly into the Arbuckle formation. Approximately 90% of these injected fluids are believed to be cooling tower water blowdown with approximately 10 parts per million chromates. The balance of the fluid being presently injected into this well is believed to be the various nitrates associated with the production of fertilizer.

There is presently planned a second industrial waste disposal well by Browning-Ferris Chemical Service, Inc. At the present time, this well has not received a permit from the State of Oklahoma, but the Browning-Ferris Chemical Services, Inc., has applied to the Industrial Waste Division of the Department of Health for a construction permit. According to the Browning-Ferris permit application, they intend to inject 100 million gallons of industrial waste per year into the Arbuckle formation. The location of the proposed injection well is Section 5, Range 15 East, Township 20 North, Rogers County, Oklahoma. This is a planned commercial waste disposal well. The anticipated waste stream includes acidic waste including hydrochloric acid, sulphuric acid, acetic acid, sorbic acid, nitric acid, chromic acid. The acids contain the following contaminants: barium, calcium, iron, magnesium, and nickel. The waste stream also includes basic waste such as caustic sulphide, caustic cyanides, caustic fluorides. Neutral waste including arsenic waste water and ammonium chloride solutions. The anticipated waste stream also includes organic waste including chlorinated hydrocarbons, hexachlorobutadiene, hexachloroethane, triclorobenzene, chlorinated benzene, and tetrachloroethylene.

From the 70,000 people relying upon the hydrological system including the alluvium and the Verdigris River, approximately 100 people are receiving their fresh water supply directly from fresh water wells in the alluvium. There is no other apparent alternate source of fresh water to these individuals. There are two rural water districts which receive their water immediately from the Verdigris River adjacent to the alluvium. These two rural water districts serve in excess of 10,000 people. There is no other apparent source of fresh water other than the Verdigris River and the alluvium source of water supply for these two water districts. The City of Broken Arrow presently supplies fresh water for in excess of 50,000 people. The only presently available alternate source of water is a tie line with the City of Tulsa which would only provide approximately ¼th to ⅓rd of the fresh water needs of the City.

The operation of a commercial industrial waste disposal injection well will cause barges filled with lethal chemicals to traverse the Verdigris River channel. There are no facilities such as dry docks or water locks to prevent the spillage from the unloading of these barges from entering the Verdigris River. The alluvium aquifer is subject to recharge from the Verdigris River and if the Verdigris River becomes contaminated, the alluvium will also become contaminated. Once the alluvium becomes contaminated, it in turn will recontaminate the Verdigris River over a long period of time.

The operation of a commercial industrial waste injection well will also cause trucks filled with lethal chemicals and railroad cars filled with lethal chemicals to travel to the injection well site. The area designated by this petition includes the 100 year flood plain. Due to the possibility of floods, these railcars and trucks could be subject to being carried by flood waters. If during a flood any of the lethal chemicals are released into the area, the ground water and the river would immediately become contaminated. The area to be designated can be ascertained by following the river and creek valleys shown in maps 1 through 4 in the attached comprehensive plan for the Rogers County Metropolitan Area.

Wherefore, in consideration of the contents of this Petition and pursuant to the authority of 42 U.S.A. § 300h–3(2), the undersigned petitioners hereby petition said Administrator to grant the relief requested herein and protect the safety, health, well being and drinking water of the inhabitants in the affected area.

Respectfully submitted,

Robert Caldwell,
Allen D. West,
P. R. Rhees,
Donald Lane,
C. R. Bachtell,
Leroy Bachtell,
Catoosa Township Landowners Association, an Oklahoma Nonprofit Corporation, Petitioners.
James W. Summerlin
(Of the Firm Summerlin, Williams & Zacharias, Claremore, Okla.)
The City of Broken Arrow
(A Municipal Corporation, Petitioner).
Ray H. Wilburn
(Of the Firm Ray H. Wilburn & Associates, Tulsa, Okla.).

Interested person shall submit written comments, data, views or arguments to the EPA Administrator no later than the 25th day following the date of publication in the **Federal Register**. The Administrator shall either make the designation for which the petition is

submitted or deny the petition no later than November 21, 1980.

[FR Doc. 80-32527 Filed 10-21-80; 8:45 am]
BILLING CODE 6560-29-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket No. FEMA 5925]

National Flood Insurance Program; Communities With Flood-Prone Areas Subject to Section 202(A), Prohibition of Federal and Federally Related Assistance

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Notice.

SUMMARY: The purpose of this notice is to provide a list of communities that contain areas of special flood hazard potentially subject to the provisions of Section 202(A) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) on July 1, 1975, or an appropriate later date, and to provide a convenient reference for interested persons, communities, Federal agencies and instrumentalities, and others involved in assuring compliance with that section. This list supersedes and updates the list published in the **Federal Register** at 44 FR 64879 and all prior lists.

DATES: Section 202(A) applies to the community as of one year after the initial date appearing in the last column on each page of this list.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426-1460 or Toll Free Line 800-424-8872, 451 7th Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Section 202(A) provides that effective July 1, 1975, Federal agencies are prohibited from providing financial assiatance or making loans for acquisition or construction purposes in areas which (a) have been designated by the Director of Federal Emergency Management Agency as Special Flood Hazard Areas for at least one year; and (b) are in communities which are not participating in the National Flood Insurance Program (42 USC 4001-4128). Special Flood Hazard Areas are designated on Federal Insurance Administration Flood Hazard Boundary Maps (FHBM's) or Flood Insurance Rate Maps (FIRM's) and as Zone A, AO, AH, Al-89, V, VO, V1-30, M or E.

Each of the communities listed below received notice of its designation as flood-prone prior to October 1, 1980, and legal notice was furnished of such designation by publication under Part 65 of Title 44 of the Code of Federal Regulations in the **Federal Register.** These communities have failed to provide the Federal Insurance Administrator with sufficient technical or scientific data to rebut their designation as flood prone nor have they as yet qualified for participation in the National Flood Insurance Program. Thus, the sanctions of Section 202(A) apply as of July 1, 1975, or one year after a community's identification, whichever is later, until the community participates in the program.

In order to continue Federal financial assistance or lending for acquisition of construction purposes for insurable structures in its Special Flood Hazard Area, a community must apply for and be made eligible for participation in the program in accordance with 44 CFR (Parts 59 to 75). Communities on this list may be made eligible to participate in the program after the date of publication of this list. Such eligibility will be published periodically in the **Federal Register** under 44 CFR 64.6 List of eligible communities. At that time the sanctions of Section 202(a) will no longer apply to the communities listed below.

Ident. and community name		County	Original hazard date
Alabama			
010095	Akron, town of	Hale County	750718
010229	Allgood, town of	Blount County	750124
010331	Andalusia, city of	Covington County	780602
010407	Anderson, town of	Lauderdale County	781124
010242	Babbie, town of	Covington County	750110
010352	Bear Creek, town of	Marion County	760618
010083	Belk, town of	Fayette County	740913
010257	Black, town of	Geneva County	750207
010230	Blount County*	Blount County	780224
010371	Blountsville, town of	Blount County	780929
010092	Boligee, city of	Greene County	741213
010296	Bon Air, town of	Talladega County	770304
010372	Branchville, town of	St. Clair County	780915
010055	Brantley, town of	Crenshaw County	740628
010342	Brilliant, town of	Marion County	770715
010347	Brundidge, city of	Pike County	761022
010017	Butler County*	Butler County	780421
010374	Camp Hill, town of	Tallapoosa County	780929
010119	Cardiff, town of	Jefferson County	740920
010240	Carolina, town of	Covington County	750110
010375	Carrville, town of	Tallapoosa County	781215
010376	Chatom, town of	Washington County	781020
010234	Cherokee County*	Cherokee County	790216
010030	Chilton County*	Chilton County	780728
010316	Clarke County*	Clarke County	780609
010377	Clayton, town of	Barbour County	780929
010228	Cleveland, town of	Blount County	760305
010239	Coffee County*	Coffee County	750117
010318	Colbert County	Colbert County	780224
010319	Conecuh County	Conecuh County	780707
010244	Covington County*	Covington County	741213
010367	Crossville, town of	Pike County	761029
010379	Cuba, town of	Sumter County	790316
010247	Cullman County*	Cullman County	780728
010380	Daviston, town of	Tallapoosa County	781006
010320	De Kalb County*	De Kalb County	780428
010350	Double Springs, town of	Winston County	770128
010058	Dozier, town of	Crenshaw County	740920
010383	Epes, town of	Sumter County	781020
010251	Escambia County*	Escambia County	781027
010077	Etowah County*	Etowah County	780217

Ident. and community name		County	Original hazard date
Alabama			—Continued
010027	Five Points, town of	Chambers County	741115
010354	Flint City, town of	Morgan County	761126
010384	Fort Deposit, town of	Lowndes County	780929
010322	Franklin County	Franklin County	780120
010038	Fulton, town of	Clarke County	750718
010295	Gainesville, town of	Sumter County	761015
010053	Gantt, town of	Covington County	740607
010258	Geneva County*	Geneva County	760220
010356	Geraldine, town of	De Kalb County	780113
010557	Glenwood, town of	Crenshaw County	740920
010387	Goodwater, town of	Coosa County	781103
010152	Gurley, town of	Madison County	760416
010388	Hammondville, town of	De Kalb County	781103
010293	Harpersville, town of	Shelby County	750411
010357	Henagar, town of	De Kalb County	760312
010390	Kansas, town of	Walker County	790316
010391	Lakeview, town of	De Kalb County	790907
010324	Lawrence County*	Lawrence County	770513
010250	Lee County*	Lee County	780331
010235	Leesburg, city of	Cherokee County	761015
010358	Lexington, town of	Lauderdale County	761015
010393	Margaret, town of	St. Clair County	781006
010275	Marshall County*	Marshall County	780120
010359	Mentone, town of	De Kalb County	760702
010207	Millry, town of	Washington County	761112
010349	Montevallo, town of	Shelby County	770128
010175	Morgan County*	Morgan County	770311
010395	New Site, town of	Tallapoosa County	781027
010232	Ohatchee, town of	Calhoun County	750131
010245	Petrey, town of	Crenshaw County	770225
010333	Phil Campbell, town of	Franklin County	761029
010397	Pine Hill, town of	Wilcox County	781117
010360	Pisgah, town of	Jackson County	760312
010075	Pollard, town of	Escambia County	750131
010159	Providence, town of	Marengo County	741101
010182	Randolph County*	Randolph County	740913
010334	Red Bay, city of	Franklin County	761210
010243	Red Level, town of	Covington County	750110
010253	Reece City, city of	Etowah County	750221
010348	Roanoke, city of	Randolph County	770610
010339	Rogersville, town of	Lauderdale County	780310

Ident. and community name		County	Original hazard date
Alabama			—Continued
010362	Section, town of	Jackson County	760625
010191	Shelby County*	Shelby County	780224
010399	Shiloh, town of	De Kalb County	790914
010227	Snead, town of	Blount County	750627
010363	Somerville, town of	Morgan County	760604
010400	Sumiton, town of	Jefferson County	790119
010328	Summerdale, town of	Baldwin County	780113
010160	Sweetwater, town of	Marengo County	750718
010364	Sylvania, town of	De Kalb County	761029
010326	Tallapoosa County	Tallapoosa County	780331
010037	Toxey, town of	Choctaw County	770218
010201	Tuscaloosa County*	Tuscaloosa County	780505
010335	Vina, town of	Franklin County	771216
010292	Vincent, town of	Shelby County	750411
010365	Vinemont, town of	Cullman County	761001
010340	Waterloo, town of	Lauderdale County	761217
010401	Wedowee, town of	Randolph County	781006
010346	Wilmer, town of	Mobile County	761008
010404	Wilsonville, town of	Shelby County	790907
010304	Winston County*	Winston County	780217
	Total of 102 communities.		
Arizona			
040119	Superior, town of	Pinal County	790731
	Total of 1 community.		
Arkansas			
050378	Alicia, town of	Lawrence County	750711
050380	Almyra, town of	Arkansas County	750815
050017	Alpena, town of	Boone County	740830
050381	Altus, city of	Franklin County	750725
050303	Amity, city of	Clark County	750221
050418	Arkansas County	Arkansas County	770816
050382	Ash Flat, town of	Sharp County	750627
050003	Ashley County	Ashley County	771115
050123	Aubrey, town of	Lee County	741206
050305	Barling, city of	Sebastian County	750214
050010	Baxter County	Baxter County	770517
050419	Benton County	Benton County	771018
050386	Bethel Heights, town of	Benton County	750425
050415	Biscoe, town of	Prairie County	761126
050474	Bodcaw, town of	Nevada County	761119
050392	Bonanza, town of	Sebastian County	750815
050016	Boone County	Boone County	770617
050131	Bradford, city of	White County	750221
050393	Branch, city of	Franklin County	750502
050394	Bull Shoals, city of	Marion County	750425
050567	Carddo Valley, town of	Clark County	790320
050024	Carroll County	Carroll County	770614
050397	Caulksville, town of	Logan County	750627
050313	Cave City, city of	Sharp County	750718
050398	Cave Springs, city of	Benton County	761029
050400	Chidester, city of	Ouachita County	750725
050424	Cleburne County	Cleburne County	770607
050425	Columbia County	Columbia County	770802
050426	Conway County	Conway County	770610
050568	Corinth, town of	Yell County	790424
050402	Coy, town of	Lonoke County	760625
050427	Craighead County	Craighead County	771115
050428	Crawford County*	Crawford County	770617
050429	Crittenden County	Crittenden County	771206
050061	Dallas County	Dallas County	770617
050404	Damascus, town of	Faulkner County	750418
050320	Dierks, city of	Howard County	750214
050430	Drew County	Drew County	771025
050408	Dyer, town of	Crawford County	750711
050214	Elkins, town of	Washington County	741220
050019	Everton, town of	Boone County	740830
050431	Faulkner County	Faulkner County	770607
050433	Garland County*	Garland County	770602
050224	Garner, town of	White County	770830
050434	Grant County	Grant County	770510
050435	Greene County	Greene County	771213
050246	Greers Ferry, city	Cleburne County	760423
050247	Griffithville, town of	White County	750926
050248	Guion, town of	Izard County	750411
050249	Gum Springs, town of	Clark County	750627
050251	Hartman, town of	Johnson County	761029
050436	Hempstead County	Hempstead County	770603
050225	Higginson, town of	White County	740816
050437	Hot Spring County	Hot Spring County	771101
050438	Howard County*	Howard County	770607
050120	Imboden, town of	Lawrence County	740503
050439	Izard County	Izard County	770712

Ident. and community name		County	Original hazard date
Arkansas			—Continued
050441	Johnson County	Johnson County	770802
050337	Kibler, city of	Crawford County	760625
050260	Knoxville, town of	Johnson County	750221
050569	Lafe, town of	Greene County	790710
050443	Lawrence County	Lawrence County	770603
050444	Lee County	Lee County	771101
050479	Little Flock, town of	Benton County	770621
050447	Logan County	Logan County	771018
050448	Lonoke County	Lonoke County	770816
050341	Lonoke, city of	Lonoke County	760326
050262	Louann, town of	Ouachita County	761105
050449	Madison County	Madison County	770614
050450	Marion County	Marion County	770906
050347	Marshall, city of	Searcy County	750425
050170	Marvell, city of	Phillips County	760312
050343	McNeil, city of	Columbia County	750502
050348	Melbourne, city of	Izard County	750411
050266	Menifee, town of	Conway County	750425
050451	Miller County	Miller County	780110
050069	Mitchellville, town of	Desha County	741108
050154	Monroe County	Monroe County	770621
050095	Mount Pleasant, town of	Izard County	741122
050051	Mountainburg, city of	Crawford County	740503
050354	Mulberry, city of	Crawford County	761126
050454	Nevada County	Nevada County	770809
050270	Ogden, city	Little River County	750919
050161	Ouachita County	Ouachita County	770913
050271	O'Kean, town of	Randolph County	750418
050007	Parkdale, town of	Hot Spring County	740329
050275	Perla, town of	Hot Spring County	760625
050166	Phillips County	Phillips County	770809
050363	Plainview, city of	Yell County	750418
050364	Plumerville, city of	Conway County	750627
050172	Poinsett County	Poinsett County	770607
050473	Polk County*	Polk County	771018
050458	Pope County*	Pope County	771220
050459	Prairie County*	Prairie County	770603
050279	Prattsville, town of	Grant County	750425
050280	Quitman, town of	Cleburne County	760409
050460	Randolph County*	Randolph County	770809
050281	Ravenden Spgs, town of	Randolph County	760723
050470	Ravenden, town of	Lawrence County	760402
050478	Reader, town of	Ouachita County	770603
050040	Rison, city of	Cleveland County	740308
050475	Rosston, town of	Nevada County	770218
050286	Scranton, town of	Logan County	750418
050462	Sebastian County*	Sebastian County	770531
050463	Sevier County*	Sevier County	771213
050464	Sharp County*	Sharp County	770621
050287	Shirley, town of	Van Buren County	760813
050290	Sulphur Rock, town of	Independence County	750425
050292	Thornton, city of	Calhoun County	750725
050205	Union County	Union County	771213
050021	Valley Springs, town of	Boone County	780718
050296	Viola, town of	Fulton County	760409
050212	Washington County	Washington County	770510
050374	Wheatley, city of	St. Francis County	750919
050467	White County*	White County	770607
050298	Wickes, town of	Polk County	750627
050571	Willisville, town of	Nevada County	790313
050299	Wilton, town of	Little River County	750411
050077	Winchester, town of	Drew County	740830
050469	Yell County*	Yell County	771115
	Total of 120 communities.		
California			
060015	Amador County	Amador County	770607
060017	Butte County*	Butte County	740906
060633	Calaveras County*	Calaveras County	771129
060040	El Dorado County*	El Dorado County	740802
060445	Ferndale, city of	Humboldt County	741220
060092	Lassen County	Lassen County	780228
060361	Loyalton, city of	Sierra County	760604
060634	Mariposa County*	Mariposa County	771129
060451	Montague, town of	Siskiyou County	760326
060228	Orange, city of	Orange County	760328
060239	Placer County*	Placer County	770712
060455	Plymouth, city of	Amador County	761119
060267	San Benito County*	San Benito County	770802
060435	San City, city of	Monterey County	761203
060056	Selma, city of	Fresno County	740524
060401	Trinity County*	Trinity County	771213
060411	Tuolumne County*	Tuolumne County	780418
	Total of 17 communities.		

Ident. and community name		County	Original hazard date
Colorado			
080229	Aguilar, town of	Las Animas County	750711
080148	Boone, town of	Pueblo County	740906
080210	Coal Creek Town	Fremont County	750815
080040	Custer County	Custer County	780124
080120	Dinosaur, town of	Moffat County	740830
080056	Elizabeth, town of	Elbert County	740906
080212	Empire, town of	Clear Creek County	750502
080073	Fraser, town of	Grand County	740906
080131	Ft. Morgan, city of	Morgan County	761029
080215	Grand Valley Town	Garfield County	760813
080074	Hot Sulphur Springs, town of	Grand County	741122
080207	Iliff, town of	Logan County	741227
080057	Kiowa, town of	Elbert County	740906
080033	Kit Carson, town of	Cheyenne County	741213
080282	Lake County*	Lake County	771018
080256	New Castle Town	Garfield County	750725
080127	Nucla, town of	Montrose County	740524
080258	Orchard City, city of	Delta County	770527
080170	Ovid, town of	Sedgwick County	741115
080293	Pitkin, town of	Gunnison County	780620
080260	Redcliff Town	Eagle County	750919
080150	Rye, town of	Pueblo County	750718
080164	Sagauche, town of	Saguache County	760528
080223	Silt Town	Garfield County	750725
080200	Silver Plume, town of	Clear Creek County	741213
080106	Starkville, town of	Las Animas County	740906
	Total of 26 communities.		
Connecticut			
090156	Salem, town of	New London County	750221
	Total of 1 community.		
Florida			
120580	Alford, town of	Jackson County	790209
120581	Astatula, town of	Lake County	790824
120016	Brooker, town of	Suwannee County	740830
120126	Campbellton, city of	Jackson County	740906
120583	Cottondale, town of	Jackson County	781124
120319	Freeport, city of	Walton County	761029
120573	Hilliard, town of	Nassau County	771223
120586	Inglis, town of	Levy County	781229
120390	Lake Wales, city of	Polk County	751017
120570	Marineland, town of	Flagler County	770708
120591	Mascotte, city of	Lake County	790921
120575	McIntosh, town of	Marion County	770527
120344	Micanopy, town of	Alachua County	760416
120365	Monticello, city of	Jefferson County	760723
120592	Otter Creek, city of	Levy County	790817
120571	Painters Hill, town of	Flagler County	770805
120612	Palm Shores, town of	Brevard County	790831
120593	Raiford, town of	Union County	780929
120413	Weeki Wachee, town of	Hernando County	760723
	Total of 19 communities.		
Georgia			
130195	Abbeville, municipality of	Wilcox County	780217
130360	Ailey, town of	Montgomery County	750404
130394	Andersonville, village of	Sumter County	770429
130001	Appling County	Appling County	760312
130390	Avalon, town of	Stephens County	760416
130270	Baker County*	Baker County	750328
130115	Bartow, city of	Jefferson County	750822
130309	Bellville, city of	Evans County	750718
130179	Blairsville, town of	Union County	760611
130362	Bostwick, town of	Morgan County	750404
130343	Braselton, city of	Jackson County	750418
130268	Brinson, town of	Colquitt County	750718
130281	Brooks County	Brooks County	780203
130364	Buckhead, town of	Morgan County	750711
130323	Buford, city of	Gwinnett County	750404
130476	Carlton, town of	Madison County	781013
130464	Carroll County*	Carroll County	780811
130257	Centralhatchee, town of	Heard County	770708
130292	Charlton County	Charlton County	760514
130036	Chattooga County	Chattooga County	760326
130418	Cleveland, city of	White County	750411
130465	Coffee County*	Coffee County	780421
130058	Colquitt County	Colquitt County	780519
130135	Colquitt, city of	Miller County	760723
130169	Coolidge, city of	Thomas County	760402
130341	Corinth, town of	Heard County	770708

Ident. and community name		County	Original hazard date
Georgia			—Continued
130479	Danielsville, city of	Madison County	780915
130304	Dawson County	Dawson County	760618
130330	Demorest, town of	Habersham County	750404
130446	Dillard, town of	Rabun County	760604
130365	Eton, town of	Murray County	771125
130359	Forsyth, city of	Monroe County	750411
130428	Fort Oglethorpe, city of	Macon County	750404
130379	Georgetown, town of	Quitman County	780210
130023	Girard, town of	Burke County	740906
130419	Glenwood, city of	Wheeler County	750404
130096	Grady County	Grady County	770617
130325	Grayson, town of	Gwinnett County	750711
130456	Guyton, town of	Effingham County	770701
130311	Hagan, city of	Evans County	750418
130466	Hall County*	Hall County	780623
130338	Harris County	Harris County	760416
130105	Heard County	Heard County	760409
130192	Helen, town of	White County	740906
130385	Hiltonia, town of	Screven County	750411
130221	Hiram, city of	Paulding County	741018
130447	Hivassee, town of	Towns County	760611
130291	Homeland, town of	Charlton County	750411
130271	Homer, town of	Banks County	750418
130481	Ila, city of	Madison County	780915
130345	Jackson County	Jackson County	760423
130375	Jasper, city of	Pickens County	750411
130412	Jersey, town of	Walton County	760723
130434	Jones County	Jones County	770527
130277	Kingston, city of	Bartow County	750418
130462	Laurens County*	Laurens County	780217
130409	Linwood, town of	Walker County	750404
130441	Louisville, city of	Jefferson County	750815
130469	Lowndes County*	Lowndes County	780505
130354	Lumpkin County	Lumpkin County	760402
130470	Madison County*	Madison County	780317
130224	Madison, city of	Morgan County	750221
130392	Martin, town of	Stephens County	750404
130342	McDonough, city of	Henry County	750411
130357	McDuffie County*	McDuffie County	760326
130421	McIntyre, town of	Wilkinson County	750411
130473	Meriwether County*	Meriwether County	780714
130134	Miller County	Miller County	770610
130438	Mitchell County*	Mitchell County	760716
130376	Molena, city of	Pike County	750411
130138	Monroe County	Monroe County	770401
130139	Montgomery County	Montgomery County	760319
130482	Montrose, town of	Laurens County	780915
130286	Mount Zion, town of	Carroll County	770701
130315	Mountain Park, city of	Fulton County	780113
130366	Murray County	Murray County	760514
130353	Naylor, town of	Lowndes County	750425
130161	Newington, town of	Screven County	740906
130483	Nicholls, city of	Coffee County	780929
130368	North High Shoals, town of	Oconee County	770819
130269	Oak Park, town of	Emanuel County	750718
130189	Odum, city of	Wayne County	750103
130370	Oglethorpe County	Oglethorpe County	760528
130367	Oxford, town of	Newton County	750411
130457	Patterson, town of	Pierce County	770610
130149	Pickens County	Pickens County	761231
130151	Pierce County*	Pierce County	760813
130378	Pulaski County	Pulaski County	770617
130284	Pulaski, town of	Candler County	750404
130327	Rest Haven, city of	Gwinnett County	780203
130267	Riverside, town of	Colquitt County	750718
130162	Rocky Ford, town of	Screven County	740906
130274	Russell, municipality of	Barrow County	780721
130363	Rutledge, town of	Morgan County	750808
130439	Sale City, town of	Mitchell County	750404
130168	Scotland, city of	Telfair County	740830
130301	Senoia, city of	Coweta County	750404
130382	Shellman, city of	Randolph County	760611
130339	Shiloh, city of	Harris County	750404
130349	Smithville, city of	Lee County	770527
130388	Spalding County*	Spalding County	770325
130393	Steward County	Stewart County	760514
130308	Stillmore, town of	Emanuel County	750411
130260	Stone Moutain, city of	De Kalb County	740512
130486	Summer, town of	Worth County	780922
130389	Sunny Side, village of	Spalding County	750411
130150	Talking Rock, town of	Pickens County	770617
130380	TallulahFalls, city of	Habersham County	750425
130471	Tattnall County*	Tattnall County	780818
130487	Taylorsville, city of	Bartow County	780929
130288	Temple, town of	Carroll County	750411
130400	Terrell County*	Terrell County	760716
130381	Tiger, town of	Rabun County	750711

Ident. and community name		County	Original hazard date
	Georgia		—Continued
130173	Toombs County	Toombs County	760319
130422	Toomsboro, town of	Wilkinson County	750404
130489	Tunnell Hill, city of	Whitfield County	781006
130413	Walnut Grove, town of	Walton County	760813
130190	Wheeler County	Wheeler County	760430
130191	White County	White County	760611
130297	Winterville, city of	Clarke County	750411
130196	Worth County	Worth County	780602
	Total of 121 communities		
	Idaho		
160042	Albion, town of	Cassia County	750110
160207	Boundary County*	Boundary County	770802
160015	Chatcolet, city of	Benewah County	740913
160005	Council, city of	Adams County	740503
160163	Craigmont, city of	Lewis County	760625
160165	Downey, city of	Bannock County	790109
160137	Franklin, city of	Franklin County	70905
160061	Fremont County	Fremont County	771206
160241	Grand View, city of	Owyhee County	790403
160141	Hauser, city of	Kootenai County	761008
160228	Jerome County*	Jerome County	771025
160224	Leadore, city of	Lemhi County	770603
160197	Malta, town of	Cassia County	741213
160179	Menan City	Jefferson County	760430
160045	Oakley, town of	Cassia County	741018
160149	Plummer City	Benewah County	761029
160186	Preston City	Franklin County	750829
160153	St. Charles, city of	Bear Lake County	760319
160230	Teton County*	Teton County	770913
160231	Twin Falls County*	Twin Falls County	780131
	Total of 20 communities.		
	Illinois		
170835	Adeline, village of	Ogle County	750711
170941	Altona, village of	Knox County	780929
170844	Alvin, village of	Vermilion County	750221
170489	Anchor, village of	McLean County	741206
170657	Anna, city of	Union County	740329
170942	Argenta, village of	Macon County	790112
170923	Aviston, village of	Clinton County	770520
170742	Avon, village of	Fulton County	741018
170321	Batavia, city of	Kane County	760910
170845	Belgium, village of	Vermilion County	750328
170945	Biggsville, village of	Henderson County	780929
170608	Bluffs, village of	Scott County	740607
170920	Bluford, village of	Jefferson County	770722
170848	Braidwood, city of	Will County	750411
170468	Brookport, city of	Massac County	740607
170226	Browns, village of	Edwards County	741115
170746	Bryant, village of	Fulton County	741206
170850	Bureau Junction, village of	Bureau County	750328
170471	Bushnell, city of	McDonough County	740607
170785	Camargo, village of	Douglas County	740405
170491	Carlock, village of	McLean County	761203
170250	Carrollton, city of	Greene County	740607
170842	Cedarville, village of	Stephenson County	750411
170926	Christian County*	Christian County	780407
170986	Coles County*	Coles County	790717
170939	Crawford County*	Crawford County	790105
170646	Creve Coeur, village of	Tazewell County	740301
170987	Cumberland County*	Cumberland County	790323
170751	De Soto, village of	Jackson County	740405
170647	Deer Creek, village of	Tazewell County	740628
170948	Deer Grove, village of	Whiteside County	781006
170949	Divernon, village of	Sangamon County	780908
170658	Dongola, village of	Union County	740308
170950	Earlville, city of	La Salle County	781013
170873	East Brooklyn, village of	Grundy County	750321
170985	Edgar County*	Edgar County	790302
170937	Edwards County*	Edwards County	781027
170441	Edwardsville, city of	Madison County	740405
170227	Effingham County*	Effingham County	771223
170251	Eldred, village of	Greene County	731217
170849	Elwood, village of	Will County	750221
170818	Farmer City, city of	De Witt County	750321
170952	Farmington, city of	Fulton County	781020
170232	Fayette County	Fayettee County	780106
170664	Fithian, village of	Vermilion County	750801
170991	Ford County*	Ford County	790223
170827	Forest City, village of	Mason County	750328
170899	Franklin County*	Franklin County	780113
170953	Freemanspur, village of	Franklin County	781020
170283	Galva, city of	Henry County	740614
170049	Germantown, village of	Clinton County	740329

Ident. and community name		County	Original hazard date
	Illinois		—Continued
170234	Gibson City, city of	Ford County	740329
170885	Golden Gate, village of	Wayne County	750627
170954	Gorham, village of	Jackson County	790126
170561	Hamletsburg, village of	Pope County	760730
170465	Havana, city of	Mason County	740405
170366	Hawthorn Woods, vill	Lake County	760730
170570	Hennepin, village of	Putnam County	761119
170497	Heyworth, village of	McLean County	740614
170956	Hill Crest, village of	Ogle County	780915
170253	Hillview, village of	Greene County	741206
170184	Hinckley, village of	De Kalb County	740301
170957	Indianola, village of	Vermilion County	790105
170927	Jackson County*	Jackson County	780714
170990	Jasper County*	Jasper County	790727
170305	Jefferson County	Jefferson County	770304
170315	Jerseyville, city of	Jersey County	740607
170757	Joppa, village of	Massac County	731123
170826	Junction City, village of	Marion County	750321
170837	Kinderhook, village of	Pike County	750321
170760	La Prairie, town of	Adams County	750425
170457	Lacon, city of	Marshall County	731130
170373	Lake Bluff, village of	Lake County	740201
170458	Larose, village of	Marshall County	741025
170400	La Salle County	La Salle County	780526
170409	Lawrence County*	Lawrence County	781124
170342	Libson, village of	Kendall County	741101
170929	Livingston County	Livingston County	780331
170794	Livingston, village of	Madison County	740322
170959	Mackinaw, village of	Tazewell County	781110
170930	Macoupin County*	Macoupin County	780106
170765	Maeystown, village of	Monroe County	760402
170187	Malta, village of	De Kalb County	740607
170549	Mansfield, village of	Piatt County	750103
170836	Mapleton, village of	Peoria County	750328
170764	Marietta, village of	Fulton County	750131
170932	Marion County*	Marion County	780324
170650	Marquette Heights, city of	Tazewell County	740308
170994	Marshall County*	Marshall County	790302
170041	Martinsville, city of	Clark County	731123
170684	Maunie, village of	White County	740109
170830	McHenry Shores, village of	McHenry County	790427
170960	Mechanicsburg, village of	Sangamon County	790126
170961	Menominee, village of	Jo Daviess County	790112
170685	Mill Shoals, village of	White County	740719
170611	Moweaqua, village of	Shelby County	790817
170963	Muncie, village of	Vermilion County	790223
170767	Nauvoo, city of	Hancock County	751010
170853	New Bedford, village of	Bureau County	750627
170555	New Canton, town of	Pike County	740816
170769	Newman, city of	Douglas County	741129
170832	Oakford, village of	Menard County	750321
170831	Oakwood Hills, village of	McHenry County	750418
170352	Oneida, city of	Knox County	740607
170641	Orangeville, village of	Stephenson County	740816
170964	Palmer, village of	Christian County	781013
170538	Perry County*	Perry County	741213
170272	Pontoosuc, village of	Hancock County	740116
170975	Prairie Grove, village of	McHenry County	790907
170993	Putnam County*	Putnam County	790223
170883	Reynolds, village of	Rock Island County	750418
170995	Richland County*	Richland County	790608
170603	Riverton, village of	Sangamon County	731116
170966	Rossville, village of	Vermilion County	780908
170800	Russellville, village of	Lawrence County	761112
170988	Saline County*	Saline County	790601
170933	Shelby County*	Shelby County	780224
170969	Sherman, village of	Sangamon County	790112
170580	Steeleville, village of	Randolph County	760730
170775	St. David, village of	Fulton County	741206
170801	St. Francisville, village of	Lawrence County	740329
170976	Sunrise Ridge, village of	McHenry County	790706
170005	Tamms, village of	Alexander County	740510
170778	Thomson, village of	Carroll County	751017
170670	Tilton, village of	Vermilion County	770114
170828	Topeka, town of	Mason County	750321
170972	Troy Grove, village of	LaSalle County	790126
170973	Vergennes, village of	Jackson County	790216
170935	Vermilion County	Vermilion County	780421
170938	Wabash County*	Wabash County	781103
170455	Wamac, city of	Washington County	740628
170974	Watson, village of	Effingham County	790202
170865	Wayne, village of	Du Page County	750815
170355	Williamsfield, village of	Knox County	761203
170934	Williamson County*	Williamson County	780331
170615	Wyoming, city of	Stark County	780310
170240	Zeigler, city of	Franklin County	770225
	Total of 137 communities.		

Ident. and community name		County	Original hazard date
Indiana			
180031	Alton, town of	Crawford County	740123
180303	Amboy, town of	Miami County	741129
180097	Andrews, town of	Huntington County	740607
180273	Boonville, city of	Warrick County	731228
180258	Cayuga, town of	Vermillion County	740531
180408	Clay County*	Clay County	771125
180451	Country Club Heights, town of	Madison County	790518
180433	Daviess County*	Daviess County	780505
180054	Dubois County*	Dubois County	741213
180106	Dupont, town of	Jefferson County	741129
180282	Fountain City, city of	Wayne County	740510
180366	Francisco, town of	Gibson County	750321
180434	Gibson County*	Gibson County	780428
180435	Grant County*	Grant County	780519
180436	Greene County*	Greene County	780721
180080	Hamilton County*	Hamilton County	741213
180327	Hazleton, town of	Gibson County	731123
180437	Henry County*	Henry County	780127
180225	Indian Village, town of	St. Joseph County	741018
180439	Jasper County*	Jasper County	780512
180440	Jay County*	Jay County	780106
180108	Jennings County*	Jennings County	741213
180193	Judson, town of	Parke County	731217
180090	Knightstown, town of	Henry County	731130
180172	Ladoga, town of	Montgomery County	740524
180125	Lagrange County	Lagrange County	770701
180441	Lawrence County*	Lawrence County	780929
180035	Leavenworth, town of	Crawford County	731130
180456	Linton, city of	Greene County	790525
180398	Little York, town of	Washington County	750321
180442	Madison County*	Madison County	780623
180458	Markleville, town of	Madison County	790105
180459	Mentone, town of	Kosciusko County	790717
180413	Merom, town of	Sullivan County	770610
180460	Middleburg, town of	Elkhart County	790907
180382	Milford, town of	Kosciusko County	750321
180445	Montgomery County*	Montgomery County	781013
180176	Morgan County*	Morgan County	741220
180462	Napoleon, town of	Ripley County	790921
180463	New Pekin, town of	Washington County	790309
180337	Newberry, town of	Greene County	740201
180262	Newport, town of	Vermillion County	740531
180250	Orland, town of	Steuben County	740531
180192	Parke County*	Parke County	741220
180340	Patoka, town of	Gibson County	731123
180467	Pennville, town of	Jay County	790420
180473	Pike County*	Pike County	790615
180388	Pines, town of	Porter County	750321
180213	Putnam County	Putnam County	750103
180096	Roanoke, town of	Huntington County	731228
180345	Salamonia, town of	Jay County	761022
180346	Spring Lake Park, town of	Hancock County	740201
180240	Starke County	Starke County	770902
180410	Sullivan County	Sullivan County	790323
180349	Sulphur Springs, town of	Henry County	740201
180350	Tennyson, town of	Warrick County	740201
180411	Union County	Union County	770304
180449	Vermilion County*	Vermillion County	781124
180448	Warren County*	Warren County	781110
180446	Washington County*	Washington County	780421
180175	Waynetown, town of	Montgomery County	740531
180471	Woodlawn, town of	Madison County	790126
Total of 62 communities.			
Iowa			
190386	Ackley, city of	Franklin County	760716
190525	Ainsworth, city of	Washington County	750919
190542	Albion, city of	Marshall County	760423
190138	Alden, city of	Hardin County	740621
190005	Allamakee County	Allamakee County	770603
190335	Aplington, city of	Butler County	760625
190092	Arion, city of	Crawford County	740906
190217	Ashton, city of	Osceola County	750711
190700	Bagley, city of	Guthrie County	760813
190528	Barnum, city of	Webster County	761105
190423	Battle Creek, city of	Ida County	750926
190452	Beacon, city of	Mahaska County	750919
190322	Beaver, city of	Boone County	761029
190303	Belmond, city of	Wright County	740503
190845	Benton County*	Benton County	770524
190438	Bertram, city of	Linn County	760702
190320	Blairstown, city of	Benton County	750919
190517	Blockton, city of	Taylor County	750926
190846	Boone County*	Boone County	780509
190420	Bradgate, city of	Humboldt County	760625
190328	Brandon, city of	Buchanan County	761029
190476	Brunsville, city of	Plymouth County	760702
190848	Buchannan County*	Buchanan County	770607
190093	Buck Grove, city of	Crawford County	741129
190849	Buena Vista County*	Buena Vista County	771115
190850	Butler County*	Butler County	770906
190001	Carbon, city of	Adams County	760625
190462	Castana, city of	Monona County	750829
190050	Cedar County	Cedar County	770607
190433	Center Junction, city of	Jones County	760625
190853	Cerro Gordo County*	Cerro Gordo County	770607
190509	Chatsworth, city of	Sioux County	760813
190854	Cherokee County*	Cherokee County	770506
190855	Chickasaw County*	Chickasaw County	770524
190269	Chillicothe, city of	Wapello County	741108
190395	Churdan, city of	Greene County	750829
190857	Clay County*	Clay County	770607
190201	Clemons, city of	Marshall County	761105
190374	Clermont, city of	Fayette County	761105
190401	Conrad, city of	Grundy County	760416
190518	Conway, city of	Taylor County	760702
190407	Corwith, city of	Hancock County	761022
190388	Coulter, city of	Franklin County	760813
190519	Cromwell, city of	Union County	760625
190345	Cumberland, city of	Cass County	761029
190421	Dakota City, city of	Humboldt County	741108
190860	Dallas County*	Dallas County	771025
190109	Davis City, city of	Decatur County	750718
190358	Dawson, city of	Dallas County	760813
190565	Dayton, city of	Webster County	761105
190532	Decorah, city of	Winneshiek County	761210
190566	Delhi, city of	Delaware County	760319
190113	Des Moines County	Des Moines County	770517
190501	Diagonal, city of	Ringgold County	750829
190864	Dickinson County*	Dickinson County	770510
190505	Donahue, city of	Scott County	760319
190305	Dows, city of	Wright County	740621
190572	Early, city of	Sac County	761029
190574	Eldridge, city of	Scott County	760806
190440	Ely, city of	Linn County	760730
190730	Farnhamville, city of	Calhoun County	760326
190866	Fayette County*	Fayette County	770816
190437	Fenton, city of	Kossuth County	750919
190457	Ferguson, city of	Marshall County	750926
190127	Floyd County	Floyd County	770603
190382	Floyd, city of	Floyd County	760319
190483	Fonda, city of	Pocahontas County	760730
190867	Franklin County*	Franklin County	790522
190324	Fraser, city of	Goone County	760730
190027	Frederika, city of	Gremer County	741122
190308	Fredonia, city of	Louisa County	750214
190321	Garrison, city of	Benton County	750808
190924	Gillett Grove, town of	Clay County	790410
190584	Goldfield, city of	Wright County	760625
190466	Grant, city of	Montgomery County	761119
190318	Gray, city of	Audubon County	770719
190159	Green Island, city of	Jackson County	741025
190869	Greene County*	Greene County	770614
190228	Grimes, city of	Polk County	760305
190403	Grundy Center, city of	Grundy County	760702
190497	Guerney, city of	Poweshiek County	760430
190871	Guthrie County*	Guthrie County	770823
190873	Hancock County*	Hancock County	770906
190236	Hancock, city of	Pottawattamie County	740830
190833	Hanlontown, city of	Worth County	760604
190316	Harpers Ferry, city of	Allamakee County	761029
190589	Hartford, city of	Warren County	760319
190455	Harvey, city of	Marion County	760319
190204	Hastings, city of	Mills County	750919
190484	Havelock, city of	Pocahontas County	760319
190330	Hazelton, city of	Buchanan County	760528
190364	Hopkinton, city of	Delaware County	761029
190411	Hubbard, city of	Hardin County	760702
190391	Imogene, city of	Fremont County	761029
190878	Iowa County*	Iowa County	770816
190533	Jackson Jct., city of	Winneshiek County	760625
190744	Jamaica, city of	Guthrie County	760813
190023	Janesville, city of	Black Hawk County	731228
190880	Jasper County*	Jasper County	770603
190600	Jewell, city of	Hamilton County	760813
190408	Kanawha, city of	Hancock County	761029
190748	Kelley, city of	Story County	761119
190883	Keokuk County*	Keokuk County	770823
190436	Kinross, city of	Keokuk County	760813
190884	Kossuth County*	Kossuth County	770621

Ident. and community name	County	Orginal hazard date
Iowa —Continued		
190425 Ladora, city of	Iowa County	750919
190331 Lamont, city of	Buchanan County	750912
190006 Lansing, city of	Allamakee County	771122
190389 Latimer, city of	Franklin County	760326
190311 Letts, city of	Louisa County	741227
190032 Linn Grove, city of	Buena Vista County	740816
190608 Livermore, city of	Humboldt County	761029
190768 Luverne, city of	Kossuth County	750919
190886 Lyon County*	Lyon County	770531
190772 Macedonia, city of	Pottawattamie County	761210
190887 Madison County*	Madison County	780117
190888 Mahaska County*	Mahaska County	770607
190498 Malcom, city of	Poweshiek County	750919
190834 Manly, city of	Worth County	760709
190383 Marble Rock, city of	Floyd County	760730
190889 Marion County*	Marion County	771018
190348 Marne, city of	Cass County	761029
190890 Marshall County*	Marshall County	770603
190524 Martensdale, city of	Warren County	760416
190456 Marysville, city of	Marion County	760702
190365 Masonville, city of	Delaware County	760813
190349 Massena, city of	Cass County	760521
190512 Maurice, city of	Sioux County	760319
190458 McIntire, city of	Mitchell County	750926
190465 Melrose, city of	Monroe County	760702
190478 Merrill, city of	Plymouth County	760702
190779 Miles, city of	Jackson County	761119
190891 Mills County*	Mills County	771018
190781 Minden, city of	Pottawattamie County	761029
190166 Mingo, city of	Jasper County	750905
190892 Mitchell County*	Mitchell County	770607
190459 Mitchell, city of	Mitchell County	761105
190161 Monmouth, city of	Jackson County	750117
190782 Montour, city of	Tama County	750905
190784 Moorland, city of	Webster County	761029
190523 Mt. Sterling, city of	Van Buren County	760813
190493 Neola, city of	Pottawattamie County	750919
190082 North Buenavista, city of	Clayton County	741018
190632 Norway, city of	Benton County	750926
190294 Oto, city of	Woodbury County	740913
190172 Oxford, city of	Johnson County	741050510
190479 Oyens, city of	Plymouth County	760716
190898 Palo Alto County*	Palo Alto County	770517
190506 Panorama Park, city of	Scott County	761210
190405 Panora, city of	Guthrie County	760806
190337 Parkersburg, city of	Butler County	760702
190397 Paton, city of	Greene County	750919
190326 Pilot Mound, city of	Boone County	761105
190151 Pisgah, city of	Harrison County	741206
190489 Pleasant Hill, city of	Polk County	770204
190838 Pleasantville, city of	Marion County	760326
190061 Plymouth, city of	Cerro Gordo County	741108
190486 Pocahontas, city of	Pocahontas County	760730
190341 Pomeroy, city of	Calhoun County	761217
190232 Pottawattamie County	Pottawattamie County	771206
190004 Prescott, city of	Adams County	761105
190431 Preston, city of	Jackson County	750919
190392 Randolph, city of	Fremont County	760319
190167 Reasnor, city of	Jasper County	741101
190646 Reinbech, city of	Grundy County	761210
190480 Remsen, city of	Plymouth County	760319
190418 Riceville, city of	Howard County	760319
190100 Ricketts, city of	Crawford County	741122
190342 Rinard, city of	Calhoun County	761029
190648 Riverside, city of	Washington County	760813
190393 Riverton, city of	Fremont County	760813
190351 Rock Falls, city of	Cerro Gordo County	770114
190343 Rockwell City, city of	Calhoun County	760326
190352 Rockwell, city of	Cerro Gordo County	760326
190513 Roland, city of	Story County	770325
190414 Rome, city of	Henry County	760709
190799 Royal, city of	Clay County	761029
190385 Rudd, city of	Floyd County	760423
190800 Runnells, city of	Polk County	750919
190422 Rutland, city of	Humboldt County	761105
190801 Ryan, city of	Delaware County	760326
190531 Scarville, city of	Winnebago County	760702
190652 Schaller, city of	Sac County	761105
190499 Searsboro, city of	Poweshiek County	761029
190521 Shannon City, city of	Ringgold County	760813
190132 Sheffield, city of	Franklin County	740628
190338 Shell Rick, city of	Butler County	761217
190319 Shellsburg, city of	Benton County	761029
190906 Sioux County*	Sioux County	771025
190805 Soldier, city of	Monona County	760813
190432 Solon, city of	Johnson County	760813
190344 Somers, city of	Calhoun County	761029
190285 Spillville, city of	Winneshiek County	761029
190444 Springville, city of	Linn County	770401
190461 Stacyville, city of	Mitchell County	760326
190333 Stanley, city of	Buchanan County	760625
190141 Steamboat Rock, city of	Hardin County	750103
190469 Stockton, city of	Muscatine County	761119
190810 Swisher, city of	Johnson County	760813
190666 Thompson, city of	Winnebago County	750919
190813 Thor, Town of	Humboldt County	770913
190667 Toledo, city of	Tama County	750912
190816 Treynor, city of	Pottawattamie County	760326
190671 University Park, Town of	Mahaska County	760319
190464 Ute, city of	Monona County	760319
190362 Van Meter, city of	Dallas County	750926
190674 Ventura, city of	Cerro Gordo County	761105
190468 Villisica, city of	Montgomery County	760813
190380 Wadena, city of	Fayette County	760813
190675 Walcott, city of	Muscatine County	760709
190820 Walford, city of	Benton County	760813
190445 Walker, city of	Linn County	761029
190911 Wapello County*	Wapello County	771025
190912 Warren County*	Warren County	780207
190317 Waterville, city of	Allamakee County	760416
190381 Waucoma, city of	Fayette County	760730
190276 Wellman, city of	Washington County	760430
190680 Wellsburg, city of	Grundy County	761008
190482 Westfield, city of	Plymouth County	760813
190823 Westgate, city of	Fayette County	761029
190090 Wheatland, city of	Clinton County	740628
190684 Whiting, city of	Monona County	760702
190686 Wilton, city of	Muscatine County	761022
190915 Winnebago County*	Winnebago County	770726
190350 Wiota, city of	Cass County	760625
190410 Woden, city of	Hancock County	760430
190070 Woodburn, city of	Clarke County	741220
190827 Woolstock, city of	Wright County	760625
190474 Yorktown, city of	Page County	761008
190371 Zwingle, city of	Dubuque County	761105

Total of 230 communities.

Ident. and community name	County	Original hazard date
Kansas		
200380 Alta Vista, city of	Wabaunsee County	760319
200381 Alton, city of	Osborne County	760319
200382 Altoona, city of	Wilson County	760730
200569 Anderson County*	Anderson County	771213
200384 Arcadia, city of	Crawford County	750815
200464 Arlington, city of	Reno County	750926
200009 Atchison County	Atchison County	770531
200387 Axtell, city of	Marshall County	760326
200388 Barnes, city of	Washington County	750822
200016 Barton County	Barton County	770802
200389 Beattie, city of	Marshall County	750829
200467 Bennington, city of	Ottawa County	760326
200469 Bird City, city of	Cheyenne County	760730
200391 Bison, city of	Rush County	750829
200470 Blue Rapids, city of	Marshall County	760326
200022 Bourbon County	Bourbon County	771025
200392 Brewster, city of	Thomas County	760716
200393 Bronson, city of	Bourbon County	750718
200026 Brown County	Brown County	770517
200396 Burdett, city of	Pawnee County	760326
200249 Burlingame, city of	Osage County	761224
200397 Burns, city of	Marion County	760326
200474 Caldwell, city of	Sumner County	750919
200478 Cheney, city of	Sedgwick County	760326
200044 Cherokee County	Cherokee County	770510
200479 Cherokee, city of	Crawford County	760326
200058 Cloud County	Cloud County	770823
200062 Coffey County	Coffey County	770823
200004 Colony, city of	Anderson County	741220
200486 Cottonwood Falls, city of	Chase County	760326
200399 Courtland, city of	Republic County	760521
200403 Dearing, city of	Montgomery County	750725
200405 Dorrance, city of	Russell County	760813
200490 Downs, city of	Osborne County	761126
200235 Dunlap, city of	Morris County	750103
200406 Dwight, city of	Morris County	750919
200491 Eastborough, city of	Sedgwick County	750919
200408 Elk City, city of	Montgomery County	761029
200236 Elkhart, city of	Morton County	740524
200271 Emmett, city of	Pottawatomie County	741220
200050 Englewood, city of	Clark County	760716
200409 Ensign, city of	Gray County	760326
200492 Enterprise, city of	Dickinson County	760423
200410 Esbon, city of	Jewell County	750829
200493 Eskridge, city of	Wabaunsee County	750822
200099 Finney County	Finney County	780228
200101 Ford County	Ford County	771206
200411 Ford, city of	Ford County	760326
200495 Fowler, city of	Meade County	760730
200024 Fulton, city of	Bourbon County	750110

Ident. and community name	County	Original hazard date
Kansas—Continued		
200412 Garfield, city of	Pawnee County	760604
200342 Gaylord, city of	Smith County	741227
200413 Geneseo, city of	Rice County	760423
200414 Geuda Springs, city of	Cowley County	750912
200227 Glen Elder, city of	Mitchell County	741227
200206 Goessel, city of	Marion County	741122
200239 Goff, city of	Nemaha County	741108
200006 Greeley, city of	Anderson County	741122
200501 Greensburg, city of	Kiowa County	760730
200418 Grenola, city of	Elk County	750926
200064 Gridley, city of	Coffey County	741122
200355 Haddam, city of	Washington County	741227
200029 Hamlin, city of	Brown County	750919
200421 Hardtner, city of	Barber County	750815
200504 Haviland, city of	Kiowa County	750822
200081 Highland, city of	Doniphan County	760423
200508 Hoxie, city of	Sheridan County	760618
200118 Ingalls, city of	Gray County	741220
200619 Jackson County*	Jackson County	770531
200426 Jamestown, city of	Cloud County	760430
200147 Jefferson County	Jefferson County	770816
200512 Kensington, city of	Smith County	750822
200007 Kincaid, city of	Anderson County	741122
200329 Kismet, city of	Seward County	741122
200196 La Cygne, city of	Linn County	740315
200103 Lane, city of	Franklin County	741227
200065 Lebo, city of	Coffey County	760423
200247 Lenora, city of	Norton County	761119
200517 Leoti, city of	Wichita County	761105
200066 Leroy, city of	Coffey County	731228
200518 Lewis, city of	Edwards County	760326
200431 Linn, city of	Washington County	750905
200272 Louisville, city of	Pottawatomie County	741206
200519 Lucas, city of	Russell County	760702
200433 Luray, city of	Russell County	760702
200520 Maize, city of	Sedgwick County	761029
200593 Marion County*	Marion County	780822
200310 McCracken, city of	Rush County	741122
200437 Melvern, city of	Osage County	760730
200220 Miami County	Miami County	770607
200537 Miltonvale, city of	Cloud County	760507
200538 Minneapolis, city of	Ottawa County	760806
200595 Montgomery County*	Montgomery County	771018
200540 Moran, city of	Allen County	760326
200055 Morganville, city of	Clay County	741220
200116 Morland, city of	Graham County	770311
200032 Morrill, city of	Brown County	741122
200356 Morrowville, city of	Washington County	741206
200197 Mound City, city of	Linn County	740301
200440 Mullinville, city of	Kiowa County	750829
200014 Muscotah, city of	Atchison County	741122
200598 Neosho County*	Neosho County	771101
200360 Neosho Falls, city of	Woodson County	750131
200204 Neosho Rapids, city of	Lyon County	750103
200543 Oakley, city of	Logan County	760702
200444 Olpe, city of	Lyon County	750926
200544 Onaga, city of	Pottawatomie County	760813
200601 Osage County*	Osage County	770809
200545 Oswego, city of	Labette County	750919
200547 Oxford, city of	Sumner County	750808
200357 Palmer, city of	Washington County	741220
200198 Parker, city of	Linn County	750207
200446 Partridge, city of	Reno County	761217
200566 Pawnee County*	Pawnee County	771025
200447 Peru, city of	Chautauqua County	750926
200199 Pleasanton, city of	Linn County	760702
200105 Pomona, city of	Franklin County	740208
200200 Prescott, city of	Linn County	760423
200449 Preston, city of	Pratt County	761029
200106 Princeton, city of	Franklin County	760528
200550 Protection, city of	Comanche County	760702
200522 Quinter, city of	Gove County	761224
200450 Ransom, city of	Ness County	761112
200288 Republic, city of	Republic County	741206
200453 Rolla, city of	Morton County	760326
200315 Russell, city of	Russell County	740208
200455 Scammon, city of	Cherokee County	750919
200097 Schoenchen, city of	Ellis County	750117
200528 Sedan, city of	Chautauqua County	750822
200457 Severy, city of	Greenwood County	750926
200606 Seward County*	Seward County	770913
200458 Sharon, city of	Barber County	750822
200459 South Haven, city of	Sumner County	750919
200531 Spearville, city of	Ford County	750919
200524 St. Francis, city of	Cheyenne County	750919
200274 St. George, city of	Pottawatomie County	750103
200460 Summerfield, city of	Marshall County	760702
200365 Thayer, city of	Neosho County	760702
200367 Toronto, city of	Woodson County	750919
200368 Treece, city of	Cherokee County	760326
200370 Tyro, city of	Montgomery County	750725
200551 Ulysses, city of	Grant County	761105
200556 Waterville, city of	Marshall County	750829
200557 Weir, city of	Cherokee County	750919
200558 West Plains, city of	Meade County	760618
200008 Westphalia, city of	Anderson County	741220
200617 Wilson County*	Wilson County	770607
200379 Woodston, city of	Rooks County	750926
Total of 148 communities.		
Kentucky		
210353 Adairville, city of	Logan County	780908
210267 Allen County	Allen County	770624
210268 Ballard County*	Ballard County	770408
210334 Barren County*	Barren County	770819
210008 Bath County	Bath County	770401
210106 Berry, city of	Harrison County	740816
210187 Booneville, city of	Owsley County	740201
210021 Bracken County	Bracken County	770610
210161 Bradfordsville, city of	Marion County	740510
210025 Breckinridge County	Breckinridge County	771021
210201 Brodhead, city of	Rockcastle County	740517
210236 Brownsville, city of	Edmonson County	761008
210273 Bullitt County	Bullitt County	770520
210354 Cadiz, city of	Trigg County	780929
210313 Calloway County*	Calloway County	771202
210042 Carlisle County*	Carlisle County	741018
210045 Carroll County	Carroll County	770225
210053 Casey County*	Casey County	741213
210355 Cederville, city of	Pike County	780929
210277 Christian County	Christian County	770624
210057 Clay County*	Clay County	741227
210327 Clinton County	Clinton County	770715
210254 Crittenden County*	Crittenden County	771223
210060 Cumberland County	Cumberland County	750103
210317 Dexter, city of	Calloway County	761001
210038 Fort Thomas, city of	Campbell County	740125
210249 Fort Wright, city of	Kenton County	750117
210272 Foster, city of	Bracken County	750801
210336 Fulton County*	Fulton County	771223
210281 Gallatin County	Gallatin County	760903
210081 Garrard County*	Garrard County	741018
210251 Gilbertsville, city of	Marshall County	750725
210078 Glencoe, city of	Gallatin County	740201
210282 Graves County	Graves County	771104
210330 Grayson County*	Grayson County	771125
210303 Hardin, city of	Marshall County	740614
210329 Harrison County*	Harrison County	770826
210257 Hart County*	Hart County	770708
210357 Hartford, city of	Ohio County	780915
210286 Henderson County	Henderson County	770624
210338 Hickman County*	Hickman County	780303
210112 Hopkins County*	Hopkins County	741018
210358 Jeffersonville, city of	Montgomery County	780908
210340 Knott County*	Knott County	771104
210134 Laurel County*	Laurel County	741227
210085 Leitchfield, town of	Grayson County	740510
210324 Leslie County*	Leslie County	770729
210289 Letcher County	Letcher County	770902
210341 Logan County*	Logan County	770909
210342 Madison County*	Madison County	770826
210160 Marion County	Marion County	770610
210252 Marshall County*	Marshall County	780317
210259 Mason County*	Mason County	761231
210343 McCreary County*	McCreary County	771125
210233 McHenry, town of	Ohio County	741025
210169 Meade County*	Meade County	770513
210326 Montgomery County*	Montgomery County	771021
210293 Muhlenberg County	Muhlenberg County	770513
210183 Ohio County*	Ohio County	771202
210186 Owen County*	Owen County	741018
210296 Owsley County	Owsley County	770617
210297 Pendleton County*	Pendleton County	760730
210197 Pulaski County*	Pulaski County	770722
210200 Robertson County*	Robertson County	770325
210245 Rockport, town of	Ohio County	740201
210205 Russell County*	Russell County	770715
210260 Sadieville, city of	Scott County	750103
210209 Shelby County*	Shelby County	741018
210294 South Carrollton, city of	Muhlenberg County	750725
210276 Southgate, city of	Campbell County	750801
210320 St. Charles, town of	Hopkins County	760813
210212 Taylor County*	Taylor County	741018
210315 Trigg County*	Trigg County	770826
210300 Trimble County	Trimble County	770114
210218 Uniontown, town of	Union County	740517
210270 Union, town of	Boone County	750801

Ident. and community name	County	Original hazard date
Kentucky—Continued		
210231 Versailles, city of	Woodford County	770729
210096 Vine Grove, city of	Hardin County	740517
210348 Wayne County*	Wayne County	780106
210248 Wheat Croft, town of	Webster County	740215
210307 Winston Park, town of	Kenyon County	740123
Total of 81 communities.		
Louisiana		
220114 Albany, village of	Livingston Parish	740412
220231 Angie, village of	Washington Parish	750103
220354 Athens, village of	Claiborne Parish	750221
220374 Belcher, village of	Caddo Parish	780627
220316 Bonita, village of	Morehouse Parish	750822
220318 Chatham, town of	Jackson Parish	750919
220320 Clarks, village of	Caldwell Parish	750815
220323 Dubach, town of	Lincoln Parish	770401
220324 Elizabeth Town	Allen Parish	750725
220326 Florien, village of	Sabine Parish	750725
220117 French Settlement, village of	Livingston Parish	741025
220290 Goldonna, village of	Natchitoches Parish	750919
220331 Hodge, village of	Jackson Parish	750711
220332 Hornbeck, village of	Vernon Parish	750815
220334 Jena, town of	La Salle Parish	761224
220335 Junction City, village of	Claiborne Parish	750718
220390 Lillie, village of	Union Parish	790403
220366 Lincoln Parish*	Lincoln Parish	771129
220336 Logansport, town of	De Soto Parish	750815
220339 Mooringsport, town of	Caddo Parish	760625
220367 Morehouse Parish*	Morehouse Parish	780805
220340 New Llano, village of	Vernon Parish	760409
220307 Reeves, village of	Allen Parish	750815
220368 Sabine Parish*	Sabine Parish	780124
220309 Saline, village of	Bienville Parish	760625
220259 Slaughter, town of	East Feliciana Parish	750919
220205 Sun, village of	St. Tammany Parish	740830
220069 Turkey Creek, village of	Evangeline Parish	740830
220397 Urania, town of	La Salle Parish	790403
220234 Varnado, village of	Washington Parish	741025
220228 Vernon Parish	Vernon Parish	770726
Total of 31 communities.		
Maine		
230083 Alna, town of	Lincoln County	750103
230272 Amherst, town of	Hancock County	750124
230345 Avon, town of	Franklin County	770114
230252 Belmont, town of	Waldo County	750314
230144 Berwick, town of	York County	740809
230119 Bowdoinham, town of	Sagadahoc County	761203
230913 Bowdoin, town of	Sagadahoc County	761217
230275 Brooklin, town of	Hancock County	761224
230374 Burlington, town of	Penobscot County	750207
230375 Carmel, town of	Penobscot County	750228
230376 Charleston, town of	Penobscot County	750221
230437 Charlotte, town of	Washington County	761217
230378 Clifton, town of	Penobscot County	750207
230307 Columbia, town of	Washington County	750214
230380 Corinth, town of	Penobscot County	750221
230309 Crawford, town of	Washington County	750117
230148 Dayton, town of	York County	740628
230279 Dedham, town of	Hancock County	750418
230313 East Machias, town of	Washington County	770211
230217 Edgecomb, town of	Lincoln County	750103
230237 Fayette, town of	Kennebec County	741129
230166 Gilead, town of	Oxford County	750207
230388 Greenfield, town of	Penobscot County	750221
230425 Hersey, town of	Aroostook County	741220
230315 Jonesboro, town of	Washington County	750214
230393 Lagrange, town of	Penobscot County	750228
230912 Le Vante, town of	Penobscot County	770429
230193 Lebannon, town of	York County	750207
230428 Littleton, town of	Aroostook County	750321
230395 Lowell, town of	Penobscot County	750221
230429 Ludlow, town of	Aroostook County	750221
230286 Mariaville, town of	Hancock County	750314
230261 Montville, town of	Waldo County	750221
230363 Moose River, town of	Somerset County	750117
230218 Newcastle, town of	Lincoln County	750221
230318 Northfield, town of	Washington County	750214
230180 Orrington, town of	Penobscot County	750207
230289 Otis, town of	Hancock County	750418
230412 Parkman, town of	Piscataquis County	750214
230143 Pembroke, town of	Washington County	741018
230030 Perham, town of	Aroostook County	750418
230399 Plymouth, town of	Penobscot County	770429
230264 Prospect, town of	Waldo County	750214

Ident. and community name	County	Original hazard date
Maine—Continued		
230414 Sebec, town of	Piscataquis County	761210
230415 Shirley, town of	Piscataquis County	750124
230400 Springfield, town of	Penobscot County	750124
230323 Steuben, town of	Washington County	750221
230035 Stockholm, town of	Aroostook County	750110
230914 Talmadge, Town of	Washington County	761217
230324 Topsfield, Town of	Washington County	750314
230248 Vassalborough, Town of	Kennebec County	750207
230300 Verona, Town of	Hancock County	761126
230439 Wales, Town of	Androscoggin County	750221
230082 Washington, Town of	Knox County	740906
230039 Weston, Town of	Aroostook County	750221
230222 Westport, Town of	Lincoln County	750103
230087 Whitefield, Town of	Lincoln County	740726
230329 Whitneyville, Town of	Washington County	770607
230404 Winn, Town of	Penobscot County	750124
230223 Wiscasset, Town of	Lincoln County	770524
Total of 60 communities.		
Maryland		
240102 Deer Park, Town of	Garrett County	741108
240106 Galestown, Town of	Dorchester County	750711
240124 Smithburg, Town of	Washington County	770114
240082 Willards, Town of	Wicomico County	770121
Total of 4 communities.		
Massachusetts		
250048 Acushnet, Town of	Bristol County	740906
250178 Ashby, Town of	Middlesex County	770429
250134 Blandford, Town of	Hampden County	740726
250135 Brimfield, Town of	Hampden County	740719
250136 Chester, Town of	Hampden County	740719
250068 Chilmark, Town of	Dukes County	741206
250191 Dunstable, Town of	Middlesex County	741129
250160 Easthampton, Town of	Hampshire County	740621
250023 Florida, Town of	Berkshire County	761112
250139 Granville, Town of	Hampden County	740830
250084 Hamilton, Town of	Essex County	761126
250311 Hubbardston, Town of	Worcester County	740906
250121 Leyden, Town of	Franklin County	750207
250146 Montgomery, Town of	Hampden County	741122
250032 New Ashford, Town of	Berkshire County	741122
250324 Oakham, Town of	Worcester County	740802
250326 Paxton, Town of	Worcester County	740726
250168 Pelham, Town of	Hampshire County	740628
250036 Peru, Town of	Berkshire County	741101
250169 Plainfield, Town of	Hampshire County	741101
250126 Rowe, Town of	Franklin County	760820
250101 Rowley, Town of	Essex County	740726
250128 Shutesbury, Town of	Franklin County	750221
250151 Tolland, Town of	Hampden County	750404
250043 Tyringham, Town of	Berkshire County	741129
250130 Warwick, Town of	Franklin County	750124
250044 Washington, Town of	Berkshire County	741101
250131 Wendell, Town of	Franklin County	750117
250047 Windsor, Town of	Berkshire County	741122
Total of 29 communities.		
Michigan		
260342 Autrain, Township of	Alger County	770325
260210 Bangor, Township of	Van Buren County	750110
260352 Baraga, Township of	Baraga County	780526
260551 Baraga, Village of	Baraga County	751031
260583 Barryton, Village of	Mecosta County	770520
260374 Bay Mills, Township of	Chippewa County	770617
260357 Beaver, Township of	Bay County	770805
260481 Benona, Township of	Oceana County	761015
260192 Berlin, Township of	St. Clair County	740823
260465 Big Prairie, Township of	Newaygo County	770114
260027 Blaine, Township of	Benzie County	740920
260430 Boardman, Township of	Kalaska County	770805
260371 Boyne Falls, Village of	Charlevoix County	761022
260530 Breedsville, Village of	Van Buren County	750926
260390 Brietung, Township of	Dickinson County	770311
260505 Brockway, Township of	St. Clair County	751024
260335 Brooklyn, Village of	Jackson County	761008
260375 Bruce, Township of	Chippewa County	770603
260555 Buchanan, Township of	Berrien County	761008
260601 Byron, Village of	Shiawassee County	750919
260597 Caro, Village of	Tuscola County	751024
260506 Casco, Township of	St. Clair County	770304
260677 Caseville, Village of	Huron County	770805
260659 Cedarville, Township of	Menominee County	780526

Ident. and community name		County	Original hazard date
	Michigan		—Continued
260599	Chelsea, Village of	Washtenaw County	751003
260500	Chelsaning, Township of	Saginaw County	761008
260591	Chesaning, Village of	Saginaw County	770311
260482	Claybanks, Township of	Oceana County	761126
260663	Clayton, Township of	Genesee County	771111
260579	Clifford, Village of	Lapeer County	751024
260437	Clinton, Village of	Lenawee County	750418
260195	Clyde, Township of	St. Clair County	740726
260433	Columbiaville, Village of	Lapeer County	750711
260531	Columbia, Township of	Van Buren County	750905
260491	Coopersville, Village of	Ottawa County	750926
260468	Croton, Township of	Newaygo County	780310
260454	Custer, Village of	Mason County	750926
260350	Deep River, Township of	Arenac County	770624
260434	Deerfield, Township of	Lapeer County	770513
260600	Dexter, Village of	Washtenaw County	751017
260553	Elberta, Village of	Benzie County	750919
260569	Elkton, Village of	Huron County	751003
260349	Ellsworth, Village of	Antrim County	750411
260449	Ely, Township of	Marquette County	770520
260327	Evart, City of	Osceola County	750425
260516	Evergreen, Township of	Sanilac County	761022
260586	Exeter, Township of	Monroe County	751003
260405	Fife Lake, Township of	Grand Traverse City	770114
260406	Fife Lake, Village of	Grand Traverse County	750711
260062	Ford River, Township of	Delta County	761203
260373	Forest, Township of	Cheboygan County	770304
260450	Forsyth, Township of	Marquette County	770325
260657	Fraser, Township of	Bay County	780526
260576	Galesburg, City of	Kalamazoo County	751024
260360	Gilead, Township of	Branch County	761126
260525	Gilford, Township of	Tuscola County	750919
260440	Green Oak, Township of	Livingston County	770527
260570	Harbor Beach, City of	Huron County	760130
260532	Hartford, City of	Van Buren County	750711
260347	Heath, Township of	Allegan County	750822
260489	Hersey, Village of	Osceola County	750711
260485	Hesperia, Village of	Oceana County	750711
260137	Hinton, Township of	Mecosta County	740906
260462	Holland, Township of	Missaukee County	750801
260474	Holly, Township of	Oakland County	770624
260457	Holmes, Township of	Menominee County	770401
260568	Houghton, City of	Houghton County	770610
260365	Howard, Township of	Cass County	770318
260418	Hubbardston, Village of	Ionia County	750926
260493	Hudsonville, City of	Ottawa County	750905
260415	Huron, Township of	Huron County	761105
260545	Huron, Township of	Wayne County	780630
260475	Independence, Township of	Oakland County	770513
260526	Indianfields, Township of	Tuscola County	770304
260660	Ingallston, Township of	Menominee County	780217
260354	Irving, Township of	Barry County	770415
260133	Ishpeming, City of	Marquette County	761112
260408	Jonesville, Village of	Hillsdale County	750926
260463	Lakeview, Village of	Montcalm County	750711
260496	Lake, Township of	Roscommon County	761126
260435	Lapeer, Township of	Lapeer County	770415
260533	Lawton, Village of	Van Buren County	750926
260014	Lincoln, Township of	Arenac County	740614
260398	Linden, Village of	Genesee County	750926
260715	Lockport, Township of	St. Joseph County	781103
260149	London, Township of	Monroe County	760820
260353	L'Anse, Township of	Baraga County	780224
260675	Mackinaw, Village of	Cheboygan County	770812
260348	Manlius, Township of	Allegan County	761126
260609	Marathon, Township of	Lapeer County	751024
260367	Marcellus, Township of	Cass County	761126
260328	Marion, Village of	Osceola County	750425
260687	Masonville, Township of	Delta County	780120
260436	Mayfield, Township of	Lapeer County	780519
260487	McMillan, Township of	Ontonagon County	751003
260584	Mecosta, Village of	Mecosta County	751010
260513	Mendon, township of	St. Joseph County	770325
260702	Menominee, township of	Menominee County	780815
260356	Middleville, village of	Barry County	750718
260486	Mills, township of	Ogemaw County	750725
260358	Monitor, township of	Bay County	759725
260517	Moore, township of	Sanilac County	770527
260443	Moran, township of	Mackinac County	770325
260521	New Haven, township of	Shiawassee County	750725
260340	Newaygo, city of	Newaygo County	750912
260338	North Branch, village of	Lapeer County	750912
260420	North Plains, township of	Ionia County	770617
260424	Norvell, township of	Jackson County	761105
260332	Norway, city of	Dickinson County	750711
260476	Oakland, township of	Oakland County	770401
260502	Oakley, village of	Saginaw County	750926
260622	Omer, city of	Arenac County	771028
260413	Osceola, township of	Houghton County	750926
260362	Ovid, township of	Branch County	761105
260376	Pickford, township of	Chippewa County	770520
260704	Pinckney, village of	Livingston County	770819
260534	Pine Grove, township of	Van Buren County	750725
260368	Pokagon, township of	Cass County	770527
260618	Port Austin, village of	Huron County	760130
260672	Port Huron, township of	St. Clair County	761029
260460	Powers, village of	Menominee County	750711
260464	Ravenna, village of	Muskegon County	750926
260410	Reading, township of	Hillsdale County	771028
260453	Republic, township of	Marquette County	780512
260402	Richfield, township of	Genesee County	750711
260422	Rolland, township of	Isabella County	770304
260497	Roscommon, township of	Roscommon County	770318
260377	Rudyard, township of	Chippewa County	761015
260537	Scio, township of	Washtenaw County	761126
260538	Sharon, township of	Washtenaw County	761015
260523	Shiawassee, township of	Shiawassee County	751010
260378	Soo, township of	Chippewa County	761126
260336	Sparta, village of	Kent County	761015
260557	Stevensville, village of	Berrien County	750926
260444	St. Ignace, township of	Mackinac County	770729
260379	Sugar Island, township of	Chippewa County	770617
260380	Superior, township of	Chippewa County	770617
260540	Superior, township of	Washtenaw County	770617
260683	Thetford, township of	Genesee County	780210
260504	Tittabawasee, township of	Saginaw County	750815
260708	Torch Lake, township of	Houghton County	770812
260351	Turner, township of	Arenac County	750718
260550	Turner, village of	Arenac County	770304
260527	Tuscola, township of	Tuscola County	770304
260334	Ubly, village of	Huron County	750411
260546	Van Buren, township of	Wayne County	770408
260524	Vernon, village of	Shiawassee County	750711
260508	Wales, township of	St. Clair County	750808
260447	Washington, township of	Macomb County	761105
260404	Watersmeet, township of	Gogebic County	770318
260049	Weesaw, township of	Berrien County	740628
260388	Wells, township of	Delta County	770610
260479	White Lake, township of	Oakland County	770527
260417	White Oak, township of	Ingham County	751010
260547	Wilber, township of	Iosco County	761126
260495	Wright, township of	Ottawa County	770527
260329	Yale, city of	St. Clair County	750411
260432	Yates, township of	Lake County	750815
260541	York, township of	Washtenaw County	750718

Total of 159 communities.

	Minnesota		
270		County	
270492	Aldrich, city of	Wadena County	750207
270691	Arco, city of	Lincoln County	770415
270345	Askov, city of	Pine County	741025
270417	Aurora, city of	St. Louis County	740405
270552	Avoca, city of	Murray County	750110
270554	Baudette, city of	Lake of the Woods County	741227
270710	Becker, city of	Sherburne County	790330
270555	Bejou, city of	Mahnomen County	750103
270711	Bemidji, city of	Beltrami County	781110
270261	Biscay, city of	McLeod County	741115
270556	Blackduck, city of	Beltrami County	750801
270293	Bolus, city of	Morrison County	741025
270057	Boy River, city of	Cass County	770610
270070	Branch, city of	Chisago County	740830
270319	Brewster, city of	Nobles County	750425
270557	Brook Park, city of	Pine County	741025
270388	Brooks, city of	Red Lake County	740809
270262	Brownton, city of	McLeod County	740503
270294	Buckman, city of	Morrison County	740809
270712	Caledonia, city of	Houston County	781013
270281	Cedar Mills, city of	Meeker County	750214
270312	Chandler, city of	Mower County	740809
270125	Chatfield, city of	Fillmore County	760813
270058	Chickamaw Bch, city of	Cass County	761015
270464	Chokio, city of	Stearns County	740503
270684	Clear Lake, city of	Sherburne County	750103
270363	Climax, city of	Polk County	740920
270468	Clontarf, city of	Swift County	740719
270561	Cobden, city of	Brown County	741101
270562	Cologne, city of	Carver County	741101
270035	Comfrey, city of	Brown County	740920
270025	Correll, city of	Big Stone County	750124
270282	Cosmos, city of	Meeker County	740517
270314	Courtland, city of	Nicollet County	740719
270313	Currie, city of	Mower County	740802
270469	Danvers, city of	Swift County	740809
270334	Deer Creek, city of	Otter Tail County	740816
270470	Degraff, city of	Swift County	740809
270563	Delhi, city of	Red Lake County	741025
270346	Denham, city of	Pine County	750124
270566	Dover, city of	Olmstead County	741101

Ident. and community name		County	Original hazard date
Minnesota			—Continued
270059	East Gull Lake, city of	Cass County	741220
270118	Easton, city of	Faribault County	760730
270283	Eden Valley, city of	Stearns County	740503
270320	Ellsworth, city of	Nobles County	740503
270295	Elmdale, city of	MorrisonCounty	740809
270336	Erhard, city of	Otter Tail County	740809
270422	Eveleth, city of	St. Louis County	740607
270329	Eyota, city of	Olmstead County	740412
270276	Fairmont, city of	Martin County	740607
270060	Federal Dam, city of	Cass County	761008
270366	Fisher, city of	Polk County	740802
270693	Forest Lake, City of	Washington County	771216
270570	Frazee, city of	Becker County	741115
270446	Freeport, city of	Stearns County	740503
270571	Funkley, city of	Beltrami County	750711
270296	Genola, city of	Morrison County	750207
270439	Gibbon, city of	Sibley County	740621
270088	Gonvick, city of	Clearwater County	740823
270142	Goodhue, city of	Goodhue County	740524
270277	Granada, city of	Martin County	740802
270447	Greenwald, city of	Stearns County	740823
270061	Hackensack, city of	Cass County	740920
270573	Hadley, city of	Murray County	750411
270574	Hanley Falls, city of	Yellow Medicine County	750711
270071	Harris, city of	Chisago County	740920
270355	Hatfield, city of	Pipestone County	750131
270398	Hector, city of	Reinville County	760827
270701	Heidelberg, city of	Le Sueur County	770722
270338	Henning, city of	Otter Tail County	750503
270002	Hill City, city of	Aitkin County	741108
270409	Hills, city of	Rock County	740412
270578	Hoffman, city of	Grant County	750131
270448	Holdingford, city of	Stearns County	740517
270356	Holland, city of	Pipestone County	740830
270471	Holloway, city of	Swift County	740906
270357	Ihlen, city of	Pipestone County	740802
270235	International Falls, city of	Koochiching County	740607
270579	Iona, city of	Murray County	741220
270580	Iron Junction, city of	St. Louis County	741025
270098	Jenkins, city of	Crow Wing County	740823
270655	Kellogg, the city of	Wabasha County	750131
270523	Kent, city of	Wilkin County	750801
270143	Kenyon, city of	Goodhue County	740524
270206	La Prairie, city of	Itasca County	740823
270692	Lake Benton, city of	Lincoln County	770401
270517	Madelia, city of	Watonwan County	740412
270585	Mantorville, city	Dodge County	770603
270667	Maple Lake, city of	Wright County	750110
270243	Marietta	Lac Qui Parle County	740906
270053	Mayer, city of	Carver County	731123
270587	Maynard, city of	Chippewa County	741115
270487	Mazeppa, city of	Wabasha County	740719
270588	McIntosh, city of	Polk County	741129
270493	Menahga, city of	Wadena County	740412
270387	Mentor, city of	Polk County	741220
270270	Middle River, city of	Marshall County	740719
270589	Milan, city of	Chippewa County	770715
270488	Millville, city of	Wabasha County	740802
270489	Minneiska, city of	Wabasha County	750711
270122	Minnesota Lake, city of	Faribault County	740517
270405	Morristown, city of	Rice County	740329
270300	Motley, city of	Cass County	740802
270424	Mountain Iron, city of	St. Louis County	740524
270451	Mew Munich, city of	Stearns County	741025
270497	New Richland city of	Wadena County	740412
270590	Nielsville, city of	Polk County	741101
270591	Nimrod, city of	Wadena County	750418
270592	Norcross, city of	Grant County	741213
270072	North Branch, city of	Chisago County	740510
270512	Oak Park Heights, city of	Washington County	740322
270594	Odin, city of	Watonwan County	741213
270595	Okabena, city of	Jackson County	741227
270648	Orr, city of	St. Louis County	741213
270004	Palisade, city of	Aitkin County	740802
270063	Pillager, city of	Cass County	740719
270704	Pine County*	Pine County	771223
270697	Pine Springs, city of	Washington County	770722
270596	Plato, city of	McLeod County	741101
270218	Quamba, city of	Kanabec County	740809
270223	Regal, city of	Kandiyohi County	750131
270065	Remer, city of	Cass County	750711
270565	Revere, city of	Red Lake County	750411
270597	Rice, city of	Benton County	750117
270453	Richmond, city of	Stearns County	740329
270341	Richville, city of	Otter Tail County	741025
270021	Ronneby city of	Benton County	750711
270455	Roscoe, city of	Stearns County	740802
270073	Rush City, City of	Chisago County	740510
270360	Ruthton, city of	Pipestone County	740809
270350	Rutledge, city of	Pine County	740809
270402	Sacred Heart, city of	Renville County	740503
270046	Scanlon, city of	Carlton County	731102
270602	Seaforth, city of	Redwood County	741213
270494	Sebeka, city of	Wadena County	740412
270662	Silver Lake, city of	McLeod County	750124
270672	Skyline, city of	Blue Earth County	750627
270206	Squaw Lake, city of	Itasca County	750801
270717	Staples, city of	Todd County	781110
270352	Sturgeon Lake, city of	Pine County	741025
270601	St. Anthony, city of	Stearns County	750711
270033	St. Clair, city of	Blue Earth County	740823
270457	St. Joseph, city of	Stearns County	760827
270458	St. Stephen, city of	Stearns County	740823
270660	S. International Falls, city of	Koochiching County	750117
270209	Taconite, city of	Itasca County	760723
270260	Taunton, city of	Lyon County	740719
270047	Thomson, city of	Carlton County	740802
270605	Tower, city of	St. Louis County	741213
270361	Trosky, city of	Pipestone County	740809
270606	Turtle River, city of	Beltrami County	750801
270306	Upsala, city of	Morrison County	741025
270607	Verndale, city of	Wadena County	741025
270608	Vernon Center, city of	Blue Earth County	750103
270609	Vesta, city of	Redwood County	750110
270718	Walnut Grove, city of	Redwood County	780929
270147	Wanamingo, city of	Goodhue County	740510
270210	Warba, city of	Itasca County	740913
270286	Watkins, city of	Meeker County	740412
270666	Waverly, city of	Wright County	750117
270279	Welcome, city of	Martin County	740510
270695	Willernie, city of	Washington County	770527
270612	Williams, city of	Lake of the Woods County	741129
270703	Willmar, city of	Kandiyohi County	770729
270719	Wilton, city of	Beltrami County	781110
270613	Winger, city of	Polk County	750131
270427	Winton, city of	St. Louis County	740802
270524	Wolverton, city of	Wilkin County	740809
270615	Wood Lake, city of	Yellow Medicine County	750117
270048	Wright, city of	Carlton County	740913
270211	Zemple, city of	Itasca County	750627
Total of 171 communities.			
Mississippi			
280309	Abbeville, town of	Lafayette County	780929
280267	Alcorn County*	Alcorn County	780407
280089	Bassfield, town of	Jefferson Davis County	760730
280287	Belmont, town of	Tishomingo County	760709
280156	Braxton, village of	Simpson County	740719
280269	Chickasaw County	Chickasaw County	770603
280017	Duncan, town of	Bolivar County	761105
280188	Eden, village of	Yazoo County	740719
280270	Franklin County	Franklin County	771104
280117	Gattman, village of	Monroe County	740719
280290	Itawamba County*	Itawamba County	780512
280302	Jasper County*	Jasper County	780224
280303	Jefferson Davis County*	Jefferson Davis County	780331
280093	Lafayette County*	Lafayette County	741227
280315	Learned, town of	Hinds County	781110
280204	Lena, town of	Neshoba County	741025
280273	Lincoln County	Lincoln County	780217
280316	Louin, town of	Jasper County	781027
280274	Marshall County	Marshall County	771028
280008	McCool, village of	Attala County	750131
280048	Mt. Olive, town of	Covington County	750801
280279	Prentiss County	Prentiss County	770916
280147	Puckett, town of	Rankin County	740823
280322	Rienzi, town of	Alcorn County	781117
280049	Seminary, village of	Covington County	750801
280324	Shuqualak, town of	Noxubee County	781208
280323	Silver City, town of	Humphreys County	790914
280226	Silver Creek, town of	Lawrence County	750711
280306	Smith County*	Smith County	780421
280325	Smithville, town of	Monroe County	790216
280326	Sumrall, town of	Lamar County	790831
280282	Tippah County	Tippah County	770826
280283	Tishomingo County	Tishomingo County	780512
280263	Toccopola, town of	Pontotoc County	741213
280237	Union County*	Union County	741213
280327	Vardaman, town of	Calhoun County	790119
280098	Walnut Grove, town of	Leake County	740628
280328	Walnut, town of	Tippah County	790112
Total of 38 communities.			
Missouri			
290761	Airport Drive, village of	Jasper County	750214
290005	Amazonia, town of	Andrew County	740816
290217	Anderson, city of	McDonald County	740517
290281	Appleton, city of	St. Clair County	750207
290461	Augusta, village of	St. Charles County	741206
290767	Bakersfield, village of	Ozark County	750425
290770	Bellflower, city of	Montgomery County	770517
290756	Bevier, city of	Macon County	750214

Ident. and community name		County	Original hazard date
Missouri —Continued			
290757	Billings, city of	Christian County	750627
290006	Bolckow, town of	Andrew County	760430
290274	Bragg City, city of	Pemiscot County	780207
290616	Brashear, city of	Adair County	750214
290759	Braymer, city of	Caldwell County	750425
290618	Bronaugh, city of	Vernon County	760625
290111	Bunceton, city of	Cooper County	750425
290850	Caledonia, village of	Washington County	761105
290624	Camden, city of	Ray County	760528
290248	Canalou, town of	New Madrid County	760611
290249	Catron, town of	New Madrid County	760528
290601	Cobalt City, village of	Madison County	760326
290196	Conway, town of	Laclede County	740510
290605	Cowgill, town of	Caldwell County	750418
290610	Cross Timbers, village of	Hickory County	750221
290345	Crystal Lake Pk, town of	St. Louis County	770513
290464	Dalton, village of	Chariton County	741213
290055	Delta, city of	Cape Girardeau County	741206
290613	Des Arc, village of	Iron County	750418
290465	Dewitt, city of	Carrol County	740906
290219	Elmer, city of	Macon County	741206
290730	Esther, city of	St. Francois County	750221
290593	Frankford, city of	Pike County	770107
290477	Fremont, village of	Carter County	750221
290431	Galena, city of	Stone County	740830
290733	Gallatin, city of	Daviess County	750214
290734	Gerald, city of	Franklin County	760604
290460	Grandin, city of	Carter County	741108
290573	Hillsboro, city of	Jefferson County	761022
290714	Holden, city of	Johnson County	760409
290576	Houston Lake, village of	Platte County	770621
290575	Houstonia, city of	Pettis County	750919
290715	Humansville, city of	Polk County	750711
290577	Hume, city of	Bates County	750221
290359	Huntleigh, town of	St. Louis County	760625
290580	Iron Gates, village of	Jasper County	750214
290446	Irondale, town of	Washington County	770513
290724	Knob Noster, city of	Johnson County	750627
290698	Lake Ozark, city of	Camden County	770726
290558	Lake Winnebago, village of	McDonald County	770225
290559	Lanagan, city of	McDonald County	760604
290705	Lawson, city of	Clay County	760604
290707	Lexington, city of	Lafayette County	750725
290053	Linn Creek, city of	Camden County	741025
290115	Lock Springs, town of	Daviess County	750711
290565	Marquand, city of	Madison County	750418
290444	Marthasville, village of	Warren County	740913
290271	Meta, town of	Osage County	740913
290568	Middletown, city of	Montgomery County	760806
290499	Mill Spring, village of	Wayne County	741213
290571	Mineral Point, village of	Washington County	750808
290690	Montrose, city of	Henry County	750418
290549	New Cambria, city of	Macon County	750725
290692	New Florence, city of	Montgomery County	761105
290550	New Hampton, city of	Harrison County	750808
290059	Norborne, city of	Carrol County	740405
290554	Oak Grove, village of	Franklin County	770603
290671	Osage Beach, city of	Miller County	760730
290672	Osceola, city of	St. Clair County	760402
290535	Pineville, city of	McDonald County	750418
290537	Pleasant Hope, village of	Polk County	761029
290243	Rhineland, town of	Montgomery County	770121
290655	Rich Hill, city of	Bates County	750214
290657	Richmond, city of	Ray County	761022
290485	Ritchey, town of	Newton County	750110
290438	Rockaway Beach, town of	Taney County	750110
290518	Rockville, city of	Bates County	750221
290008	Rosendale, city of	Andrew County	750214
290665	Shelbina, city of	Shelby County	750425
290527	South Gorin, city of	Scotland County	761105
290488	Stella, city of	Newton County	750221
290667	Stockton, city of	Cedar County	760702
290039	Sturgeon, town of	Boone County	760423
290076	Sumner, town of	Chariton County	750110
290508	Sunnyvale, city of	Newton County	761105
290509	Tarsney Lakes, village of	Jackson County	761022
290228	Tuscumbia, village of	Miller County	741025
290514	Urbana, village of	Dallas County	750627
290857	Velda Village Hills, village of	St. Louis County	760702
290645	Verona, city of	Lawrence County	761015
290646	Viburnum, city of	Iron County	750221
290648	Warrenton, city of	Warren County	750207
290483	Wentworth, town of	Newton County	750110
290635	Westboro, village of	Atchison County	750711
290396	Westwood, town of	St. Louis County	760528
290653	Willard, city of	Greene County	761105
290452	Williamsville, city of	Wayne County	741018
290639	Wood Heights, village of	Ray County	761105
290033	Zalma, village of	Bollinger County	741025

Total of 97 communities.

Ident. and community name		County	Original hazard date
Montana			
300066	Bainville, town of	Roosevelt County	750103
300090	Brockton, town of	Roosevelt County	750627
300091	Clyde Park, town of	Park County	750103
300016	Deer Lodge County*	Deer Lodge County	750607
300092	Dutton, town of	Teton County	750425
300111	Ekalaka, town of	Carter County	760716
300070	Forsyth, city of	Rosebud County	740308
300013	Fort Benton, city of	Chouteau County	740510
300150	Garfield County*	Garfield County	790320
300151	Glacier County*	Glacier County	771227
300021	Grass Range, town of	Fergus County	741227
300095	Hingham, town of	Hill County	750711
300154	Jefferson County*	Jefferson County	780124
300116	Jordan, town of	Garfield County	750627
300096	Kevin, town of	Toole County	750627
300031	Lavina, town of	Golden Valley County	750124
300159	Mineral County*	Mineral County	780214
300174	Musselshell County*	Musselshell County	790529
300119	Polson, city of	Lake County	750926
300163	Powder River County*	Powder River County	790515
300164	Prairie County*	Prairie County	790508
300122	Ronan, city of	Lake County	750425
300069	Rosebud County*	Rosebud County	740802
300072	Sanders County*	Sanders County	771227
300125	Shelby, city of	Toole County	760402
300126	Sheridan, town of	Madison County	750919
300076	Silver Bow County*	Silver Bow County	770617
300127	Sunburst, town of	Toole County	750110
300130	Thompson Falls, town of	Sanders County	750207
300047	White Sulphur Springs, city of	Meagher County	740524
300052	Winnett, town of	Petroleum County	741227

Total of 31 communities.

Ident. and community name		County	Original hazard date
Nebraska			
310411	Adams County*	Adams County	771018
310243	Alexandria, village of	Thayer County	750912
310412	Antelope County*	Antelope County	771227
310342	Arnold, village of	Custer County	750815
310006	Arthur, village of	Arthur County	750110
310246	Ashton, village of	Sherman County	750711
310343	Atkinson, city of	Holt County	761105
310249	Belgrade, village of	Nance County	750502
310026	Bellwood, village of	Butler County	741122
310250	Benedict, village of	York County	750418
310066	Big Springs, village of	Deuel County	741220
310252	Bladen, village of	Webster County	750711
310351	Bloomfield, city of	Knox County	760716
310416	Box Butte County*	Box Butte County	770823
310253	Bruning, village of	Thayer County	750131
310254	Brunswick, village of	Antelope County	760402
310419	Buffalo County*	Buffalo County	790417
310169	Burchard, village of	Pawnee County	741108
310161	Burr, village of	Otoe County	741206
310420	Burt County*	Burt County	771122
310354	Burwell, city of	Garfield County	760428
310255	Bushnell, village of	Kimball County	760326
310256	Campbell, village of	Franklin County	750822
310258	Cedar Rapids, village of	Boone County	750110
310357	Chadron, city of	Dawes County	760924
310260	Chapman, village of	Merrick County	760326
310261	Chester, village of	Thayer County	760806
310263	Cody, village of	Cherry County	760326
310360	Creighton, city of	Knox County	761112
310427	Cuming County*	Cuming County	770816
310086	Curtis, city of	Frontier County	760402
310428	Custer County*	Custer County	780314
310058	Dawson County	Dawson County	771018
310430	Deuel County*	Deuel County	771101
310269	Diller, village of	Jefferson County	750829
310270	Dix, village of	Kimball County	750926
310271	Dorchester, village of	Saline County	760326
310272	Duncan, village of	Platte County	770218
310276	Eustis, village of	Frontier County	750919
310061	Farnam, village of	Dawson County	741108
310088	Gage County	Gage County	770809
310373	Greeley, village of	Greeley County	750711
310375	Gretna, city of	Sarpy County	760806
310234	Guide Rock, village of	Webster County	760709
310283	Hardy, village of	Nuckolls County	761119
310213	Hay Springs, city of	Sheridan County	740322
310286	Hildreth, village of	Franklin County	760730
310288	Holstein, village of	Adams County	750718
310381	Humphrey, village of	Platte County	750711
310447	Jefferson County*	Jefferson County	770621
310385	Laurel, village of	Cedar County	761105
310452	Lincoln County*	Lincoln County	780411
310085	Maywood, village of	Frontier County	741220
310303	Milligan, village of	Fillmore County	760709
310083	Naponee, village of	Franklin County	760613
310159	Oak, village of	Nuckolls County	741115

Ident. and community name		County	Original hazard date
Nebraska —Continued			
310081	Ohiowa, village of	Fillmore County	741108
310394	Orleans, city of	Harlan County	760709
310465	Phelps County*	Phelps County	770816
310175	Plainview, city of	Pierce County	760702
310467	Platte County*	Platte County	770816
310310	Polk, village of	Polk County	750627
310469	Red Willow County*	Red Willow County	771227
310084	Riverton, village of	Franklin County	761029
310214	Rushville, city of	Sheridan County	740503
310489	Santee, village of	Knox County	790814
310316	Scotia, village of	Greeley County	750502
310474	Seward County*	Seward County	770607
310475	Sheridan County*	Sheridan County	771122
310034	South Bend, village of	Cass County	790710
310171	Steinauer, village of	Pawnee County	741122
310106	Stockham, village of	Hamilton County	741206
310172	Table Rock, village of	Pawnee County	741101
310326	Thedford, village of	Thomas County	750711
310333	Western, village of	Saline County	761119
310335	Wilsonville, village of	Furnas County	761203

Total of 76 communities.

Nevada

320030	Churchill County*	Churchill County	771227
320029	Lyon County	Lyon County	780131
320033	Storey County*	Storey County	780110
320012	Winnemucca, city of	Humboldt County	760423

Total of 4 communities.

New Hampshire

330152	Acworth, town of	Sullivan County	740913
330174	Albany, town of	Carroll County	750117
330041	Alexandria, town of	Grafton County	750221
330175	Atkinson, town of	Rockingham County	750103
330180	Brookline, town of	Hillsborough County	750404
330126	Candia, town of	Rockingham County	750221
330181	Chatham, town of	Carroll County	750103
330183	Chesterfield, town of	Cheshire County	771213
330182	Chester, town of	Rockingham County	750221
330109	Chichester, town of	Merrimack County	740405
330184	Clarksville, town of	Coos County	750103
330111	Danbury, town of	Merrimack County	770614
330199	Danville, town of	Rockingham County	750117
330050	Dorchester, town of	Grafton County	750314
330201	Dummer, town of	Coos County	750117
330202	Dunbarton, town of	Merrimack County	750117
330204	Eaton, town of	Carroll County	750117
330012	Effingham, town of	Carroll County	750117
330206	Errol, town of	Coos County	750117
330207	Fitzwilliam, town of	Cheshire County	761126
330013	Freedom, town of	Carroll County	740830
330131	Fremont, town of	Rockingham County	740809
330208	Gilmantown, town of	Belknap County	750117
330054	Grafton, town of	Grafton County	750117
330212	Harrisville, town of	Cheshire County	750124
330216	Kensington, town of	Rockingham County	770906
330217	Kingston, town of	Rockingham County	750117
330060	Landaff, town of	Grafton County	741206
330159	Langdon, town of	Sullivan County	750103
330160	Lempster, town of	Sullivan County	750131
330062	Lincoln, town of	Grafton County	750221
330117	Loudon, town of	Merrimack County	740802
330218	Lyndeborough, town of	Hillsborough County	750221
330219	Madbury, town of	Strafford County	750117
330220	Madison, town of	Carroll County	750117
330221	Mason, town of	Hillsborough County	750221
330222	Middleton, town of	Strafford County	750131
330035	Milan, town of	Coos County	740628
330149	Milton, town of	Strafford County	750207
330068	Monroe, town of	Grafton County	741129
330224	Mont Vernon, town of	Hillsborough County	750117
330015	Moultonborough, town of	Carroll County	770211
330229	Newington, town of	Rockingham County	750221
330069	Orange, town of	Grafton County	750110
330186	Pittsburg, town of	Coos County	750131
330187	Randolph, town of	Coos County	750103
330188	Richmond, town of	Cheshire County	750103
330172	Roxbury, town of	Cheshire County	750214
330073	Rumney, town of	Grafton County	740315
330191	Sandown, town of	Rockingham County	750103
330193	South Hampton, town of	Rockingham County	750228
330163	Springfield, town of	Sullivan County	771108
330194	Stewartstown, town of	Coos County	750110
330195	Stoddard, town of	Cheshire County	750117
330170	Surry, town of	Cheshire County	750103
330173	Troy, town of	Cheshire County	750103
330165	Unity, town of	Sullivan County	740531
330168	Warren, town of	Grafton County	740913
330166	Washington, town of	Sullivan County	741227
330235	Weare, town of	Hillsborough County	750214
330040	Whitefield, town of	Coos County	740726
330124	Wilmot, town of	Merrimack County	740816

Total of 62 communities.

New Jersey

340540	Mendham, borough of	Morris County	750131
340556	Mine Hill, township of	Morris County	770107
340549	Newfield, borough of	Gloucester County	770701
340421	Pittsgrove, township of	Salem County	761203
340455	Sandyston, township of	Sussex County	771021
340212	South Harrison, township of	Gloucester County	740628
340533	Tabernacle, township of	Burlington County	750207
340479	Winfield, township of	Union County	740308

Total of 8 communities.

New Mexico

350098	Capitan, village of	Lincoln County	760625
350110	Carrizozo, town of	Lincoln County	750822
350050	Chama, village of	Rio Arriba County	740816
350125	Chaves County*	Chaves County	780613
350127	Curry County*	Curry County	780207
350112	Dexter, town of	Chaves County	750502
350121	Grant County	Grant County	770809
350122	Lincoln County	Lincoln County	780328
350114	Loving, village of	Eddy County	750808
350076	Magdalena, village of	Socorro County	740802
350106	Maxwell, village of	Colfax County	750919
350039	McKinley County	McKinley County	780704
350116	Questa, village of	Taos County	750117
350141	Reserve, village of	Catron	790814
350108	Roy, village of	Harding County	760716
350132	San Miguel County*	San Miguel County	770816
350055	Sandoval County	Sandoval County	771129
350032	Tatum, town of	Lea County	740621
350133	Torrance County*	Torrance County	780411

Total of 19 communities.

New York

361361	Allen, town of	Allegany County	750131
361379	Altona, town of	Clinton County	750103
361260	Amboy, town of	Oswego County	741115
361095	Angelica, town of	Allegany County	760910
360518	Ava, town of	Oneida County	740628
361392	Bellmont, town of	Franklin County	750117
361362	Birdsall, town of	Allegany County	750103
361097	Bolivar, town of	Allegany County	761029
361415	Boylstown, town of	Oswego County	750103
360521	Bridgewater, town of	Oneida County	740906
361128	Broadalbin, town of	Fulton County	740920
361480	Brushton, village of	Franklin County	741115
361394	Burke, town of	Franklin County	780217
361098	Burns, town of	Allegany County	741108
360328	Champion, town of	Jefferson County	740531
361422	Clare, town of	St. Lawrence County	750103
360524	Clayville, village of	Oneida County	740524
361380	Clinton, town of	Clinton County	750124
360360	Constableville, village of	Lewis County	740809
360300	Danube, town of	Herkimer County	740405
360364	Diana, town of	Lewis County	740913
361122	Dickinson, town of	Franklin County	741108
361382	Ellenburg, town of	Clinton County	750314
361397	Franklin, town of	Franklin County	750718
361325	Freetown, town of	Cortland County	750117
361100	Friendship, town of	Allegany County	750103
361587	German, town of	Chenango County	770729
361455	Gilbertsville, village of	Oswego County	760716
361178	Gouverneur, town of	St. Lawrence County	750124
360651	Hannibal, town of	Oswego County	761001
361451	Harrisville, village of	Lewis County	741115
361234	Hartford, town of	Washington County	741227
361179	Hopkinton, town of	St. Lawrence County	741115
360078	Humphrey, town of	Cattaraugus County	740830
361008	Independence, town of	Allegany County	740906
361113	Indian Lake, town of	Hamilton County	761210
361196	Jefferson, town of	Schoharie County	770812
361131	Johnstown, town of	Fulton County	741025
360080	Leon, town of	Cattaraugus County	740531
360368	Lewis, town of	Lewis County	740628

Ident. and community name		County	Original hazard date
New York			—Continued
361152	Lewis, town of	Essex County	741129
360309	Litchfield, town of	Herkimer County	740315
361406	Long Lake, town of	Hamilton County	750725
360083	Lyndon, town of	Cattaraugus County	740809
361153	Minerva, town of	Essex County	741220
361125	Moira, town of	Franklin County	741115
361488	Mooers, village of	Clinton County	750103
361389	Moriah, town of	Essex County	741122
361019	Nelsonville, village of	Putnam County	771216
361400	Northampton, town of	Fulton County	750131
361408	Ohio, town of	Herkimer County	750103
361526	Oneida, village of	Oneida County	761126
361134	Oppenheim, town of	Fulton county	741108
361263	Palermo, town of	Oswego County	750207
361425	Parishville, town of	St. Lawrence County	750117
361426	Piercefield, town of	St. Lawrence County	750131
360375	Pinckney, town of	Lewis County	740906
361184	Pitcairn, town of	St. Lawrence County	780331
361190	Providence, town of	Saratoga County	741115
361366	Red House, town of	Cattaraugus County	750228
361265	Redfield, town of	Oswego County	741122
360541	Remsen, village of	Oneida County	770304
361121	Russia, town of	Herkimer County	741101
360317	Salisbury, town of	Herkimer County	740607
361505	Savannah, village of	Wayne County	760827
360100	South Valley, town of	Cattaraugus County	740906
360555	Steuben, town of	Oneida County	740628
360880	Stoney Creek, town of	Warren County	761217
361157	St. Armand, town of	Essex County	774025
360733	Victory, village of	Saratoga County	740405
360563	Waterville, village of	Oneida County	740614
361112	Wells, town of	Hamilton County	741129
361267	Williamstown, town of	Oswego County	741101
361161	Wilmington, town of	Essex County	750117
361401	Windham, town of	Greene County	771104

Total of 75 communities.

North Carolina			
370398	Alexander County*	Alexander County	780609
370004	Alleghany County	Alexander County	770701
370407	Arlington, town of	Yadkin County	790119
370288	Bath, town of	Beaufort County	770708
370088	Battleboro, town of	Edgecombe County	750815
370183	Bayboro, town of	Pamlico County	760730
370290	Bertie County	Bertie County	780929
370394	Bolivia, town of	Brunswick County	770610
370395	Calabash, town of	Brunswick County	770610
370408	Casar, town of	Cleveland County	781117
370300	Caswell County	Caswel County	780203
370299	Chatham County	Chatham County	780519
370302	Cleveland County	Cleveland County	780616
370321	Cramerton, town of	Gaston County	750711
370322	Dallas, town of	Gaston County	750627
370359	East Laurinburg, town of	Scotland County	750711
370352	Faith, town of	Rowan County	751017
370377	Franklin County	Caswell County	780915
370325	Granville County	Granville County	780421
370378	Greene County*	Greene County	771202
370130	Hertford County	Hertford County	780602
370405	High Shoals, City of	Gaston County	781103
370326	Hookerton, town of	Greene County	750926
370383	Jupiter, town of	Buncombe County	761029
370319	Kernersville, town of	Forsyth County	770527
370384	Laurel Park, town of	Henderson County	760611
370303	Lawndale, town of	Cleveland County	750711
370317	Leggett, town of	Edgecombe County	770701
370323	Lowell, town of	Gaston County	750815
370150	Macon County*	Macon County	780630
370418	Minnesoft Beach, town of	Pamlico County	790302
370309	Mocksville, town of	Davie County	750711
370336	Montgomery County	Davidson County	781013
370349	Orrum, town of	Robeson County	750425
370315	Perquimans County	Perquimans County	780728
370346	Person County	Person County	780210
370420	Pittsboro, town of	Chatham County	781020
370286	Polkton, town of	Anson County	780210
370324	Ranlo, town of	Gaston County	750627
370348	Richmond County	Richmond County	780728
370106	Robbinsville, town of	Grahham County	740614
370350	Rockingham County	Rockingham County	780616
370347	Roxboro, city of	Sampson County	780113
370355	Ruth, town of	Rutherford County	770401
370220	Sampson County*	Sampson County	741220
370422	Severn, town of	Northampton County	781103
370423	Sims, town of	Wilson County	790112
370406	Spencer Mountain, town of	Gaston County	780714
370371	Stantonsburg, town of	Wilson County	751003
370368	Vanc County	Vance County	780804
370360	Wagram, town of	Scotland County	750808
370254	Wayne County*	Wayne County	741227
370281	Webster, town of	Jackson County	780210
370370	Wilson County	Wilson County	780310
370345	Winfall, town of	Perquimans County	750725
370365	Wingate, town of	Union County	751003
370400	Yadkin County	Yadkin County	780505

Total of 57 communities.

North Dakota			
380151	Abercrombie, city of	Richland County	761029
380216	Bow Bells, city of	Burke County	750207
380121	Courtenay, city of	Stutsman County	741227
380039	Dawson, city of	Kidder County	741206
380169	Flaxton, city of	Burke County	750207
380170	Fordville, city of	Walsh County	760604
380171	Fortuna, city of	Divide County	750725
380173	Gladestone, city of	Stark County	760813
380175	Golden Valley, city of	Mercer County	750627
380099	Great Bend, city of	Richland County	760730
380178	Hannaford, city of	Griggs County	750117
380179	Hoople, city of	Walsh County	760813
380237	Lidgerwood, city of	Richland County	750214
380037	Manvel, city of	Grand Forks County	750110
380008	Maxbass, city of	Bottineau County	741122
380109	McClusky, city of	Sheridan County	761105
380124	Median, city of	Stutsman County	741220
380125	Montpelier, city of	Stutsman County	741115
380242	New England, city of	Hettinger County	760716
380031	New Rockford, city of	Eddy County	731123
380192	Osnabrock, city of	Cavalier County	750221
380195	Plaza, city of	Mountrail County	760813
380199	Reynolds, city of	Grand Forks County	761029
380248	Richardton, city of	Stark County	760806
380318	Stanley, city of	Mountrail County	770719
380250	Stanton, city of	Mercer County	760402
380210	Tower City, city of	Barnes County	750110
380063	Washburn, city of	McLean County	740322
380344	Watford City, city of	McKenzie County	790605
380319	Williston, city of	Williams County	780516

Total of 30 communities.

Ohio			
380684	Arcanum, village of	Darke County	780113
390207	Arlington Heights, village of	Hamilton County	740201
390759	Ashland County	Ashland County	780210
390760	Athens County	Athens County	771209
390761	Auglaize County	Auglaize County	780512
390159	Baltimore, village of	Fairfield County	740621
390805	Beloit, village of	Mahoning County	770826
390650	Berlin Heights, village of	Erie County	740405
390674	Bethesda, village of	Belmont County	750207
390074	Blanchester, village of	Clermont County	740405

Ident. and community name	County	Original hazard date
Ohio —Continued		
390643 Bolivar, village of	Tuscarawas County	761029
390728 Buchtel, village of	Athens County	750207
390816 Buckland, village of	Auglaize County	790202
390753 Burbank, village of	Wayne County	750418
390468 Burgoon, village of	Sandusky County	740802
390037 Butler County	Butler County	771223
390801 Cairo, village of	Allen County	770715
390461 Camden, village of	Preble County	740510
390763 Carroll County*	Carroll County	771104
390817 Carroll, village of	Fairfield County	780922
390685 Castine, village of	Darke County	770715
390607 Cedarville, village of	Greene County	750110
390818 Chatfield, village of	Crawford County	761027
390819 Cherry Fork, village of	Adams County	780922
390820 Clarksville, village of	Clinton County	761110
390821 Clayton, village of	Montgomery County	761110
390822 Coolville, village of	Athens County	781103
390823 Cortland, town of	Morgan County	781006
390555 Corwin, village of	Washington County	760716
390811 Crawford County*	Crawford County	780120
390575 Creston, village of	Wayne County	740201
390187 Crown City, village of	Gallia County	750110
390824 Cumberland, village of	Guernsey County	780915
390712 Darbyville, village of	Pickaway County	750207
390262 Deshler, village of	Henry County	760723
390826 Edgerton, village of	Williams County	780929
390827 Edon, village of	Williams County	781006
390656 Elida, village of	Allen County	740329
390828 Englewood, village of	Montgomery County	781103
390314 Fairport Harbor, village of	Lake County	760723
390164 Fayette County	Fayette County	771209
390788 Fayetteville, village of	Brown County	770805
390829 Fayette, village of	Fulton County	780915
390830 Fort Laramie, village of	Shelby County	780922
390426 Frazeysburg, village of	Muskingum County	740830
390804 Freeport, village of	Harrison County	771028
390182 Fulton County	Fulton County	780120
390277 Glenmont, village of	Holmes County	761029
390264 Hamler, village of	Henry County	740412
390767 Hancock County	Hancock County	771230
390250 Hardin County	Hardin County	750103
390769 Highland County	Highland County	771216
390505 Jackson Center, village of	Shelby County	740531
390246 Jenera, village of	Hancock County	740809
390834 Junction City, village of	Perry County	790105
390306 Knox County*	Knox County	750131
390806 La Grange, town of	Lorain County	771223
390803 Lafayette, village of	Allen County	780120
390835 Laura, village of	Miami County	781006
390270 Leesburg, village of	Highland County	740405
390050 Leesville, village of	Carroll County	740920
390836 Limaville, village of	Stark County	780922
390346 Lorain County	Lorain County	770603
390661 Lucas, village of	Richland County	740405
390838 Ludlow Falls, village of	Miami County	780929
390839 Magnetic Spring, village of	Union County	781006
390756 Marseilles, village of	Wyandot County	750418
390718 McArthur, village of	Vinton County	761126
390254 McGuffey, village of	Hardin County	740510
390840 Metamora, village of	Fulton County	780929
390799 Mifflin, village of	Ashland County	770708
390689 Millersport, village of	Fairfield County	750131
390842 Mineral City, village of	Tuscarawas County	781006
390396 Montezuma, village of	Mercer County	740809
390581 Montpelier, village of	Williams County	740531
390746 Morral, village of	Marion County	750418
390868 Morrow County*	Morrow County	780804
390621 Mount Orab, village of	Brown County	750725
390844 Mount Sterling, village of	Madison County	780929
390843 Munroe Falls, village of	Summit County	781013
390722 Nevada, village of	Wyandot County	750214
390847 New Concord, village of	Muskingum County	780908
390848 New Knoxville, village of	Auglaize County	781006
390849 New Vienna, village of	Clinton County	790112
390850 Ney, village of	Defiance County	790105
390285 North Fairfield, village of	Huron County	740315
390851 Philo, village of	Muskingum County	790330
390287 Plymouth, village of	Huron County	740503
390852 Port William, village of	Clinton County	781013
390460 Preble County	Preble County	770826
390465 Putnam County	Putnam County	770812
390854 Quincy, village of	Logan County	781006
390602 Rendville, village of	Perry County	771202
390476 Richland County	Richland County	780224
390645 Rogers, village of	Columbiana County	740322
390627 Sabina, village of	Clinton County	750725
390706 Sarahsville, village of	Noble County	750328
390789 Sardinia, village of	Brown County	780113
390858 Senecaville, village of	Guernsey County	781006
390859 Sherwood, village of	Defiance County	781006
390046 Somerville, village of	Butler County	750725
390485 South Salem, village of	Ross County	740823
390860 South Zanesville, village of	Muskingum County	781020
390862 Stryker, village of	Williams County	790119
390632 Swanton, village of	Fulton County	750725
390064 Tremont City, village of	Clark County	780519
390716 Unionville Center, village of	Union County	761015
390648 Van Buren, village of	Hancock County	740322
390475 Vaughnsville, town of	Putnam County	741115
390087 Washingtonville, village of	Columbiana County	731109
390293 Wellston, city of	Jackson County	740215
390864 West Farmington, village of	Trumbull County	780929
390638 West Jefferson, village of	Madison County	750725
390865 Wharton, village of		093
Oklahoma		
400308 Milburn, town of	Johnston County	750926
400309 Mill Creek, town of	Johnston County	760813
400406 Minco, town of	Grady County	770128
400408 Mounds, town of	Creek County	760625
400491 Muskogee County*	Muskogee County	780314
400311 Nash, town of	Grant County	760702
400312 New Prue, town of	Osage County	760521
400426 North Miami, town of	Ottawa County	760409
400313 Oakland, town of	Marshall County	761029
400314 Oaks, town of	Delaware County	750829
400315 Ochelata, town of	Washington County	760409
400427 Oilton, city of	Creek County	761112
400492 Okmulgee County*	Okmulgee County	780207
400316 Orlando, town of	Logan County	760813
400154 Ottawa County	Ottawa County	770520
400317 Paoli, town of	Garvin County	761105
400158 Peoria, town of	Ottawa County	741122
400431 Perkins, town of	Payne County	760409
400027 Piedmont, town of	Canadian County	770719
400433 Pond Creek, city of	Grant County	761112
400495 Pontotoc County*	Pontotoc County	780110
400436 Quapaw, town of	Ottawa County	760813
400320 Ravia, town of	Johnston County	760813
400322 Reydon, town of	Roger Mills County	761112
400324 Ripley, town of	Payne County	770621
400118 Salina, town of	Mayes County	760702
400442 Sentinel, city of	Washita County	761112
400231 Sharon, town of	Woodward County	760813
400034 Springer, town of	Carter County	761217
400418 Temple, town of	Cotton County	760716
400333 Tupelo, city of	Coal County	760917
400443 Tuttle, town of	Grady County	760625
400334 Union City, town of	Canadian County	770114
400447 Velma, city of	Stephens County	770211
400335 Vera, town of	Washington County	760716
400448 Vici, town of	Dewey County	761105
400105 Washington, town of	McClain County	760709
400338 Waukomis, town of	Garfield County	770204
400451 Welch, town of	Craig County	760716
400452 Wellston, town of	Lincoln County	760409
400339 West Siloam Springs, town of	Delaware County	760409
400455 Yale, city of	Payne County	750822
Total of 106 communities.		
Oregon		
410285 Adrian, city of	Malheur County	790529
410004 Halfway, town of	Baker County	750926
410284 Millersburg, city of	Linn County	780124
410037 Prescott, city of	Columbia County	750110
410273 Sherwood, town of	Washington County	760813
410166 St. Paul, city of	Marion County	741122
Total of 6 communities.		
Pacific Trust		
600001 American Samoa		771213
750001 Mariana District		780815
Total of 2 communities.		
Pennsylvania		
422508 Addison, township of	Somerset County	750103
422509 Allegheny, township of	Somerset County	750103
422529 Allegheny, township of	Venango County	750117
421562 Athens, township of	Crawford County	761105
422297 Atwood, borough of	Armstrong County	750131

Ident. and community name		County	Original hazard date
Pennsylvania			—Continued
422435	Banks, township of	Indiana County	750117
421547	Beaver, township of	Columbia County	741101
421659	Belfast, township of	Fulton County	741220
422185	Bell, township of	Westmoreland County	740913
421749	Benton, township of	Lackawanna County	750110
421332	Bloomfield, township of	Bedford County	750131
421515	Boggs, township of	Clearfield County	741115
422511	Brothers Valley, township of	Somerset County	750110
421660	Brush Creek, township of	Fulton County	750328
421054	Burlington, township of	Bradford County	740913
422545	Cherry Grove, township of	Warren County	741227
422604	Chest, township of	Cambria County	750110
422077	Clifford, township of	Susquehanna County	741227
421838	Cogan House, township of	Lycoming County	750404
421334	Colerain, township of	Bedford County	750103
421715	Conemaugh, township of	Indiana County	741206
422406	Conewago, township of	Dauphin County	741227
422387	Conneaut, township of	Crawford County	750110
422404	Cooke, township of	Cumberland County	770128
422186	Cook, township of	Westmoreland County	740920
421176	Deerfield, township of	Tioga County	740830
422187	Donegal, township of	Westmoreland County	740621
421681	Dudley, borough of	Huntingdon County	741108
422431	Dunkard, township of	Greene County	750110
422268	East Carroll, township of	Cambria County	750214
422218	East Hopewell, township of	York County	741227
422314	Eastvale, borough of	Beaver County	750131
422189	Fairfield, township of	Westmoreland County	740906
422049	Fairhope, township of	Somerset County	741115
422288	Franklin, township of	Chester County	741129
421537	Gallagher, township of	Clinton County	750221
422437	Glen Campbell, borough of	Indiana County	750124
421717	Grant, township of	Indiana County	750131
422512	Greenville, township of	Somerset County	750404
421223	Hanover, township of	Beaver County	740906
422528	Hartleton, borough of	Union County	741227
421399	Herrick, township of	Bradford County	750404
422319	Hookstown, borough of	Beaver County	750131
421581	Hopewell, township of	Cumberland County	741227
421525	Huston, township of	Clearfield County	741220
420502	Jacksonville, borough of	Indiana County	741213
421671	Jackson, township of	Greene County	741220
422601	Jackson, township of	Lycoming County	750328
421889	Jackson, township of	Monroe County	750103
421552	Jackson, township of	Columbia County	741213
421593	Jackson, township of	Dauphin County	750131
422383	Jordon, township of	Clearfield County	750117
421342	King, township of	Bedford County	750131
421307	Kittanning, township of	Armstrong County	761217
422515	Larimer, township of	Somerset County	750110
421693	Lincoln, township of	Huntingdon County	750103
421533	Loganton, borough of	Clinton County	741108
420309	Lumber City, borough	Clearfield County	750214
421755	Madison, township of	Lackawanna County	750103
422606	Markleysburg, borough	Fayette County	761015
421935	McEwensville, borough of	Northumberland County	741227
421881	Menno, township of	Mifflin County	741122
422352	Mercer, township of	Butler County	750110
421696	Morris, township of	Huntingdon County	741122
422263	Munster, township of	Cambria County	741122
420889	New Alexandria, borough of	Westmoreland County	740628
420799	New Baltimore, borough of	Somerset County	741108
421615	Ohiopyle, borough of	Fayette County	750131
421401	Orwell, township of	Bradford County	750124
421968	Palmyra, township of	Pike County	741213
421530	Penn, township of	Clearfield County	741129
421313	Plum Creek, township of	Armstrong County	740906
421985	Portage, township of	Potter County	741213
421655	Quincy, township of	Franklin County	741227
420826	Roseville, borough of	Tioga County	741213
421585	Shippensburg, township of	Cumberland County	740906
421104	Smithfield, township of	Bradford County	761029
421350	South Woodbury, township of	Bedford County	760305
421351	Southampton, township of	Bedford County	750207
421677	Springhill, township of	Greene County	750411
421407	Stevens, township of	Bradford County	741101
421328	St. Clairsville, borough of	Bedford County	750131
422056	Summit, township of	Somerset County	750103
421469	Taylor, township of	Centre County	741220
421959	Tobyne, township of	Perry County	780630
421704	Union, township of	Huntingdon County	741206
421531	Union, township of	Clearfield County	750117
420316	Wallaceton, borough of	Clearfield County	741108
421722	Washington, township of	Indiana County	741222
421599	Wayne, township of	Dauphin County	750117
421679	Wayne, township of	Greene County	741227
422526	Wellersburg, borough of	Somerset County	750131
421542	West Keating, township of	Clinton County	741206
421723	West Mahoning, township of	Indiana County	750124
421355	Woodbury, township of	Bedford County	750131

Total of 95 communities.

South Carolina			
450227	Abbeville County*	Abbeville County	780210
450201	Allendale County*	Allendale County	741129
450203	Bamberg County*	Bamberg County	741129
450204	Barnwell County*	Barnwell County	741220
450116	Bethune, town of	Kershaw County	750718
450148	Blenheim, town of	Marlboro County	770812
450032	Cameron, town of	Calhoun County	750103
450236	Chapin, town of	Lexington County	780922
450045	Cherokee County	Cherokee County	780609
450228	Chesterfield County*	Chesterfield County	780609
450237	Chesterfield, town of	Chesterfield County	780922
450124	Cross Hill, town of	Laurens County	740906
450060	Darlington County*	Darlington County	741227
450064	Dillon County	Dillon County	771209
450065	Dillon, town of	Dillon County	740517
450229	Edgefield County*	Edgefield County	780120
450074	Edgefield, town of	Edgefield County	740524
450022	Ehrhardt, town of	Bamberg County	740719
450010	Fairfax, town of	Allendale County	740531
450132	Gilbert, town of	Lexington County	741025
450210	Gray Court, town of	Laurens County	741213
450037	Hollywood, town of	Charleston County	740906
450104	Horry County*	Horry County	781020
450063	Lamar, town of	Darlington County	750718
450126	Lee County	Lee County	780303
450241	Lockhart, town of	Union County	780126
450242	Luray, town of	Hampton County	780915
450128	Lynchburg, town of	Lee County	750718
450141	Marion County	Marion County	780106
450146	Marlboro County	Marlboro County	780224
450225	Mayesville, town of	Sumter County	760319
450244	Ninety Six, town of	Greenwood County	780922
450080	Olanta, town of	Florence County	740524
450061	Pamplico, town of	Greenwood County	740510
450135	Pelion, town of	Lexington County	740809
450018	Pelzer, town of	Anderson County	760618
450218	Reevesville, town of	Dorchester County	741227
450165	Rowesville, town of	Orangeburg County	740920
450212	Salem, town of	Oconee County	741108
450230	Saluda County*	Saluda County	780120
450145	Sellers, town of	Marion County	740607
450155	Silverstreet, town of	Newberry County	750124
450057	Smoaks, town of	Colleton County	740906
450246	Society Hill, town of	Darlington County	781013
450072	St. George, town of	Dorchester County	760723
450011	Sycamore, town of	Allendale County	741025
450185	Union County*	Union County	780526
450248	Ware Shoals, town of	Anderson County	780901

Total of 48 communities.

South Dakota			
460153	Alexandria, city of	Hanson County	750627
460096	Alpena, town of	Jerauld County	750926
460098	Aurora, town of	Brookings County	750627
460251	Beadle County*	Beadle County	780110
460156	Big Stone City, city of	Grant County	761112
460099	Bison, town of	Perkins County	761105
460158	Bridgewater, city of	McCook County	761119
460247	Buffalo Gap, town of	Custer County	761105
460037	Buffalo, town of	Harding County	761105
460236	Butte County	Butte County	771220
460162	Canistota, city of	McCook County	760813
460102	Canova, town of	Miner County	770520
460163	Centerville, city of	Turner County	760813
460257	Charles Mix County*	Charles Mix County	780110
460013	Clark, city of	Clark County	760312
460259	Clay County*	Clay County	771018
460166	Colton, city of	Minnehaha County	760813
460008	Columbia, city of	Brown County	741206
460107	Cresbard, town of	Faulk County	750718
460020	Davison County	Davison County	770520
460169	Dupree, city of	Ziebach County	750425
460170	Eagle Butte, town of	Dewey County	761112
460173	Eureka, city of	McPherson County	760716
460238	Fall River County	Fall River County	771101
460112	Gary, town of	Deuel County	750627
460270	Hanson County*	Hanson County	770816
460180	Hartford, city of	Minnehaha County	760716
460115	Hayti, town of	Hamlin County	750627
460230	Hermosa, town of	Custer County	770121
460181	Herreid, city of	Campbell County	750711

Ident. and community name		County	Original hazard date
South Dakota			—Continued
460271	Hughes County*	Hughes County	780110
460119	Hurley, town of	Turner County	760716
460041	Hutchinson County	Hutchinson County	770603
460185	Kadoka, city of	Jackson County	760716
460186	Kimball, city of	Brule County	750808
460192	Lennox, city of	Lincoln County	750926
460126	Letcher, town of	Sanborn County	761112
460277	Lincoln County*	Lincoln County	771025
460197	Marion, city of	Turner County	760702
460195	McIntosh, city of	Corson County	750919
460208	Murdo, city of	Jones County	750919
460209	Newell, city of	Butte County	750718
460245	Nisland, town of	Butte County	770204
460128	Oacoma, town of	Lyman County	770107
460211	Parker, city of	Turner County	750627
460297	Presho, city of	Lyman County	770719
460133	Pukwana, town of	Brule County	750919
460214	Selby, city of	Walworth County	750725
460140	Spencer, town of	McCook County	761112
460138	St. Francis, town of	Todd County	750919
460139	St. Lawrence, town of	Hand County	750718
460142	Tabor, town of	Bon Homme County	760625
460218	Timber Lake, city of	Dewey County	761112
460082	Turton, town of	Spink County	741220
460224	Wagner, city of	Charles Mix County	760813
460250	Wasta, town of	Pennington County	761224
460147	Wessington, town of	Beadle County	750822
460014	Willow Lake, town of	Clark County	770520
460150	Wolsey, town of	Beadle County	760813

Total of 59 communities.

Tennessee

470234	Adair, town of	Madison County	750207
470292	Adamsville, town of	McNairy County	760528
470159	Adams, town of	Robertson County	741115
470245	Alamo, town of	Crockett County	770311
470293	Ardmore, town of	Giles County	761217
470262	Arlington, town of	Shelby County	750725
470294	Baileytown, town of	Greene County	760903
470006	Bedford County	Bedford County	771223
470220	Bells, town of	Crockett County	750110
470218	Benton County	Benton County	750110
470128	Bethel Springs, town of	McNairy County	740628
470295	Big Sandy, town of	Benton County	760924
470219	Bledsoe County	Bledsoe County	790216
470356	Blount County*	Blount County	770826
470296	Bluff City, town of	Sullivan County	760702
470081	Bolivar, city of	Hardeman County	761112
470357	Bradley County*	Bradley County	770708
470244	Bruceton, town of	Carroll County	760702
470373	Burlison, town of	Tipton County	781013
470368	Cannon County*	Cannon County	790105
470222	Carroll County	Carroll County	771104
470298	Caryville, town of	Campbell County	760903
470374	Centertown, town of	Warren County	780922
470120	Chapel Hill, town of	Marshall County	740614
470348	Chester County*	Chester County	781117
470382	Clay County*	Clay County	790330
470225	Coalmont, town of	Grundy County	760924
470355	Coffee County*	Coffee County	770805
470324	Collinwood, city of	Wayne County	760604
470325	Cornersville, town of	Marshall County	760917
470383	Crockett County*	Crockett County	790112
470375	Cumberland City, town of	Stewart County	781103
470037	Cumberland County	Cumberland County	770902
470326	Cumberland Gap, town of	Claiborne County	760528
470041	Decatur County	Decatur County	770805
470300	Decaturville, town of	Decatur County	760924
470369	Dekalb County*	Dekalb County	781208
470046	Dickson County*	Dickson County	741206
470335	Dickinson, city of	Dickson County	760709
470237	Dover, town of	Stewart County	771209
470240	Dresden, town of	Weakley County	761210
470376	East View, tTown of	McNairy County	781110
470064	Elkton, city of	Giles County	760604
470271	Englewood, city of	McMinn County	740517
470028	Enville, town of	Chester County	761029
470301	Ethridge, city of	Lawrence County	760702
470242	Fairview, city of	Williamson County	750411
470343	Fentress County*	Fentress County	771209
470129	Finger, town of	McNairy County	740906
470344	Franklin County*	Franklin County	780331
470302	Friendsville, city of	Blount County	760611
470221	Gadsden, town of	Crockett County	750124
470063	Giles County	Giles County	780224
470068	Grainger County	Grainger County	780106
470303	Greenback, city of	Loudon County	760924
470250	Grundy County*	Grundy County	780825

Ident. and community name		County	Original hazard date
Tennessee			—Continued
470190	Guilt Edge, city of	Tipton County	740913
470346	Hamblen County*	Hamblen County	771111
470226	Hancock County	Hancock County	770819
470360	Hardeman County*	Hardeman County	780120
470085	Hawkins County	Hawkins County	771021
470088	Henderson County*	Henderson County	741220
470259	Henning, town of	Lauderdale County	750103
470228	Henry County	Henry County	771230
470091	Hickman County	Hickman County	781222
470304	Hohenwald, city of	Lewis County	760924
470305	Hollow Rock, city of	Carroll County	760625
470288	Hornsby, town of	Hardeman County	760305
470347	Houston County*	Houston County	770819
470229	Humphreys County	Humphreys County	770826
470055	Huntland, town of	Franklin County	770128
470101	Iron City, city of	Lawrence County	740614
470370	Jackson County*	Jackson County	790323
470097	Jefferson County	Jefferson County	770902
470224	Kenton, town of	Gibson County	741227
470289	Kingston Springs, city of	Cheatham County	750718
470354	Lawrence County*	Lawrence County	771125
470103	Lewis County*	Lewis County	790209
470121	Lewisburg, city of	Marshall County	740301
470104	Lincoln, County	Lincoln County	771028
470146	Lobelville, town of	Perry County	780113
470306	Loretto, city of	Lawrence County	760702
470209	Luttrell, city of	Union County	760903
470065	Lynnville, city of	Giles County	740614
470371	Macon County*	Macon County	781027
470307	Madisonville, town of	Monroe County	761210
470119	Marshall County*	Marshall County	790202
470191	Mason, city of	Tipton County	761001
470123	Maury County	Maury County	771202
470308	McEwen, town of	Humphreys County	760702
470126	McMinn County	McMinn County	770701
470127	McNairy County	McNairy County	771021
470133	Meigs County	Meigs County	771202
470336	Michie, city of	McNairy County	761001
470130	Milledgeville, town of	McNairy County	760702
470066	Minor Hill, city of	Giles County	760702
470233	Monroe County	Monroe County	770708
470260	Moore County*	Moore County	781110
470139	Morgan County	Morgan County	750117
470310	Mosheim, town of	Greene County	760903
470385	New Market, town of	Jefferson County	780922
470312	Niota, city of	McMinn County	760528
470313	Normandy, town of	Bedford County	760611
470361	Obion County*	Obion County	780721
470314	Orme, town of	Marion County	760702
470362	Overton County*	Overton County	780113
470315	Parrottsville, town of	Cocke County	760702
470318	Parsons, town of	Decatur County	760611
470317	Paryear, town of	Henry County	760611
470291	Pegram, town of	Cheatham County	750718
470144	Perry County	Perry County	781222
470384	Pickett County*	Pickett County	781229
470261	Polk County*	Polk County	790119
470149	Putnam County*	Putnam County	740913
470131	Ramer, town of	McNairy County	741129
470151	Rhea County	Rhea County	770722
470277	Richard City, city of	Marion County	740201
470235	Rives, city of	Obion County	750103
470158	Robertson County	Robertson County	780106
470320	Rockford, town of	Blount County	760924
470061	Rutherford, tTown of	Gibson County	740607
470083	Salitillo, town of	Hardin County	740614
470379	Samburg, town of	Obion County	780915
470321	Sardis, town of	Henderson County	760924
470341	Scott County*	Scott County	771223
470171	Sequatchie County	Sequatchie County	771021
470236	Sevier County	Sevier County	771125
470239	Spencer, town of	Van Buren County	770325
470328	Stantonville, town of	McNairy County	760611
470256	Stanton, town of	Haywood County	780310
470180	Stewart County*	Stewart County	740913
470327	St. Joseph, city of	Lawrence County	760625
470280	Tellico Plains, city of	Monroe County	740308
470337	Tennessee Rige, city of	Houston County	760625
470281	Townsend, city of	Blount County	760618
470282	Tracy City, city of	Grundy County	7740510
470243	Trezevant, town of	Carroll County	770225
470329	Tusculum, city of	Greene County	760702
470194	Union County*	Union County	781124
470342	Van Buren County*	Van Buren County	781201
470363	Warren County*	Warren County	771125
470009	Wartrace, town of	Bedford County	740614
470331	Watauga, city of	Carter County	760528
470380	Watertown, city of	Wilson County	780915
470199	Wayne County*	Wayne County	790316
470364	Weakley County*	Weakley County	771216

Ident. and community name	County	Original hazard date
Tennessee —Continued		
470365 White County*	White County	771202
470118 Whitwell, city of	Marion County	740215
470381 Woodland Mills, city of	Obion County	760929
470254 Yorkville, city of	Gibson County	750627
Total of 150 communities.		
Texas		
481089 Addison, town of	Dallas County	761029
480960 Adrian, city of	Oldham County	750725
481306 Altoga, city of	Collin County	780725
480894 Amherst, city of	Lamb County	750711
480001 Anderson County	Anderson County	780124
480006 Andrews, city of	Andrews County	760827
480007 Angelina County*	Angelina County	741227
480982 Annona, town of	Red River County	760611
481085 Appleby, city of	Nacogdoches County	760806
480775 Argyle, city of	Denton County	750829
480790 Asherton, city of	Dimmit County	760702
481093 Aspermont, town of	Stonewall County	760813
480776 Aubrey, town of	Denton County	760604
480731 Avinger, town of	Cass County	760806
480065 Baileys Praire, town of	Brazoria County	741108
480808 Biley, town of	Fannin County	761105
480722 Baird, town of	Callahan County	760611
480718 Bangs, town of	Brown County	760806
481087 Bardwell, city of	Ellis County	760730
480951 Barry, town of	Nevarro County	760730
480642 Barstow, city of	Ward County	760625
481501 Bartonville, town of	Denton County	790612
480830 Bells, town of	Grayson County	761029
481095 Bellville, city of	Austin County	761119
480888 Benjamin, city of	Knox County	750627
481541 Berryville, city of	Henderson County	790626
481088 Blackwell, town of	Nolan County	750815
480732 Bloomburg, town of	Cass County	761105
480984 Bogata, town of	Red River County	760806
481194 Bowie County*	Bowie County	780815
481195 Brazos County*	Brazos County	771018
481096 Bremond, city of	Robertson County	761119
480398 Briar Oaks, city of	Johnson County	740329
480588 Briar, city of	Tarrent County	760723
480717 Brown County	Brown County	780124
481542 Browndell, town of	Jasper County	790619
480325 Brownsboro, city of	Henderson County	761210
481302 Bruceville-Eddy, city of	McLennan County	780502
480877 Bryson, city of	Jack County	750711
481138 Buffalo Gap, town of	Taylor County	761119
480904 Buffalo, city of	Leon County	760820
481169 Burleson County*	Burleson County	770617
481209 Burnet County*	Burnet County	771122
480649 Burton, city of	Washington County	741220
480490 Cactus, city of	Moore County	740614
480364 Caddo Mills, city of	Hunt County	740628
480979 Camp Wood, city of	Real County	760702
481068 Campbellton, town of	Atascosa County	760625
481504 Campbell, town of	Hunt County	790410
481505 Carmine, city of	Fayette County	790403
480730 Cass County	Cass County	770705
480737 Castro County	Castro County	770603
481282 Cedar Park, city of	Williamson County	771115
480365 Celeste, city of	Hunt County	740621
480905 Centerville, city of	Leon County	760813
480701 Charlotte, city of	Atascosa County	760806
480739 Cherokee County	Cherokee County	771227
481140 Chester, town of	Tyler County	760813
481053 Chico, city of	Wise County	760813
481202 Chillicothe, city of	Hardeman County	750718
481543 Chireno, city of	Nacogdoches County	790703
480702 Christine, city of	Atascosa County	750711
480535 Clarksville, town of	Gregg County	751107
481098 Claude, city of	Armstrong County	760813
481099 Coahoma, town of	Howard County	760604
480169 Cockrell Hill, city of	Dallas County	731207
481507 Coffee City, city of	Henderson County	790703
480130 Collin County	Collin County	771206
480408 Combine, city of	Dallas County	760702
480870 Como, town of	Hopkins County	760806
480765 Cooke County	Cooke County	771018
480911 Coolidge, town of	Limestone County	760611
481508 Copper Canyon, town of	Denton County	790605
481510 Cove, town of	Chambers County	790605
481511 Covington, city of	Hill County	790417
480409 Crandall, city of	Kaufman County	740308
480501 Crane, city of	Crane County	760716
481512 Cranfills Gap, city of	Bosque County	790417

Ident. and community name	County	Original hazard date
Texas —Continued		
480723 Cross Plains, town of	Callahan County	760806
481513 Cross Roads, town of	Denton County	790605
480871 Cumby, city of	Hopkins County	760806
481279 Cut'n Shoot, city of	Montgomery County	770603
480985 Detroit, town of	Red River County	761224
481514 Devers, city of	Liberty County	790424
481171 Dewitt County*	Dewitt County	770816
480787 Dickens, city of	Dickens County	760806
480789 Dimmit County	Dimmit County	780124
481515 Domino, city of	Cass County	790710
481309 Dorchester, town of	Grayson County	780704
481516 Double Oak, town of	Denton County	790619
480733 Douglasville, town of	Cass County	760813
480088 Early, city of	Brown County	740517
480895 Earth, city of	Lamb County	750502
480976 East Tawakoni, town of	Rains County	761105
480793 Eastland County	Eastland County	771115
481145 Easton, village of	Rusk County	750718
481517 Eastvale, town of	Denton County	790619
480796 Ector County	Ector County	771129
480809 Ector, town of	Fannin County	750711
480763 Eden, village of	Concho County	750502
480635 Edgewood, city of	Van Zandt County	740614
481146 Edom, city of	Van Zandt County	760813
481000 El Dorado, town of	Schleicher County	760813
480710 Elmendorf, city of	Bexar County	760611
480977 Emory, town of	Rains County	750808
480218 Erath County	Erath County	771227
480277 Estelline, city of	Hall County	741108
480327 Eustace, city of	Henderson County	760611
480823 Fairfield, town of	Freestone County	760813
480807 Fannin County	Fannin County	771108
480544 Fate, city of	Rockwall County	761105
480815 Fayette County	Fayette County	780131
481147 Fayetteville, town of	Fayette County	760806
481102 Flatonia, town of	Fayette County	760730
480817 Floyd County	Floyd County	770517
480226 Floydada, city of	Floyd County	740531
480228 Fort Bend County*	Fort Bend County	760709
480822 Freestone County	Freestone County	780103
480523 Friona, city of	Parmer County	740412
480875 Fritch, city of	Hutchinson County	760716
481041 Fruitvale, city of	Van Zandt County	760716
480949 Garrison, town of	Nacogdoches County	760716
481148 Gary, town of	Panola County	761119
481521 Gholson, city of	McLennan County	790501
480435 Giddings, city of	Lee County	740628
480880 Godley, town of	Johnson County	750822
480828 Goliad, city of	Goliad County	760716
481310 Golinda, city of	McLennan County	780606
481070 Goodrich, town of	Polk County	761119
480963 Gordon, town of	Palo Pinto County	761022
480964 Graford, town of	Palo Pinto County	750711
480873 Grapeland, town of	Houston County	761119
480829 Grayson County	Grayson County	771220
480261 Gregg County	Gregg County	780103
480726 Groom, town of	Carson County	761203
481032 Groveton, city of	Trinity County	761105
481104 Gruver, city of	Hansford County	761105
480328 Gun Barrel City, city of	Henderson County	741108
480832 Gunter, town of	Grayson County	750711
481223 Hale County*	Hale County	780103
481522 Hallsburg, city of	McLennan County	790515
480848 Hallsville, city of	Harrison County	760430
481011 Happy, city of	Swisher County	750214
480847 Harrison County	Harrison County	770906
480738 Hart, city of	Castro County	750627
480600 Haslet, city of	Tarrant County	741101
480321 Hays County	Hays County	780321
481495 Hebron, city of	Denton County	790703
481045 Hempstead, town of	Waller County	760730
481174 Henderson County	Henderson County	771122
481150 Hickory Creek, town of	Denton County	760730
480843 Hico, city of	Hamilton County	750822
481106 Hill Country Village, town of	Bexar County	770823
480857 Hill County	Hill County	770809
480352 Hockley County	Hockley County	771025
480699 Holliday, city of	Archer County	750418
481277 Homer, town of	Angelina County	770603
480869 Hopkins County	Hopkins County	771227
480872 Houston County	Houston County	771101
481227 Howard County*	Howard County	771213
480833 Howe, town of	Grayson County	761029
480859 Hubbard, city of	Hill County	761029
480734 Hughes Springs, city of	Cass County	760827
480363 Hunt County	Hunt County	780822
481077 Huntington, city of	Angelina County	760730
480373 Hutchinson County*	Hutchinson County	750207

Ident. and community name	County	Original hazard date
Texas	—Continued	
481294 Impact, town of	Taylor County	770610
480973 Iraan, town of	Pecos County	760730
481072 Iredell, town of	Bosque County	741101
481080 Jasper County	Jasper County	770517
480906 Jewett, town of	Leon County	761224
480879 Johnson County	Johnson County	770517
480756 Josephine, city of	Collin County	760528
480882 Joshua, city of	Johnson County	750627
480703 Jourdanton, city of	Atascosa County	760813
480778 Justin, city of	Denton County	770603
481175 Karnes County	Karnes County	770607
481107 Keene, city of	Johnson County	760604
481230 Kenedy County*	Kenedy County	780117
481523 Kenefick, town of	Liberty County	790424
480674 Kermit, city of	Winkler County	740524
480890 Knox City, city of	Knox County	750815
481151 Kosse, town of	Limestone County	760611
480845 Kountze, city of	Hardin County	760625
481012 Kress, city of	Swisher County	750221
480475 Lacoste, city of	Medina County	740109
480605 Lake Worth, city of	Tarrant County	761119
481496 Lakeside City, city of	Archer County	790703
480278 Lakeview, town of	Hall County	741206
480891 Lamar County	Lamar County	771129
481178 Lavaca County*	Lavaca County	770823
481313 Lavon, town of	Collin County	780523
481015 Lawn, town of	Taylor County	760625
480980 Leakey, city of	Real County	770513
481142 Leary, city of	Bowie County	761126
480907 Leona, town of	Leon County	761119
480735 Linden, town of	Cass County	760730
481075 Lipan, village of	Hood County	761029
481152 Little Elm, town of	Denton County	760813
480818 Lockney, town of	Floyd County	760702
480944 Lone Star, town of	Morris County	760806
481109 Loraine, town of	Mitchell County	750627
480806 Lott, city of	Falls County	760709
480874 Lovelady, city of	Houston County	761029
480915 Lubbock County	Lubbock County	771129
480886 Lueders, city of	Jones County	760813
481261 Magnolia, town of	Montgomery County	770517
480861 Malone, town of	Hill County	760709
480736 Marietta, town of	Cass County	760625
480946 Matador, town of	Motley County	761105
480470 Maverick County	Maverick County	771220
480208 Maypearl, city of	Ellis County	741129
480546 McLendon-Chisholm, city of	Rockwall County	750926
481020 Meadow, town of	Terry County	750822
480700 Megargel, town of	Archer County	750822
480924 Melvin, town of	McCulloch County	761029
481016 Merkel, city of	Taylor County	750502
480862 Mertens, town of	Hill County	761105
480376 Mertzon, city of	Irion County	740726
480801 Midlothian, city of	Ellis County	760709
480992 Miles, city of	Runnels County	760813
480679 Mineola, city of	Wood County	740503
480518 Mingus, city of	Palo Pinto County	750502
480644 Monahans, city of	Ward County	760611
481483 Montgomery, city of	Montgomery County	761126
480930 Moody, town of	McLennan County	760709
481123 Morgan, village of	Bosque County	761112
481525 Morgan's Point Resort, town of	Bell County	790619
480943 Morris County	Morris County	770809
480863 Mount Calm, city of	Hill County	761105
480767 Muenster, city of	Cooke County	750725
481125 Mullin, town of	Mills County	760611
480330 Murchison, city of	Henderson County	760611
480947 Nacogdoches County	Nacogdoches County	771227
480950 Navarro County	Navarro County	771227
481315 New Deal, city of	Lubbock County	780516
480920 New Home, town of	Lynn County	750905
481113 New London, city of	Rusk County	761105
481153 New Summerfield, city of	Cherokee County	761119
481043 New Waverly, town of	Walker County	760625
481058 Newcastle, city of	Young County	761217
480500 Newton, city of	Newton County	740607
481297 Nome, city of	Jefferson County	770712
481154 Nordheim, city of	Dewitt County	760604
481063 North Cleveland, city of	Liberty County	770506
480752 Novice, city of	Coleman County	760702
481533 Oak Grove, town of	Kaufman County	790717
481534 Oak Ridge, town of	Kaufman County	790626
480437 Oakwood, town of	Leon County	740524
480769 Oglesby, city of	Coryell County	761112
480696 Olton, city of	Lamb County	761001
480495 Omaha, city of	Morris County	760206
480974 Onalaska, city of	Polk County	761126
480994 Overton, city of	Rusk County	760813

Ident. and community name	County	Original hazard date
Texas	—Continued	
481082 Ozona, city of	Crockett County	731207
480852 O'Brien, city of	Haskell County	750725
480921 O'Donnell, city of	Lynn County	760827
480764 Paint Rock, town of	Concho County	760813
480209 Palmer, city of	Ellis County	760813
481527 Pattison, town of	Waller County	790612
480486 Patton Village, village of	Montgomery County	760813
480773 Pecan Gap, city of	Delta County	760820
480864 Penelope, town of	Hill County	760423
480745 Petrolia, town of	Clay County	761105
480998 Pineland, town of	Sabine County	761022
480116 Pittsburg, city of	Camp County	740123
481528 Pointblank, city of	San Jacinto County	790501
481156 Point, city of	Rains County	761105
480526 Polk County	Polk County	771213
481241 Potter County*	Potter County	771206
480141 Prosper, town of	Collin County	740621
480724 Putnam, town of	Callahan County	760813
480645 Pyote, city of	Ward County	740816
481117 Queen City, town of	Cass County	760423
480715 Quitaque, city of	Briscoe County	761022
480975 Rains County	Rains County	771018
480205 Ranger, city of	Eastland County	740517
480628 Rankin, city of	Upton County	740510
480969 Reno, town of	Parker County	761105
481158 Retreat, town of	Navarro County	750711
480957 Rice, city of	Navarro County	750926
480562 Richland Springs, city of	San Saba County	741108
480958 Richland, town of	Navarro County	750725
481316 Riesel, town of	McLennan County	780523
481044 Riverside, town of	Walker County	761119
480785 Roanoke, city of	Denton County	750905
480749 Robert Lee, city of	Coke County	750627
480988 Robertson County	Robertson County	770603
480225 Roby, city of	Fisher County	740517
481118 Rocksprings, town of	Edwards County	760723
480543 Rockwall County	Rockwall County	770531
480577 Roma-Los Saenz, city of	Starr County	760604
481061 Rose City, city of	Orange County	770712
481119 Rosebud, city of	Falls County	761029
481317 Ross, city of	McLennan County	780530
480816 Round Top, town of	Fayette County	761029
481120 Runge, town of	Karnes County	750425
480993 Rusk County	Rusk County	771220
481039 Sabinal, city of	Uvalde County	750926
481160 Sadler, town of	Grayson County	760702
480553 San Jacinto County	San Jacinto County	771220
481285 Sanctuary, town of	Parker County	770610
480876 Sanford, town of	Hutchinson County	760813
480611 Sansom Park Village, city of	Tarrant County	761210
480751 Santa Anna, town of	Coleman County	750627
481134 Schulenburg, city of	Fayette County	760625
481280 Scotland, city of	Archer County	770614
481161 Scottsville, town of	Harrison County	761210
480564 Scurry County	Scurry County	770510
480332 Seven points, city of	Henderson County	761105
480656 Shamrock, city of	Wheeler County	761022
481004 Shelby County	Shelby County	780801
481136 Shiner, town of	Lavaca County	760611
480867 Smyer, town of	Hockley County	760813
480090 Snook, city of	Burleson County	761105
481264 Somerset, city of	Bexar County	770809
481163 Southmayo, town of	Grayson County	750912
480488 Splendora, city of	Montgomery County	740830
480897 Springlake, town of	Lamb County	761022
480788 Spur, city of	Dickens County	761112
480965 Strawn, city of	Palo Pinto County	760716
480825 Streetman, town of	Freestone County	770506
481318 St. Paul, town of	Collin County	780606
481531 Sunrise Beach Village, city of	Llano County	790619
481010 Swisher County	Swisher County	771213
481024 Talco, city of	Titus County	761022
480753 Talpa, town of	Coleman County	760723
480995 Tatum, city of	Rusk County	750711
481006 Teneha, town of	Shelby County	760730
481019 Terry County	Terry County	770614
480934 Thorndale, town of	Milam County	760813
480646 Thorntonville, city of	Ward County	760813
480914 Thornton, town of	Limestone County	761105
481023 Titus County	Titus County	770603
480668 Tolar, town of	Hood County	750718
481532 Tool, city of	Henderson County	790529
481130 Trent, town of	Taylor County	760723
481018 Tye, city of	Taylor County	750711
481034 Tyler County	Tyler County	771108
481036 Upshur County	Upshur County	770531
481040 Van Zandt County	Van Zandt County	780110
480713 Walnut Springs, city of	Bosque County	761001
481249 Ward County*	Ward County	771025

Ident. and community name	County	Original hazard date
Texas —Continued		
480840 Warren City, city of	Gregg County	760813
481183 Washington County	Washington County	770524
480850 Waskom, city of	Harrison County	761029
481059 Webb County	Webb County	780509
481121 Wiemer, city of	Colorado County	770429
480855 Weinert, city of	Haskell County	761112
480741 Wells, town of	Cherokee County	750711
480938 Westbrook, city of	Mitchell County	761112
480614 Westlake, city of	Tarrant County	761210
480758 Westminster, town of	Collin County	761105
481324 Weston, town of	Collin County	780523
480652 Wharton County*	Wharton County	740802
480729 White Deer, town of	Carson County	760702
480841 White Oak, town of	Gregg County	750822
480839 Whitewright, town of	Grayson County	761105
481189 Wichita County	Wichita County	780801
480942 Willis, city of	Montgomery County	760702
480922 Wilson, town of	Lynn County	760716
481025 Winfield, town of	Titus County	761112
480675 Wink, city of	Winkler County	740628
480573 Winona, city of	Smith County	741101
481051 Wise County	Wise County	770607
481055 Wood County	Wood County	770531
480987 Woodsbor, town of	Refugio County	760702
481022 Woodson, city of	Throckmorton County	761022
480826 Wortham, town of	Freestone County	761029
481167 Yantis, town of	Wood County	760709
480434 Yoakum, city of	Lavaca County	740510
480687 Zapata County*	Zapata County	740802

Total of 372 communities.

Utah

490066 Antimony, town of	Garfield County	760402
490194 Bear River, town of	Box Elder County	750905
490002 Beaver, city of	Beaver County	740611
490196 Cleveland, town of	Emery County	770712
490015 Cornish, town of	Cache County	760402
490236 Deweyville, town of	Box Elder County	770429
490007 Elwood, town of	Box Elder County	750124
490169 Enterprise, city of	Washington County	740816
490114 Fountain Green, city of	Sanpete County	760402
490199 Francis, town of	Summit County	750725
490154 Genola, town of	Utah County	750207
490155 Goshen, town of	Utah County	750207
490171 Hildale, town of	Washington County	760604
490188 Huntsville, town of	Weber County	740621
490085 Kanab, city of	Kane County	761029
490097 Kingston, town of	Piute County	770204
490210 Lindon, city of	Utah County	770621
490185 Loa, town of	Wayne County	741220
490117 Mayfield, town of	Sanpete County	760528
490089 Meadow, town of	Millard County	760702
490021 Milville, town of	Cache County	761022
490212 Monticello, city of	San Juan County	761224
490056 Myton, town of	Duchesne County	760402
490025 Paradise, town of	Cache County	761105
490100 Randolph, town of	Rich County	740816
490215 Rush Valley, town of	Tooele County	771025
490179 Springdale, town of	Washington County	770510
490180 Toquerville, town of	Washington County	760625
490220 Tremonton, city of	Box Elder County	760423
490030 Trenton, town of	Cache County	750627
490146 Vernon, town of	Tooele County	760604
490168 Wallsburg, town of	Wasatch County	760702

Total of 32 communities.

Vermont

500279 Athens, town of	Windham County	741206
500227 Belvidere, town of	Lamoille County	741206
500236 Brookfield, town of	Orange County	741213
500245 Brownington, town of	Orleans County	741213
500107 Cabot, village of	Washington County	740906
500083 Charleston, town of	Orleans County	740809
500185 Danville, town of	Calendonia County	750117
500249 Derby Center, village of	Orleans County	750328
500229 Eden, town of	Lamoille County	741206
500318 Elmore, town of	Lamoille County	750411
500051 Enosburg, town of	Franklin County	740809
500035 Essex Junction, village of	Chittenden County	740628
500210 Ferdinand, town of	Essex County	741213
500251 Glover, town of	Orleans County	741220
500211 Granby, town of	Essex County	741213
500003 Granville, town of	Addison County	750124

Ident. and community name	County	Original hazard date
Vermont —Continued		
500149 Hartland, town of	Windsor County	761224
500313 Hubbardton, town of	Rutland County	741213
500252 Irasburg, town of	Orleans County	741220
500253 Jay, town of	Orleans County	740913
500188 Kirby, town of	Caledonia County	741213
500048 Lunenburg, town of	Essex County	740628
500213 Maidstone, town of	Essex County	741213
500255 Morgan, town of	Orleans County	750131
500262 Mt. Tabor, town of	Rutland County	750110
500190 Newark, town of	Caledonia County	750110
500238 Newbury, village of	Orange County	761126
500284 Newfane, village of	Windham County	750103
500086 Newport, city of	Orleans County	771213
500256 Newport, town of	Orleans County	741101
500180 North Bennington, village of	Bennington County	750221
500214 Norton, town of	Essex County	750328
500181 Peru, town of	Bennington County	750110
500183 Sandgate, town of	Bennington County	750131
500286 Saxtons River, village of	Windham County	790227
500184 Searsburg, town of	Bennington County	741115
500300 Sharon, town of	Windsor County	770204
500287 Somerset, town of	Windham County	741122
500321 Stratton, town of	Windham County	750131
500269 Sudbury, town of	Rutland County	750124
500198 Sutton, town of	Caledonia County	741213
500270 Tinmouth, town of	Rutland County	741206
500242 Vershire, town of	Orange County	750117
500215 Victory, town of	Essex County	741213
500077 Washington, town of	Orange County	740628
500233 Waterville, town of	Lamoille County	741220
500272 West Haven, town of	Rutland County	750103
500257 Westfield, town of	Orleans County	740906
500203 Westford, town of	Chittenden County	750103
500140 Westminster, village of	Windham County	741220
500311 Westmore, town of	Orleans County	750103
500204 Wheelock, town of	Caledonia County	741115
500290 Windham, town of	Windham County	770906

Total of 53 communities.

Virginia

510260 Alberta, town of	Brunswick County	770225
510242 Belle Haven, town of	Accomack County	741101
510256 Bloxom, town of	Accomack County	770211
510333 Charlotte County*	Charlotte County	780707
510045 Clintwood, town of	Dickenson County	770304
510264 Crewe, town of	Nottaway County	770211
510271 Floyd, town of	Floyd County	770325
510268 Gordonville, town of	Orange County	770225
510218 Hallwood, town of	Accomack County	740809
510316 Hillsboro, town of	Loudoun County	750404
510277 Keller, town of	Accomack County	770401
510259 Lovettsville, town of	Loudoun County	770415
510258 Newsoms, town of	Southampton County	770204
510326 Nickelsville, town of	Scott County	760702
510285 Painter, town of	Accomack County	770204
510337 Pocahantas, town of	Tazewell County	781103
510332 Port Royal, town of	Caroline County	770722
510288 Washington, town of	Rappahannock County	770204
510295 Windsor, town of	Isle of Wight County	770415

Total of 19 communities.

Washington

530007 Asotin County	Asotin County	770913
530274 Bonney Lake, town of	Pierce County	761029
530108 Creston, town of	Lincoln County	741220
530283 Eatonville, town of	Pierce County	761022
530246 Elmer City, town of	Okanogan County	750822
530150 Friday Harbor, town of	San Juan County	741129
530047 Garfield County	Garfield County	771115
530049 Grant County	Grant County	771122
530110 Harrington, town of	Lincoln County	741213
530248 La Center, town of	Clark County	761112
530178 Latah, town of	Spokane County	741206
530250 Malden, town of	Whitman County	750718
530294 Milton, town of	King County	761203
530256 N. Bonneville, town of	Skamania County	761119
530257 Northport, town of	Stevens County	760709
530259 Prescott, town of	Walla Walla County	750718
530112 Reardan, town of	Lincoln County	750110
530042 Republic, town of	Ferry County	740607
530262 Roy, town of	Pierce County	750718

Ident. and community name		County	Original hazard date
Washington			—Continued
530300	Rushton, town of	Pierce County	761203
530149	San Juan County	San Juan County	770607
530264	Springdale, town of	Stevens County	750502
530031	Starbuck, city of	Columbia County	750103
530266	Vader, town of	Lewis County	750905
530308	Woodway, town of	Snohomish County	750919
530269	Yacolt, town of	Clark County	760702
530310	Yelm, town of	Thurston County	761022
Total of 27 communities.			
Wisconsin			
550068	Bell Center, village of	Crawford County	740109
550493	Big Falls, village of	Waupaca County	740830
550147	Blue River, village of	Grant County	770128
550148	Boscobel, city of	Grant County	731217
550018	Cable, village of	Bayfield County	740830
550011	Cameron, village of	Barron County	731228
550358	Cazenovia, village of	Richland County	740823
550371	Conrath, village of	Rusk County	740830
550597	Crivitz, village of	Marinette County	780317
550069	De Soto, village of	Crawford County	740109
550461	Eagle River, city of	Vilas County	731228
550417	Eland, village of	Shawano County	740823
550249	Elderon, village of	Marathon County	740719
550129	Fairchild, village of	Eau Claire County	740531
550250	Fenwood, village of	Marathon County	740802
550592	Fontana on Geneva Lake, village of	Walworth County	771223
550110	Forestville, village of	Door County	731130
550367	Fortville, village of	Rock County	740531
550238	Francis Creek, village of	Manitowoc County	740517
550372	Glen Flora, village of	Rusk County	741108
550050	Granton, village of	Clark County	740830
550202	Hustler, village of	Juneau County	740823
550100	Iron Ridge, village of	Dodge County	760723
550393	Ironton, village of	Sauk County	740816
550396	Lime Ridge, village of	Sauk County	740823
550102	Lowell, village of	Dodge County	740517
550434	Lublin, village of	Taylor County	740920
550170	Marquette, city of	Green Lake County	731218
550419	Mattoon, village of	Shawano County	740830
550288	Melvina, village of	Monroe County	740830
550152	Mount Hope, village of	Grant County	740830
550598	Nason, village of	Bayfield County	770826
550205	Necedah, village of	Juneau County	740109
550046	New Auburn, city of	Chippewa County	740719
550350	North Bay, village of	Racine County	740906
550500	Ogdensburg, village of	Waupaca County	740823
550113	Oliver, village of	Douglas County	740830
550427	Oostburg, village of	Sheboygan County	740628
550155	Potosi, village of	Grant County	731228
550401	Prairie Du Sac, village of	Sauk County	731207
550507	Wild Rose, village of	Waushara County	740531
550594	Williams Bay, village of	Walworth County	771021
Total of 56 communities.			
Wyoming			
550508	Redgranite, village of	Waushara County	740517
550587	Slinger, village of	Washington County	771021
550231	South Wayne, village of	Lafayette County	731207
550388	Stanton, town of	St. Croix County	741115
550387	Star Prairie, village of	St. Croix County	731228
550353	Sturtevant, village of	Racine County	740524
550573	Sun Prairie, city of	Dane County	771104
550599	Taylor County	Taylor County	781201
550207	Union Center, village of	Juneau County	741115
550257	Unity, city of	Marathon County	740920
550519	Vesper, village of	Wood County	740802
550540	Waushara County*	Waushara County	770617
550378	Weyerhauser, village of	Rusk County	761112
550233	White Lake, village of	Langlade County	761001
560068	Afton, town of	Lincoln County	770621
560001	Albany County	Albany County	770823
560004	Big Horn County	Big Horn County	770802
560008	Carbon County	Carbon County	780516
560041	Chugwater, town of	Platte County	741213
560082	Converse County*	Converse County	780221
560059	Cowley, town of	Big Horn County	750919
560018	Dubois, town of	Fremont County	740123
560025	East Thermopolis, town of	Hot Springs County	741108
560060	Edgerton, town of	Natrona County	761001
560062	Glendo, town of	Platte County	750815
560022	Goshen County	Goshen County	770719
560072	Guernsey, town of	Platte County	761112
560063	Hanna, town of	Carbon County	750822
560016	Hulett, town of	Crook County	761210
560064	Lingle, town of	Goshen County	750815
560066	Medicine Bow, town of	Carbon County	760625
560085	Park County*	Park County	780425
560086	Platte County*	Platte County	780328
560021	Riverton, city of	Fremont County	740329
560003	Rock River, city of	Albany County	750207
560078	Shoshoni, town of	Fremont County	750815
560048	Sublette County	Sublette County	771115
560087	Sweetwater County*	Sweetwater County	780801
560079	Uptown, town of	Weston County	760625
560089	Washakie County*	Washakie County	780829
560024	Yoder, town of	Goshen County	741206
Total of 27 communities.			
Total of 3,204 sanctioned communities.			

*Unincorporated areas only.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, (42 U.S.C. 4001–4128) Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: October 10, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80–32860 Filed 10–21–80; 8:45 am]

BILLING CODE 6718–03–M

[FEMA–626–DR]

Wisconsin; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Wisconsin (FEMA–626–DR), dated July 24, 1980 and related determinations.

DATED: October 11, 1980.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 634–7848.

NOTICE: The Notice of a major disaster for the State of Wisconsin dated July 24, 1980, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 24, 1980.

The following Counties for Public Assistance: *Chippewa, Dunn, Eau Claire, Pierce.*

Consistent with the requirement that Federal assistance be supplemental, the Federal Government will provide 75 percent of all eligible Public Assistance under Pub. L. 93–288.

(Catalog of Federal Domestic Assistance No. 83.300, Disaster Assistance)

William H. Wilcox,

Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 80-32810 Filed 10-21-80; 8:45 am]

BILLING CODE 4210-23-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Notice of Proposed de Novo Nonbank Activities

The bank holding company listed in this notice has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to this application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on the application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for the application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than November 7, 1980.

A. *Federal Reserve Bank of Chicago* (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

Wisco, Inc., West Des Moines, Iowa (insurance activities; Iowa): to act through its subsidiary, Diagonal Insurance Agency, Inc., as an agent or broker for the sale of insurance in a community that has a population not exceeding 5,000. These activities would be conducted from an office in Diagonal, Iowa, serving the community of Diagonal, Iowa.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, October 14, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-32868 Filed 10-21-80; 8:45 am]

BILLING CODE 6210-01-M

B.P.C. Corp.; Formation of Bank Holding Company

B.P.C. Corporation, Cookeville, Tennessee, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 87.5 per cent of the voting shares of The Bank of Putnam County, Cookeville, Tennessee. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 14, 1980. 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.

Board of Governors of the Federal Reserve System, October 15, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-32870 Filed 10-21-80; 8:45 am]

BILLING CODE 6210-01-M

Commercial State Bancshares, Inc.; Proposed Retention of General Insurance Agency Activities

Commercial State Bancshares, Inc., Two Harbors, Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain Commercial State Bancshares, Inc., Insurance Division, Two Harbors, Minnesota.

Applicant states that its subsidiary performs the activities of general insurance agency in a town with a population not exceeding 5,000. These activities would be performed from offices of Applicant's subsidiary in Two Harbors, Minnesota, and the geographic area to be served is the Two Harbors Trade Area. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than November 14, 1980.

Board of Governors of the Federal Reserve System, October 14, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-32867 Filed 10-21-80; 8:45 am]

BILLING CODE 6210-01-M

Derby Bancshares, Inc.; Formation of Bank Holding Company

Derby Bancshares, Inc., Derby, Kansas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 96 percent or more of the voting shares of First National Bank of Derby, Derby, Kansas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be

received not later than November 14, 1980. 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.

Board of Governors of the Federal Reserve System, October 15, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-32869 Filed 10-21-80; 8:45 am]

BILLING CODE 6210-01-M

First National Boston Corp.; Acquisition of Bank

First National Boston Corporation, Boston, Massachusetts, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 per cent of the voting shares of The Country Bank, National Association, Shelburne Falls, Massachusetts. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 14, 1980. 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.

Board of Governors of the Federal Reserve System, October 14, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-32865 Filed 10-21-80; 8:45 am]

BILLING CODE 6210-01-M

Manufacturers National Corp.; Acquisition of Bank

Manufacturers National Corporation, Detroit, Michigan, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 per cent of the voting shares of Bank of Lansing, Lansing, Michigan. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 14, 1980. 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.

Board of Governors of the Federal Reserve System, October 15, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-32864 Filed 10-21-80; 8:45 am]

BILLING CODE 6210-01-M

Peoples Equity Shares, Inc.; Formation of Bank Holding Company

Peoples Equity Shares, Inc., Carrollton, Georgia, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 90 percent or more of the voting shares of The Peoples Bank. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Peoples Equity Shares, Inc., Carrollton, Georgia, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Peoples Equity Leasing Company, Inc., Carrollton, Georgia.

Applicant states that the proposed subsidiary would engage in the activities of leasing cars, trucks, trailers, industrial equipment and railroad cars. These activities would be performed from offices of Applicant's subsidiary in Carrollton, Georgia, and the geographic areas to be served are western Georgia. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissable for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 14, 1980.

Board of Governors of the Federal Reserve System, October 15, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-32871 Filed 10-21-80; 8:45 am]

BILLING CODE 6210-01-M

Zavala Bancshares, Inc.; Formation of Bank Holding Company

Zavala Bancshares, Incorporated, Crystal City, Texas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by aquiring 97.3 percent or more of the voting shares of Zavala County Bank, Crystal City, Texas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 14, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would to 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.

Board of Governors of the Federal Reserve System, October 15, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-32868 Filed 10-21-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

United Department Stores, Inc.; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: United Department Stores, Inc. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all stock of two wholly-owned subsidiaries and certain assets from the Outlet Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by United. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: October 9, 1980.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202–523–3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80–32901 Filed 10–21–80; 8:45 am]

BILLING CODE 6750–01–M

Wheelabrator-Frye, Inc.; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Wheelabrator-Frye, Inc. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all stock of Pullman, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early temination submitted by Wheelabrator-Frye. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: September 15, 1980.

FOR FURTHER INFORMATION CONTACT: Naomi Licker, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas

Secretary.

[FR Doc. 80–32900 Filed 10–21–80; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Center for Disease Control; Safety and Occupational Health Study Section; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Center for Disease Control announces the following National Institute for Occupational Safety and Health (NIOSH) committee meeting:

Name: Safety and Occupational Health Study Section.

Date: November 12–13–14, 1980.

Place: Conference Room G—November 12–13–14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Time and type of meeting: Open: 9:00 a.m.–11:30 a.m.—November 12; Closed: 1:00 p.m.–5 p.m.—November 12; Closed: 8:30 a.m.–5 p.m.—November 13–14.

Contact person: Catherine M. Woodbury, Ph.D., Acting Executive Secretary, 5600 Fishers Lane, Parklawn Building, Room 8–63, Rockville, Maryland 20857.

Telephone: 301–443–4493.

Purpose: The committee is charged with the initial review of research, training, demonstration, and fellowship grant applications for Federal assistance in program areas administered by the National Institute for Occupational Safety and Health, and with advising the Institute staff on training and research needs.

Agenda: Agenda items for the open portion of the meeting will include consideration of minutes of previous meeting; administrative reports; and progress report on the Educational Resource Center program. Beginning at 1:00 p.m., November 12, 1980, through adjournment on November 14, 1980, the Study Section will be performing the initial review of research grant and training grant applications for Federal assistance, and will not be open to the public, in accordance with the provisions set forth in Section 552b(c)(6), Title 5 U.S. Code, and the Determination of the Director, Center for Disease Control, pursuant to Public Law 92–463.

Agenda items are subject to change as priorities dictate.

The portion of the meeting so indicated is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: October 16, 1980.

William H. Foege, M.D.,

Director, Center for Disease Control.

[FR Doc. 80–32899 Filed 10–21–80; 8:45 am]

BILLING CODE 4110–87–M

Office of the Secretary

Office of Management Services; Statement of Organization, Functions, and Delegations of Authority

Part A, Chapter AMS (Office of Management Services) of the Statement of Organization, Functions, and Delegations of Authority (42 FR 3631a–11, 7/14/77) is amended to retitle the Data Management Center as the Office of Data Processing and to include three divisions, reflecting a reorganization, as part of the Office of Data Processing.

1. In Section AMS.10 line 13, replace "Data Management Center (AMS4)" with the following: Office of Data Processing (AMS4), Office of the Director, Division of Administration and Technical Planning, Division of Customer Assistance, Division of Computer Operations.

2. Delete Section AMS.20.F in its entirety and replace with the following: F. The Office of Data Processing. Serves as a computer service organization which provides computer time and related services to the Office of the Secretary and, as resources permit, to other Department of Health and Human Services organizations. Designs and

operates a Departmentwide Administrative Data Communications Utility. Responds for the Office of the Secretary to the Office of Management and Budget and General Services Administration on reporting requirements related to computers and telecommunications and office systems management. The Office of Data Processing provides advice, guidance, and management with regard to automated data processing, telecommunications, and office systems management to the Office of the Secretary components.

F.1. Office of the Director. Provides leadership, policy guidance, and supervision, as well as coordinating long and short range planning to constitutent units.

F.2. Division of Computer Operations. Operates the ADP equipment and associated hardware required to provide necessary computer and related data processing service. Develops, coordinates, and monitors actions relating to the acquisition of ADP and telecommunication hardware. Designs, implements and monitors system software such as operating system, telecommunication system, data base management system.

F.3. Division of Customer Assistance. Serves as the principal contact and liaison between the office and its customers. Designs, implements and maintains general purpose computer software and precedures necessary for the functioning of a computer service organization. This software includes generalized application tools such as project management systems, statistical packages, mathematical subroutines and information retrieval systems.

F.4. Division of Administration and Technical Planning. Provides the Director of the Office of Data Processing with technical support required for all aspects of office management, including computer capacity planning, and personnel, financial, and procurement planning. The Division is also responsible for the development of the Office of the Secretary teleprocessing plan, and for the development and coordination of ADP and office systems management reporting to OMB and GSA for the Office of the Secretary. The Division is also responsible for the Operation of DMC financial, personnel, and procurement activities.

Dated: October 14, 1980.

Patricia Robert Harris,

Secretary.

[FR Doc. 80-32938 Filed 10-21-80; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environmental Quality

[Docket No. NI-31]

Intended Environmental Import Statements

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for each of the following projects under HUD programs as described in the appendices of the Notice: Oquirrh Shadows Subdivision, Salt Lake County, Utah; and Wood Ranch Land Development, Simi Valley, California. This Notice is required by the Council on Environmental Quality under its rules (40 CFR 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning a particular project to the specific person or address indicated in the appropriate part of the appendices.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Issued at Washington, D.C. October 15, 1980.

Francis G. Haas,

Deputy Director, Office of Environmental Quality.

Appendix—EIS on Oquirrh Shadows Subdivision, Salt Lake County, Utah

The HUD Area Office in Denver, Colorado intends to prepare an EIS on Oquirrh Shadows Subdivision, described below, and requests information and comments for consideration in the EIS.

Description. Approximately 2,782 dwelling units (single-family and multifamily) will be built in Salt Lake County, Utah, approximately ten miles southwest of downtown Salt Lake City, Utah.

Need. An EIS is required because the total number of dwelling units exceeds a HUD established threshold.

Alternatives. The alternatives are HUD participation in the development as proposed by the developer, participation in the development provided that HUD required modifications are implemented by the developer, or reject participation in the development.

Scoping. A scoping meeting will not be held. HUD will request input from the appropriate government agencies and service organizations. This Notice will also appear in a paper of local circulation in Salt Lake City, Utah.

Comments. Comments should be forwarded within 21 days following publication of this Notice in the **Federal Register** to Mr. Caroll G. Goodwin, Area Environmental Clearance Officer, U.S. Department of Housing and Urban Development, 1405 Curtis Street, Denver, Colorado 80202.

Appendix—EIS on Wood Ranch Land Development, Simi Valley, Calif.

The Los Angeles Area Office of the Department of Housing and Urban Development intends to prepare an Environmental Impact Statement on the project described below and solicits information and comments for consideration in the EIS.

Description. Wood Ranch is a proposed Title X Land Development of some 3800 acres. Over a 10-year period the land will be developed in six phases and sold so that eventually 3888 units may be built in a mixture of housing types and densities. Planned land uses include rediential, commercial, recreational, and open space.

Project location is south west of and adjacent to the City of Simi Valley, Ventura County, California, between Olsen Road to the north, the City of Thousand Oaks City limits to the south, and extending no farther west than the western most point of Bard Reservoir.

Need. An EIS is proposed because of HUD threshold requirements as to project size. In addition significant impacts may be found in areas such as: the 100-year base floodplain, land use, transportation, air quality, endangered species, community services and facilities.

Alternatives. Alternatives identified are: no project, lower density, higher density, alternative utilizaiton of open space, alternative location, and extended phasing.

Scoping. HUD will hold a pre-project "scoping" meeting in accordance with Section 1501.7 of the implementing regulations of the 1969 National Environmental Policy Act. At this meeting, which will be open to all interested persons, groups and local, state and Federal agencies, HUD wishes to identify all significant issues to be analyzed in the Environmental Impact Statement. Time and place of this scoping meeting will be announced at a later date by notice in a local newspaper of general circulation and the mailing of a letter of invitation. The HUD mailing list covers most Federal, State and local public agencies and some private local organizations and groups.

Comments. Comments regarding this proposal should be sent within 21 days of publication of this notice in the **Federal Register** to: John J. Tuite, Area Manager, attention: Peter Severynen, Environmental Protection Specialist, U.S. Department of Housing and Urban Development, 2500 Wilshire Boulevard, Los Angeles, California 90057; or call (213) 688-5899; (FTS) 798-5899.

[FR Doc. 80-32857 Filed 10-21-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Florida; Resource Management Planning, Pine Island Sound-Sanibel Resource Management Plan

Pursuant to the responsibilities outlined in 43 CFR 1601.3(g), the Eastern States Office (ESO) of the Bureau of Land Management, U.S. Department of the Interior, announces that a resource management plan (RMP) is now being prepared for public lands and islands under its jurisdiction in Lee, Charlotte and Collier Counties, Florida.

Geographic Area of Plan

The plan will consider the public lands and islands, as well as Federal Mineral Ownership (FMO), in Lee, Charlotte and Collier Counties, Florida as one planning unit. It encompasses approximately 900 acres of public lands, including 46 islands and 3 inland tracts, as well as FMO under Federal, State and private surface in the 3-county area.

Anticipated Issues

The RMP will address several issues on which public comment would be beneficial. One issue is whether certain lands presently under BLM jurisdiction should be transferred to other Federal, State, or local government agencies or non-profit organizations, sold to private parties, or retained under BLM jurisdiction and managed according to multiple use management principles. Several applications are pending for lands actions that could affect ownership and management responsibilities in the planning area.

Other issues that will be addressed during development of the RMP include, but are not limited to, the following: (1) The necessity to manage and protect areas of critical environmental concern; (2) the possible impact of wilderness designations (see paragraph on Wilderness Review); (3) the need for access to beach front and recreation facilities; (4) the potential for ownership conflicts and trespass; (5) the need to protect various wildlife and plant species (including endangered species); (6) the possible development of mineral deposits on inland areas; (7) the need to protect valuable cultural resources; (8) the impact of the inclusion of public domain in areas designated as aquatic preserves; (9) the potential problems of beach and soil erosion; (10) the socio-economic needs of the area; and (11) the potential problems of salt water encroachment and recharge area loss.

Interdisciplinary Team

The RMP will be developed by a Bureau of Land Management interdisciplinary team (IDT) located in Tuscaloosa, Alabama. The team includes a community planner, geologist, hydrologist, realty specialist, environmental specialist, soil scientist, natural resource specialist, archeologist, editor, and administrative personnel. Additional support will be supplied as needed by BLM's Eastern States Office, which has jurisdiction over the public lands and Federal Mineral Ownership in Florida and 30 other eastern states.

Resource Management Planning Process

The preparation or revision of an RMP and the evaluation of its impacts includes the following steps: (1) *Identification of issues,* an action that gives Federal agencies and State and local governments an opportunity at the outset of the planning process to suggest concerns, needs and resource use, development and protection opportunities for consideration in the RMP.

(2) *Development of planning criteria* to guide the development of the RMP to ensure that it is tailored to the issues previously identified and to ensure that unnecessary data collection is avoided; to guide the analysis of the management situation; to assist in the design and formulation of alternatives; and to estimate the effects of alternatives.

(3) *Inventory data and information collection* (including resource, environmental, social, economic and institutional data).

(4) *Analysis of the management situation* to determine the capability of public land resources to respond to: needs, concerns and opportunities identified through public participation and coordination with other publics; issues defined earlier in the planning process; and national and State Director guidance.

(5) *Formulation of mangement alternatives* for the resources in the planning area.

(6) *Estimation of the effects of the alternatives.*

(7) *Selection of a preferred alternative,* which is incorporated into the draft plan and draft environmental impact statement (DEIS).

(8) *Selection of RMP,* which becomes the proposed RMP and is accompanied by a final environmental impact statement (FEIS).

(9) *Monitoring and evaluation of RMP* at intervals of not more than five years.

Public Participation Plan

A comprehensive public participation plan covering the period October 1, 1980 through February, 1982 has been prepared. It outlines a strategy for five phases of public involvement coordinated with the planning steps. The plan is flexible and designed to accommodate the unique situations caused by the widely scattered nature of BLM's ownership pattern and the variety of affected publics. The plan generally follows a "grass roots" approach to public involvement, using localized, one-to-one contacts and extensive direct mailings, as well as continual coordination with local, State and other Federal agencies.

Public Workshop on Issues and Criteria

A public workshop on the RMP has been scheduled for Thursday, November 6, 1980, at the Sheraton Inn, 8900 South Tamiami Trail, Fort Myers, Florida 33907. For the convenience of the public, two sessions will be held, one from 1:00 p.m. to 4:00 p.m., the other from 6:00 p.m. to 9:00 p.m. The workship is intended to introduce interested parties to the RMP process and to involve the public in the identification of issues and the development of planning criteria.

Other Public Meetings and Federal Register Notices

Additional workshops, briefings, and group discussions will be scheduled to assure the full representation and participation of interested and affected publics in the planning area. Additional**Federal Register** notices and news releases will accompany the publication of the draft RMP and environmental statement (upon which there will be a 90-day review and comment period) in September, 1981; the publication of the final RMP and environmental statement (which will trigger a 30-day opportunity for protest) in January, 1982; and the final notice and comment (as necessary) on any changes made as a result of action on a protest, in February, 1982. This schedule is tentative, and may be changed as the planning process unfolds. Complete records of all public participation will be available for public review at all times throughout the development of the RMP.

Wilderness Review

In the course of the planning process, BLM will conduct wilderness inventories on the public islands under its jurisdiction in the 3-county planning area. The inventories will follow guidelines established in the *Wilderness Inventory Handbook,* and are required under the authority of Section 603 of the Federal Land Policy and Management Act of 1976. They mark one of the first steps in the Bureau's wilderness review program to identify all roadless islands

for wilderness characteristics on public lands administered by the Bureau of Land Management. The notice announcing commencement of the Bureau-wide inventory was published in the Federal Register on September 27, 1978.

Compilation of initial inventory data from existing records is about to commence. Upon completion, the inventory will be prepared for full public review and comment. Public input regarding the inventory should be submitted to the Manager, Tuscaloosa Office, at the address given below.

The *Wilderness Inventory Handbook* is available from the following sources:

Director, Eastern States, Bureau of Land Management, 350 South Pickett Street, Alexander, Virginia 22304

Manager, Tuscaloosa Office, Bureau of Land Management, 1315 McFarland Boulevard, East, Tuscaloosa, Alabama 35405

Additional Information

For information about BLM resource management planning in Florida—to review planning maps and narratives, to obtain copies of the public participation plan, maps, or other information; or to offer data or assistance, contact Robert Todd, Manager, Tuscaloosa Office, Bureau of Land Management, 1315 McFarland Boulevard, East, Tuscaloosa, Alabama 35405. Telephone: (205) 759–5441 (FTS 229–2933 or 229–2966).

Roger L. Hildebeidel,

Eastern States Director.

[FR Doc. 80-32890 Filed 10-21-80; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Application

The following are notices of filing of applicaitons for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. **One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.**

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

The following applications were filed in region 1.

Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 3252 (Sub-1–2TA), filed October 8, 1980. Applicant: MERRILL TRANSPORT CO., 1037 Forest Avenue, Portland, Maine 04104. Representative: Francis E. Barrett, Jr., Esq., 10 Industrial Park Road, Hingham, MA 02043. *Gasoline and diesel, in bulk,* from Chelsea and Braintree, MA to points in NH and VT. Supporting shipper: Conna Corp. d.b.a. Petco Oil Co., 981 South Third, Lousville, KY 40201.

MC 141034 (Sub-1–1TA), filed October 7, 1980. Applicant: MARGIN LEASING, INC., 21 Baltic Road, Worcester, MA 01607. Representative: Ronald I. Shapss, Esq., 450 Seventh Avenue, New York, NY 10123. *Contract carrier:* irregular routes: *Scrap cans for recycling and scrap paper* between Nashua and Hopington, NH, on the one hand, and, on the other, points in CT, VT, ME, MA, RI, NH and NY, under continuing contract(s) with Container Recover Corp. Supporting shipper: Container Recovery Corp., 12 Celina Ave., P.O. Box 3406, Nashua, NHa 03061.

MC 152124 (Sub-1–1TA), filed October 8, 1980. Applicant: RAND TRANSPORTATION SERVICES, INC., 2240—74th Street, North Bergen, NJ 07047. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *(1) Glass and Glass Products; and (2) Materials, equipment, and supplies used in the manufacture and sale of commodities named in (1) above (except commodities in bulk in tank vehicles),* Between Jeanette, PA, on the one hand, and, on the other, points in the US east of and including the states of ND, SD, NE, KS, OK and TX. Supporting shipper(s): General Glass International Corp., 270 North Ave., New Rochelle, NY 10801.

MC 147074 (Sub-1–12TA), filed October 2, 1980. Applicant: E Z FREIGHT LINES, 70 Gould Street, Bayonne, NJ 07002. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Synthetic fiber* from Dillon and Spartanburg, SC to points in NC, NJ, NY, PA, RI and VA and from Greensboro, NC to NC, NY, PA, RI, SC and VA. Supporting shipper: Titan Textile Company, Inc., and Atlas Yarn Company, Inc., 53 E. 34th Street, Paterson, NJ 07514.

MC 143127 (Sub-1–24TA), filed October 6, 1980. Applicant: K. J. TRANSPORTATION, INC., 6070 Collett Road, Victor, NY 14564. Representative: Linda A. Calvo, 6070 Collett Road, Victor, NY 14564. *Children's clothing, knit piece goods, and materials, supplies, and equipment used in the manufacture and distribution of children's clothing and knit piece goods,* between points in AL, GA, ME, RI, and VA. Supporting shipper: Health-Tex, Inc., 88 Martin Street, Cumberland, RI 02864.

MC 115353 (Sub-1–6TA), filed October 6, 1980. Applicant: LOUIS J. KENNEDY TRUCKING COMPANY, 342 Schuyler Avenue, Kearny, NJ 07032. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. *Contract carrier:* irregular routes: *Iron and steel and iron and steel articles,* from points in the Philadelphia, PA commercial zone to points in NJ and New York, NY, restricted to traffic having a prior movement by water. Supporting shipper: Mitsui & Co., (USA), Inc., 200 Park Avenue, New York, NY 10017.

MC 2860 (Sub-1–17TA), filed October 7, 1980. Applicant: NATIONAL FREIGHT, INC., 71 West Park Avenue, Vineland, NJ 08360. Representative: Gerald S. Duzinski, Vice President—Commerce, 71 West Park Avenue, Vineland, NJ 08360. *Foodstuffs and materials, equipment and supplies used in the manufacture, sale and distribution thereof,* between points in Mecklenburg County, NC, on the one hand, and, on the other, points in AL, GA, MS, TN, SC, FL, and LA. Supporting shipper: Heinz, USA, Division of H. J. Heinz, P.O. Box 57, Pittsburgh, PA 15230.

MC 1041 (Sub-1–1TA), filed October 6, 1980. Applicant: B. N. CORKUM

TRANSPORTATION COMPANY, 326 Ballardvale Street, Wilmington, MA 01887. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. *Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses (except in bulk),* from the facilities of Saylesville Warehouse, Inc., Saylesville, RI, to points in ME, NH, VT, MA, and CT. Supporting shipper: The Dracket Company, 5020 Spring Grove Avenue, Cincinnati, OH 45232.

MC 151408 (Sub-1–10TA), filed October 6, 1980. Applicant: CARGO TRANSPORT, INC., 100 Garfield Avenue, P.O. Box 268, Somerville, MA 02143. Representative: William F. Mix, 153 Grove Street, Lexington, MA 02173. *Contract carrier:* irregular routes: *Lumber and lumber products, materials and supplies used in the manufacture, sale and distribution thereof (except in bulk and tank vehicles),* between points in the US (except AK and HI). Supporting shipper: O'Brien Lumber Co., P.O. Box 727, Ashland, NH 03217.

MC 152119 (Sub-1–1TA), filed October 7, 1980. Applicant: SCHLAGER'S AUTO BODY REPAIR, INC., 101 Willard Street, West Quincy, MA 02169. Representative: Robert G. Parks, 20 Walnut St.—Suite 101, Wellesley Hills, MA 02181. *Disabled, wrecked, repossessed and replacement motor vehicles, by use of wrecker equipment only,* between Boston, MA and points within its Commercial Zone, on the one hand, and, on the other, points in ME, NH, VT, RI, CT and NY. There are six statements in support attached to this application which may be examined at the ICC Regional Office in Boston, MA.

MC 2860 (Sub-1–18TA), filed October 7, 1980. Applicant: NATIONAL FREIGHT, INC., 71 West Park Avenue, Vineland, NJ 08360. Representative: Gerald S. Duzinski, 71 West Park Avenue, Vineland, NJ 08360. *General commodities (except Classes A & B explosives and household goods)* between all points in the US. Restricted to traffic originating at or destined to the facilities of PPG Industries. Supporting shipper: PPG Industries, Inc., One Gateway Center, Pittsburgh, PA 15222.

MC 152107 (Sub-1–1TA), filed October 7, 1980. Applicant: INTERPORT TRUCKING, INC., 860 McLester Street, Elizabeth, NJ 07021. Representative: Ronald I. Shapss, Esq., 450 Seventh Avenue, New York, NY 10123. *Contract carrier:* irregular routes: *Chemicals and chemical containers,* between Newark, NJ, Syracuse, NY, Newcastle, KY, Tampa, FL, and Dallas, TX, on the one hand, and, on the other, points in the US (excluding AK and HI). Supporting shipper: Chemical Corp., 127 W. Berry Street, Fort Wayne, IN 46802.

MC 152118 (Sub-1–1TA), filed October 8, 1980. Applicant: JOSE ROCHA, d.b.a. J. R. TRANSPORT, 11 Jefferson Street, Cambridge, MA 02141. Representative: George C. O'Brien, 12 Vernon Street, Norwood, MA 02062. *Contract carrier:* irregular routes: *Trailers and modular units,* between Randolph, MA, and points in NH, RI and CT, under a continuing contract or contracts with Design Space International of Randolph, MA. Supporting shipper: Design Space International, 6 York Ave., Randolph, MA 02368.

MC 152139 (Sub-1–1TA), filed October 9, 1980. Applicant: SERVICE PETROLEUM CARRIERS INC., 544 Pinewood Avenue, Roselle Park, NJ 07204. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Petroleum products in bulk,* between Skyline, MD; Edison, Linden, NJ; Marcus Hook, PA; Woburn, MA; Philadelphia, PA; Baltimore, MD; Norfolk, VA; and Bristol, CT. Supporting shipper(s): Cook's Industrial Lubricants, 5 N. Stiles St., Linden, NJ 07036; Burmah-Castrol Inc., 30 Executive Ave., Edison, NJ 08817.

MC 108247 (Sub-1–1TA), filed October 6, 1980. Applicant: WESTCHESTER MOTOR LINES, INC., 35 Edgemere Road, P.O. Box 892, New Haven, CT 06504. Representative: Ronald G. Esposito, 35 Edgemere Road, P.O. Box 892, New Haven, CT 06504. *Beverages and materials used in the manufacture, distribution and sale thereof,* between the States of MD, PA, NJ, NY, CT, RI, MA, VT, and ME. DE and NH to be traversed for operating convenience. Supporting shipper: Colt Corporation, 197 Chatham Street, New Haven, CT 06513.

MC 152111 (Sub-1–1TA), filed October 7, 1980. Applicant: RUBIN CUSTOMER SERVICE, INC., 84–14 Cuthbert Road, Kew Gardens, NY 11415. Representative: Piken & Piken, Esqs., 95–25 Queens Blvd., Rego Park, NY 11374. *Lamps, lighting fixtures and commodities used or useful in the manufacture and distribution of lighting fixtures,* between points in NY, NJ, PA, MA, CT, RI, DE, MD, and DC. Supporting shippers: There are 8 statements in support attached to this application which may be examined at the ICC Regional Office in Boston, MA.

MC 103490 (Sub-1–3TA), filed October 8, 1980. Applicant: PROVAN TRANSPORT CORP., 210 Mill Street, Newburgh, NY 12550. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. *Chemicals, in bulk,* from Bayport, TX and Memphis, TN to points in Fayette County, PA. Supporting shipper: Intercontinental Lubricants Corp., P.O. Box 208, Brookfield, CT 06804.

MC 148292 (Sub-1–5TA), filed October 8, 1980. Applicant: J. POSA INC., P.O. Box 335, Elmont, NY 11003. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *Malt beverages, related advertising materials, materials, supplies, and equipment used in the manufacture, sale, and distribution of malt beverages, and empty returned malt beverage containers,* between James City County, VA, on the one hand, and, on the other, points in the New York, NY Commercial Zone. Supporting shipper: Port Distributing Corp., 45–01 Vernon Blvd., Long Island City, NY 11101.

MC 16513 (Sub-1–3TA), filed October 10, 1980. Applicant: REISCH TRUCKING & TRANSPORTATION CO., INC., 1301 Union Avenue, Pennsauken, NJ 08110. Representative: Jeffrey A. Vogelman, Suite 400, Overlook Bldg., 6121 Lincolnia Road, Alexandria, VA 22312. *Foodstuffs, cleaning compounds, scouring compounds, washing compounds, maintenance supplies for institutional and industrial use, and such commodities as are dealt in or used by grocery and food business houses,* (1) from the facilities of The Procter & Gamble Distributing Co. at or near Quincy, MA to points in CT, RI, Suffolk County, NY, and New York, NY and its commercial zone; and (2) from the facilities of The Procter & Gamble Distributing Co. at or near Port Ivory, NY to points in CT, MA, and RI. Supporting shipper: The Procter & Gamble Distributing, P.O. Box 599, Cincinnati, OH 45201.

The following applications were filed in Region 2. Send protests to: ICC, Federal Reserve Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 149170 (Sub-20TA), filed: October 10, 1980. Applicant: ACTION CARRIER, INC., 1000 East 41st Street, Sioux Falls, SD 57105. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. *Polyfilm, polyethylene film and bags, and plastic granules, and related items (Except Commodities in Bulk)* Between Minneapolis, MN and Denver, CO, on the one hand, and, on the other, points in the U.S. Supporting shipper: Poly-Tech Company, 1401 W. 94th Street, Minneapolis, MN 55440.

MC 142830 (Sub-4–3TA), filed: October 10, 1980. Applicant: TRANSHIELD TRUCKING, INC., 1000 North Harvester Road, West Chicago, IL 60185. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh Street,

NW, Washington, DC 20001. Contract, Irregular. (1) *Steel and fiber cable, wire, rope, cordage and accessories,* and (2) *materials, equipment and supplies* used in the manufacture, sale and distribution of commodities in (1) above (except commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Bridon American Corporation of Wilkes-Barre, PA for 270 days. Supporting shipper: Bridon American Corporation, Hanover Industrial Estate, South Main Road, Wilkes-Barre, PA 18702.

MC 145792F (Sub-4–3TA), filed: October 10, 1980. Applicant: RED MOVERS & VAN LINES, INC., 7000 S. Chicago Ave., Chicago, IL 60637. Representative: Walter L. Weart, 548 Anita St., Des Plaines, IL 60016. *Furniture or fixtures or parts thereof, and material, equipment and supplies used* in the manufacture and distribution thereof between Cook County, IL and points in the U.S. (Except AK and HI). Supporting shipper: Douglas Furniture Corp., 5020 West 73rd St., Chicago, IL 60638.

MC 108382 (Sub-4–3TA), filed: October 10, 1980. Applicant: SHORT FREIGHT LINES, INC., 459 South River Road, Bay City, MI 48706. Representative: Richard L. Poirier (same address as applicant). *Automobile Parts,* between Lewiston, MI and Cook County, Il. Supporting shipper: Lewiston Lustre, Inc., 516 N. Airport Road, Lewiston, MI 49756.

MC 114632 (Sub-4–17TA), filed: October 10, 1980. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant. *Paint, lacquer, enamel, epoxies, resins, pigments, adhesives, rubber cement, and thinning and removing compounds; and materials, equipment, and supplies used in the manufacture of such commodities,* between Shelby County, TN and Orange County, CA on the one hand, and, on the other, points in the United States. Supporting shipper: Pratt & Lambert Company, Inc., Box 22, Buffalo, NY 14240.

MC 128837 (Sub-4–20TA), filed: October 9, 1980. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62626. Representative: Michael W. O'Hara, 300 Reisch Building, Springfield, IL 62701. (a) *Flex-el pads,* from Memphis, TN to the facilities of Simmons U.S.A. at Atlanta, GA, Jacksonville, FL, Elizabeth, NJ, Columbus, OH, Dallas, TX, Kansas City, KS and Janesville, WI; (b) *Syfi pads,* from Nashville, TN to the facilities of Simmons U.S.A. at Atlanta, GA, Jacksonville, FL, Elizabeth, NJ, Columbus, OH, Dallas, TX, Kansas City, KS and Janesville, WI; (c) *Duon,* from Seneca and Utica, SC to the facilities of Simmons U.S.A. at Atlanta, GA, Jacksonville, FL, Elizabeth, NJ, Columbus, OH, Dallas, TX, Kansas City, KS and Janesville, WI. Supporting shipper: Simmons U.S.A., P.O. Box 105032, Atlanta, GA 30348.

MC 311 (Sub-4–1TA), filed October 9, 1980. Applicant: BURREN TRANSFER COMPANY, Second & Berkley Streets, Elgin, IL 60120. Representative: Eugene L. Cohn, One North LaSalle St. Chicago, IL 60602. *Foodstuffs, Meats, Meat Products and Meat By-Products and articles distributed by meat packinghouses* between points in Jo Daviess, Stephenson, Winnebago, Boone, Mc Henry, Lake, Carrol, Ogle, De Kalb, Kane, Du Page, Cook, Whiteside, Lee, Kendall, Will, Rock Island, Henry, Bureau, La Salle, Grundy, Putnam, Stark, Marshall, Livingston, Kankakee, and Iroquois Counties IL; Lake and Porter Counties, IN; and Rock, Kenosha, Walworth and Racine Counties, WI. An underlying ETA seeks 120 days authority. Supporting shipper: Swift Independent Packing Company, Division of Swift & Company, 115 West Jackson Blvd., Chicago, IL 60604.

MC 142779 (Sub-4–TA), filed: October 9, 1980. Applicant: WEIER AIR FREIGHT, INC., 4928 S. Second St., Milwaukee, WI 53207. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. *General commodities* (except those of unusual value, household goods as defined by the Commission, classes A & B explosives, commodities in bulk, and those requiring special equipment) between points in Brown, Calumet, Dodge, Fond du Lac, Kenosha, Manitowoc, Milwaukee, Outagamie, Ozaukee, Racine, Sheboygan, Walworth, Washington, Waukesha, and Winnebago Counties, WI, on the one hand, and, on the other, Milwaukee, WI and Chicago, IL and its commercial zone. An underlying ETA seeks 120 days authority. RESTRICTION: Restricted to the transportation of traffic having a prior or subsequent movement by water. Supporting shippers: Schenkers International Forwarders, Inc., 4950 South 2nd St., Milwaukee, WI 53207; Arthur J. Fritz and Company, 2301 Mount Prospect Road, Des Plaines, IL 60018; Micro Design, Division of Bell & Howell, 857 W. State St., Hartford, WI 53027; and Mariner International Company, Divison of Brunswick, 1939 Pioneer Road, Fond du Lac, WI 54935.

MC 147488 (Sub-4–4TA), filed: October 9, 1980. Applicant: Burt Clifford Transport, Inc., Box 400, Ruthven, Ontario, Canada NOP 2G0. Representative: Miss Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. *Glassware, glass table products, molds, empty cartons* and *pallets,* between ports of entry on the U.S.-Canada International Boundary Line in MI and NY, on the one hand, and, on the other, points in PA, WV, NY, MD, NJ, MI and OH, restricted to shipments moving to or from facilities of Libbey-St. Clair, Inc. at Wallaceburg, Ont. Supporting shipper: Libbey-St. Clair, Inc., 1250 James Street, Wallaceburg, Ont., Canada N8A 4L8.

MC 76266 (Sub-4–12TA), filed: October 7, 1980. Applicant: ADMIRAL-MERCHANTS MOTOR FREIGHT, INC., 2625 Territorial Road, St. Paul, MN 55114. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Furnaces, house heating, hot air* from the facilities of Applies Air Systems, Inc. at St. Paul, MN to all points in the U.S. An underlying ETA seeks 120 days authority. Supporting shipper: Applied Air Systems, Inc., 2475 Doswell Avenue, St. Paul, MN 55108.

MC 150786 (Sub-4–2TA), filed: October 9, 1980. Applicant: Bobby Barnes & Charles Fitzpatrick, d.b.a. B & F TRUCKING CO. (a partnership), 3240 Sangamon St., Steger, IL 60415. Representative: Philip A. Lee, 120 W. Madison St., Chicago, IL 60602. I—*Pasta products, spaghetti, noodles and macaroni,* between IL, KS, & NJ. II—*Manuafactured fertilizers,* in 50 pound packages, between CA, GA, IN, IL, LA, MI, MO, NJ, OH, TX, AR, MS, WI, & NC, Restricted to transportation under continuing contracts with D'AMICO FOODS CO. & WM. C. LYONS ASSOCIATED, LTD. Supporting shipper: D'AMICO FOODS COMPANY, 3601 Chicago Road, Steger, IL 60475. WM. C. LYONS ASSOCIATED, LTD., 21141 Governors Hwy., Matteson, IL 60443.

MC 95876 (Sub-4–5), filed: October 7, 1980. Applicant: ANDERSON TRUCKING SERVICE, 203 Cooper Avenue N, St. Cloud, MN 56301. Representative: William L. Libby (address same as applicant). (1) *Aluminum ingots and billets* from Ferndale, WA to Rockwall, TX (2) *Aluminum scrap* (a) from Alexandria, MN, Oklahoma City, OK, Bryan, TX and Sanford, FL to Rockwall, TX and Magnolia, AR, and (b) from Sanford, FL to Frederick, MD and (3) *Aluminum and aluminum products* from Rockwall, TX to Lancaster, PA. Supporting shipper: Howmet Aluminum Corp., 475 Steamboat Road, Greewich, CT 06830.

MC 115876 (Sub-4–1TA), filed: October 8, 1980. Applicant: ERWIN HURNER, 413 Valley Avenue,

Moorhead, MN 56560. Representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, ND 58126. *Contract* Irregular: *Potato flakes,* from the facilities of The Pillsbury Company at or near Grand Forks, ND, to Golden Valley, MN. Restricted to traffic moving under continuing contract(s) with The Pillsbury Company. An underlying ETA seeks 120 days authority. Supporting shipper: The Pillsbury Company, Consumer Products Division, 1100 North 4th Street, LeSueur, MN 565058.

MC 152005 (Sub-4–2TA), filed: October 8, 1980. Applicant: TRANSCONTINENTAL FREIGHT SYSTEMS, INC., 2550 South Archer Avenue, Chicago, IL 60608. Representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. *Contract* Irregular: *General commodities* (except articles of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk and those requiring special equipment), between points in the United States (except AK and HI), under a continuing contract with International Nu-Way Shippers, Inc., of Chicago, IL. Supporting shipper: International Nu-Way Shippers, Inc., 3333 South Iron Street, Chicago, IL 60608.

MC 108185 (Sub-4–8TA), filed: October 9, 1980. Applicant: JACK COLE-DIXIE HIGHWAY COMPANY, 2625 Territorial Road, St. Paul, MN 55114. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Lumber; Building materials; Posts and poles, wooden,* from the plant site of Newburg Road Lumber Co., Inc. at or near Haleyville, AL to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, PA, TN and WI. Supporting shipper: Newburg Road Lumber Co., Inc., P.O. Box 548, Haleyville, AL 35565.

MC 139151 (Sub-4–3TA), filed October 10, 1980. Applicant: CANUS TRUCKING, LTD., 150 Sutherland Ave., Winnipeg, Manitoba, Canada R2W 5K4. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, D.C. 20005. *Paper* (except newsprint), from Hamilton, OH, Chillocothe, OH, Aurora, IL and Plainwell, MI to Noyes, MN on the U.S./ Canada border. Supporting shipper: Inter City Papers Limited, Ville LaSalle, Quebec H8R 3W1.

MC 139482 (Sub-4–18TA), filed October 1, 1980. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: Barry M. Bloedel, P.O. Box 877, New Ulm, MN 56073. *Tires, tubes, automotive accessories and related products (except commodities in bulk),* from Buffalo, NY; Camden, AR; Carlisle, PA; Cincinnati, OH; Conshohoken, PA; Des Moines, IA; Eau Claire, WI; Elk Grove Village, IL; Findlay, OH; Indiana, PA; Indianapolis, IN; Jackson, MS; Kansas City, MO; Lenexa, KS; Little Rock, AR; Morton, IL; and Natchez, MS to Minneapolis and St. Paul, MN. An underlying ETA seeks 120 days authority. Supporting shipper: Trans-Continental Tire Sales, Inc., 7968 Main St. N.E., Fridley, MN 55432.

MC 118612 (Sub-4–4TA), filed October 4, 1980. Applicant: COLUMBIA TRUCKING, INC., 700–131st Place, Hammond, IN 46320. Representative: Richard A. Kerwin, 180 North La Salle Street, Chicago, IL 60601. *Hot asphalt, in bulk, in tank vehicles.* From McCook, IL to Detroit, MI. Supporting shipper: Trumbull Asphalt Division of Owens-Corning, Fiberglas Corporation, 59 & Archer Road, Summit, IL 60501.

MC 134022 (Sub-4–1TA), filed October 8, 1980. Applicant: RICHARD A. ZIMA, d.b.a., ZIPCO, P.O. Box 715, West Bend, WI 53095. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. *Such commodities as are dealt in by retail gift and curio shops,* from the facilities of Swiss Colony, Inc. and Swiss Colony Stores, Inc., at Madison and Monroe, WI to points in the U.S. (except AK and HI). Supporting shipper: Swiss Colony Stores, Inc., Swiss Colony, Inc., 1112 7th Ave., Monroe, WI 53566

MC 152132 (Sub-4–1TA), filed October 9, 1980. Applicant: FRANK PEYERL, P.O. Box 607, Cando, ND 58324. Representative: David C. Britton, 1425 Cottonwood St., Grand Forks, ND 58201. *Foodstuffs (including in bulk), and machinery and supplies used in the manufacture thereof,* between Towner County, ND on the one hand, and, on the other, points in the U.S. Supporting shipper: Noodles by Leonardo, Cando, ND 58324

MC 151507 (Sub-4–3TA), filed October 9, 1980. Applicant: J. LAKES TRUCKING, INC., 2957 S. E. St., Indianapolis, IN 46206. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *(1) Paper and paper products and (2) materials, equipment and supplies used in the manufacture, sale and distribution of the commodities in (1) above (except commodities in bulk)* between pts. in Butler County, OH, on the one hand, and, on the other, pts. in the U.S. (except AK and HI). Restricted to traffic originating at or destined to the facilities of The Beckett Paper Co. Supporting shipper: The Beckett Paper Co., 4th & Buckeye Sts., Hamilton, OH 45012.

MC 146761 (Sub-4–1TA), filed October 8, 1980. Applicant P. J. TRUCKING, INC., P.O. Box 376, Summit, IL 60501. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956.

Nonexempt Food or Kindred Products

(1) Between points in CA in interstate commerce restricted to shipments in containers or trailers having a prior or subsequent movement by rail. (2) Between Chicago, IL and Points in IA, IL, IN, KY, MI, MO, OH, PA and WI restricted to shipments in containers or trailers having a prior or subsequent movement by rail. An underlying ETA seeks 120 days authority. Supporting shippers: Weibel Champagne Vineyards, 1250 Sanford Avenue, Mission, San Jose, CA 94538, Delicato Vineyards, 12001 S. Hwy 99, Manteca, CA 95336 and Gloreitta Foods, P.O. Box 5040, San Jose, CA 95150.

The following applications were filed in region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 200 (Sub-5–57TA), filed October 8, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same as applicant). *General commodities (except household goods as defined by the Commission and classes A & B explosives),* between Grant County, KS, Montgomery County, TX, and Marshall County, WV, on the one hand, and, on the other, points in CA, CO, CT, DC, DE, IA, IL, IN, KS, KY, MA, MD, MI, MO, NE, NJ, NY, OH, OK, PA, RI, TX, VA, AND WV. Restricted to shipments originating at or destined to facilities used by Columbian Chemical Co., its suppliers, or vendors. Supporting shipper: Columbian Chemical Co., P.O. Box 37, Tulsa, OK 74102.

MC 200 (Sub-5–58TA), filed October 9, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same as applicant). *Bracing, bulkheads, or fiberborad or paper and bracing, blocks, or panels, fiberborad, paper, or corrugated,* between the facilities of Down River Forest Products at or near Waco, TX, on the one hand, and, on the other, Lawrence, KS. Restricted to shipments originating at the named origins and destined to the named destinations. Supporting shipper: Down River Forest Products, 7201 Imperial, Waco, TX 76710.

MC 200 (Sub-5–59TA), filed October 9, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W.

Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same as applicant). *General commodities (except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* between Webster County, KY, on the one hand, and, on the other, points in CA, CO, CT, DC, DE, IA, IL, IN, KS, KY, MA, MD, MI, MO, NE, NJ, NY, OH, OK, PA, RI, TX, VA, & WV. Restricted to shipments originating at or destined to facilities used by Anaconda Aluminum Co., its affiliates, suppliers, or vendors. Supporting shipper: Anaconda Aluminum Co., 2700 First National Tower, P.O. Box 32860, Louisville, KY 40232.

MC 29910 (Sub-5–54TA), filed October 9, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (address same as applicant). Common, Regular. *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* serving points in Sussex, Warren, Morris and Passaic Counties, NJ as intermediate and off-route points in connection with applicant's existing regular route authority between New York, NY and Raleigh, NC. Applicant intends to tack and interline. Supporting Shipper (s): 6.

MC 30844 (Sub-5–24TA), filed October 8, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 4616 East 67 Street, Tulsa, OK 74121. Representative: Robert Kroblin, P.O. Box 21222, Tulsa, OK 74121. *Alcoholic beverages (except malt beverages and commodities in bulk)* between AR, CA, FL, IN, IL, KY, LA, MA, MI, MO, NJ, NY, OH, OK, TN, and TX. Restricted to transportation originating at or destined to the facilities utilized by Jarboe Sales Company. Supporting shipper: Jarboe Sales Company, 6924 East Reading Place, Tulsa, OK 74151.

MC 35320 (Sub-5–33), filed October 9, 1980. Applicant: T.I.M.E.–DC, INC., 2598 74th Street, P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Common, regular. *General Commodities, except household goods as defined by the Commission, and Classes A and B explosives,* serving Beaumont, TX and its commercial zone as an off-route point in connection with carrier's otherwise authorized regular route operations. Supporting shippers: 6.

Note.—Applicant intends to tack to its existing authority and any authority it may obtain in the future and interline with other carriers.

MC 82841 (Sub-5–3TA), filed October 8, 1980. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, NE 68127. Representative: Donald L. Stern, 7171 Mercy Road, Suite 610, Omaha, NE 68106. (1) *Metal products, fabricated steel products, and (2) materials and supplies used in the manufacture of (1) above* between Lancaster County, NE, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Brownie Manufacturing Co., Inc. and Central Nebraska Tubing, a Subsidiary of Brownie Manufacturing Co., Inc. 1777 U.S. Highway 6, Waverly, NE 68462.

MC 85718 (Sub-5–1TA), filed October 9, 1980. Applicant: SEWARD MOTOR FREIGHT, INC., P.O. Box 126, Seward, NE 68434. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. *Automotive parts, accessories,* and *tools,* between Portland, OR on the one hand, and, on the other, points in WA and ID. Supporting shipper: Walker Manufacturing Company, 12229 N. Burgard, Portland, OR 97203.

MC 117119 (Sub-5–35TA), filed October 8, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). (1) *Confectionery* and (2) *materials, supplies, and equipment used in the manufacture, sale, and distribution of confectionery (except commodities in bulk)* between Selma, AL on the one hand and on the other points in the U.S. (except AK & HI). Supporting shipper(s): American Candy Manufacturing Co., P.O. Box 879, Selma, AL 36701.

MC 117373 (Sub-5–2TA), filed October 9, 1980. Applicant: NU–WAY TRUCKING INC., 101 E. Monroe, Owensville, MO 65066. Representative: Dennis D. Dunton (same address as applicant). *Contract* irregualr: *Steel pipe and tubing* between points in the State of TX, on the one hand, and, on the other, points in AR, IL, LA, MO, OK and TN, under continuing contract with Southern Metals Div. of MPL Industries. Supporting shipper: Southern Metals Div. of MPL Industries, 12900 Preston Road, Dallas, TX 75230.

MC 118341 (Sub-5–2TA), filed October 7, 1980. Applicant: VALLEY TRUCKING CO., INC., P.O. Box 2298, Brownsville, TX 78520. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *(1) Electrical parts, components and articles used in the manufacture of automobile radios; and (2) circuit boards and parts for automobile radios;* (1) from Kokomo and Indianapolis, IN and Oak Creek, WI, to the ports of entry at Brownsville, TX, and (2) from the ports of entry at Brownsville, TX, to Kokomo, IN; restricted to shipments in export or import through service in carrier equipment. Supporting shipper: Delco Electronic Div. General Motors Corp., 700 E. Firmin St., Kokomo, IN 46901.

MC 119399 (Sub-5–28TA), filed October 9, 1980. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, 2900 Davis Boulevard, Joplin, MO 64801. Representative: Thomas P. O'Hara (same as applicant). *Liquid resin solution, in drums and pails, (except in bulk),* from Mayes County OK to points in CO, FL, FA and IA. Supporting shipper: Interplastic Corporation, Commercial Resins Division, Bartlesville, OK.

MC 119399 (Sub-5–29TA), filed October 9, 1980. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, 2900 Davis Boulevard, Joplin, MO 64801. Representative: Thomas P. O'Hara (address same as applicant). (1) *Malt Beverages:* (2) *Wines and Spirits;* (1) From Peoria, IL to Springfield, MO; (2) From points in CA to Springfield, MO. Supporting shipper: Murray Distributing Company, Springfield, MO.

MC 119493 (Sub-5–46TA), filed October 9, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone, Traffic Manager, Monkem Company, Inc., P.O. Box 1196, Joplin, MO 64801. *General commodities (except classes A & B explosives).* Between the facilities owned or utilized by Velsicol Chemical and points in the U.S. Supporting shipper: Edward A. Wysocki, Traffic Manager, Velsicol Chemical Corporation, 341 E. Ohio, Chicago, IL 60611.

MC 119741 (Sub-5–19TA), filed October 9, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (address same as applicant). *General commodities (except in bulk, in tank vehicles),* from points in the U.S. to Webster County, IA. (Supporting shipper: White Transfer & Storage, Inc., P.O. Box 1355, Fort Dodge, IA 50501.)

MC 134405 (Sub-5–13TA), filed October 8, 1980. Applicant: BACON TRANSPORT COMPANY, P.O. Box 1134, Ardmore, OK 73401. Representative: Wilburn L. Williamson, Suite 615–East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Barite, in bulk,* from Galveston, TX to points in LA. Supporting shipper: Milchem Inc., a

Division of Baker International, P.O. Box 22111, 3920 Essex Lane, Houston, TX 77027.

MC 135797 (Sub-5–73TA), filed October 8, 1980. Applicant: J. B. HUNT TRANSPORT, INC., Post Office Box 130 Lowell, AR 72745. Representative: Paul R. Bergant, Post Office Box 130, Lowell, AR 72745. *Textiles:* Between Dallas County, TX on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Southern Textiles, 11448 Reeder Road, Dallas, TX 75229.

MC 138634 (Sub-5–2TA), filed October 9, 1980. Applicant: MARSHALL MOTOR COACH, INC., 1409 East Anson, Marshalltown, IA 50158. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Common, irregular, *Meat, meat products and meat by-products,* from Marshalltown, IA, to points in the U.S. in and east of ND, SD, NE, CO and NM. Supporting shipper: Marshall Packing Company, Inc., 816 Union Street, Marshalltown, IA 50158.

MC 140033 (Sub-5–7TA), filed October 9, 1980. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: Jackson Salasky, P.O. Box 45538, Dallas, TX 75245. *Floor coverings and/or materials and supplies used in the installation of floor coverings* from Los Angeles, and Orange, CA and Bartow, Floyd, Gilmer, Gordon, Murray, Walker and Whitfield Counties, GA to Bell, Bexar, Dallas, Paris, Nueces, Tarrant and Travis Counties, TX for 270 days. Supporting shipper(s): L. D. Brinkman, P.O. Box 47586, Dallas, TX 75247 and Longhorn Carpet Distributing Company, P.O. Box 17035, Austin, TX 78760.

MC 141865 (Sub-5–12TA), filed October 9, 1980. Applicant: ACTION DELIVERY SERVICE, INC., 2401 West Marshall Drive, Grand Prairie, TX 75051. Representative: A. William Brackett, 1108 Continental Life Building, Fort Worth, TX 76102. Contract; Irregular. *Such commodities as are dealt in or used by manufacturers and distributors of paint, chemicals and related articles,* between Dallas County, TX, and points in AR and LA. Supporting shipper: The Sherwin-Williams Company, 2802 W. Miller Road, Garland, TX 75040.

MC 142672 (Sub-No. 5–15TA), filed October 6, 1980. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC. Post Office Drawer F, Mulberry, AR 72947. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *Candy and Confectionery and display and advertising materials related thereto,* between the facilities of Tootsie Roll Industries, Inc., at or near Chicago, IL, on the one hand, and, on the other, points in AR, CA, MI, MO, OH, OR and TX. Restricted to the transportation of traffic originating at or destined to the facilities of Tootsie Roll Industries, Inc. Supporting shipper: Tootsie Roll Industries, Inc., 7401 South Cicero Avenue, Chicago, IL 60629.

MC 144393 (Sub 5–2TA), filed October 8, 1980. Applicant: BORDER DISTRIBUTING COMPANY, 7800 S. Angora, P.O. Box 4423, El Paso, TX 79914. Representative: Gene Crutcher, same as applicant. *Copper Sulphate, in Packages,* from El Paso County, TX to points in CA. Supporting shipper: Phelps Dodge Corporation, New York, N.Y.

MC 145149 (Sub-5–4TA), filed October 9, 1980. Applicant: MATADOR SERVICE, INC., P.O. Box 2256, Wichita, KS 67201. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. *COKE, in dump vehicles with prior movement via water transportation,* from Decatur, Florence, Guntersville and Sheffield, AL; and Chattanooga and Knoxville, TN to the states of AL; GA; MS & TN. Supporting shipper: Koch Carbon, Inc., 888 Worcester St., Wellesley, MA 02181.

MC 150330 (Sub-5–7TA), filed October 7, 1980. Applicant: BELCO, INC., 2101 West Main Street, Jacksonville, AR 72076. Representative: Ron Harvey, 2101 West Main Street, Jacksonville, AR 72076, (501) 982–6511. Contract irregular *paper, paper products, paper bags, plastic bags, and bags constructed of paper and plastic combined* between the facilities of Great Plains Bag Corporation at Des Moines, IA; Hodge, LA; Jacksonville, AR; and New Philadelphia, OH, and all points in the U.S. Supporting shipper: Great Plains Bag Corporation, 2201 Bell Avenue, Des Moines, IA 50321.

MC 152128 (Sub-5–1TA), filed October 8, 1980. Applicant: STATE TRANSPORT SERVICE, INC., 13029 Market Street, Houston, TX. Representative: C. W. Ferebee, 720 North Post Oak, Suite 230, Houston, TX 77024. *Iron and steel articles* between Harris County, TX, on the one hand, and, on the other, AR, CO, LA, MS, NM, and OK. Supporting shipper: Texas Steel & Wire, Inc., 2002 Brittmore, Houston, TX.

MC 152137 (Sub-5–1TA), filed October 9, 1980. Applicant: AMCO TRANSPORTATION, A. M. COX AND JAMES CONNER, c.b.a., 1305 Wildbriar Street, Lufkin, TX 75901. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *(1) Household appliances, (2) television sets and recorders (tape or wire), and (3) parts and accessories for household appliances, televisions and recorders,* from the facilities of General Electric Company at Little Rock, AR to points in LA, MS, NM, OK and TX. Supporting shipper: General Electric Company, 6901 Lindsey Rd., Little Rock, AR 72206.

MC 146616 (Sub-5–7TA), filed September 12, 1980. Applicant: B&H MOTOR FREIGHT, INC., 4024 West 21st Street, Tulsa, OK 74107. Representative: Fred Rahal, Jr., Suite 305, Reunion Center, 9 East Fourth Street, Tulsa, OK 74103. Contract; Irregular. (1) *Concrete curing compounds; (2) Materials and supplies used in the production and distribution of the commodities named in (1) above,* between the facilities of C & S Manufacturing Co., at Kansas City, KS, on the one hand, and, on the other, points in CA, FL, GA, IL, LA, MO, MS, OK, OH, TX and WA. Supporting shipper: C & S Manufacturing Co., 2129 S. 74th St., Kansas City, KS 66106.

MC 151902 (Sub-5–1TA), filed September 18, 1980. Applicant: C & S CARRIER SERVICE, 311 East Buena Vista Springfield, MO 65807 Representative: Gene Christenson (same as applicant). *General Commodities, (with usual restrictions) moving on Freight Forwarders bills of lading, restricted to shippers moving on Acme ABC–TNT, Trans National transport, bills of lading,* Between points in WA, OR, CA, NV, ID, MT, WY, UT, AZ, NM, CO, ND, SD, NE, KS, OK, TX, MO, IA, MN, WI, MI, IL, IN, OH, KY, TN, PA, WV. Supporting shippers: Acme Fast Freight, Inc., ABC–TNT Trans National Transport, Inc., 2110 Alhambra Avenue, Los Angeles, CA 90031.

MC 11592 (Sub-5–5TA), filed October 10, 1980. Applicant: BEST REFRIGERATED EXPRESS, INC., P.O. Box 7365, 824 Livestock Exchange Bldg., Omaha, NE 68107. Representative: F. E. Myers, P.O. Box 7365, Omaha, NE 68107. *Meats, meat products, meat by-products and articles distributed by meat-packing houses, as defined in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodites and hides in bulk, in tank vehicles).* From: Sedwick County in KS to: Points in IA, NE, MN, SD, CO, IL, IN, OH, MI and WI. Supporting shipper: Dubuque Packing Company, P.O. Box 4225, Wichita, KS 67214.

MC 35320 (Sub-5–34TA), filed October 10, 1980. Applicant: T.I.M.E.–DC, INC., 2598 74th Street, P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Common, regular. *General Commodities, except household goods as defined by the Commission, and Classes A and B explosives,* serving Reno, NV. and

Sparks, NV. and their commercial zones as off-route points in connection with carrier's otherwise authorized regular route operations. Supporting shippers: 5

Note.—Applicant intends to tack to its existing authority and any authority it may obtain in the future and interline with other carriers.

MC 113908 (Sub-5–21TA), filed October 10, 1980. Applicant: ERICKSON TRANSPORT CORP., 2255 North Packer Road, P.O. Box 10068 G.S., Springfield, MO 65804. Representative: B. B. Whitehead (same address as applicant). *Fruit Juice and Fruit Juice Contentrates* Between (Soledad), Monterey County, CA, on the one hand, and, on the other, (Litchfield), Litchfield County, CT. Supporting shipper: Haight Vineyards, Chestnut Hill, Litchfield, CT 06759.

MC 126930 (Sub-5–4TA), filed October 10, 1980. Applicant: BRAZOS TRANSPORT CO., P.O. Box 2746 Lubbock, TX 79408. Representative: Richard Hubbert, Sims, Kidd, Hubert & Wilson, P.O. Box 10236, Lubbock, TX 79408, (806) 763–9555. *Iron and Steel Articles, and materials, equipment and supplies used in the manufacture, distribution and installation of such commodities,* between Harris County, TX, on the one hand; and on other, points in the states of OK, LA, MS, AR, MO, KS, CO, NE, SD, ND, NM, MN, WI, IA, IL, TN, AL and TX. Supporting shipper: Shinko Wire America, Inc., 11020 Tanner Road, P.O. Box 218808, Houston, TX 77218.

MC 151504 (Sub-5–2), filed October 10, 1980. Applicant: PHELCO, INC., 11842 Missouri Botton Road, St. Louis, MO 63042. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, (314) 737–0777. *Such commodities as are dealt in by retail chain grocery and food business houses and materials and supplies used in the manufacture and distribution of the above, except commodities in bulk,* between CA, CO, FL, GA, LA, MD, MI, MN, MO, NJ, NC, OH, OR, RI, and TX. Supporting shipper(s): Lever Bros. Company, 1400 N. Pennsylvania, St. Louis, MO 63133.

MC 152151 (Sub-5–1TA), filed October 10, 1980. Applicant: UNITED PETROLEUM TRANSPORTS, INC., 4312 S. Georgia Place, Okla. City, OK 73129. Representative: C. L. Phillips, Room 248—Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. *Petroleum and Petroleum Products,* between points in OK on the one hand, and on the other, points in AR. Supporting shipper(s): Sanders Oil Company, P.O. Box 457, Grove, OK 74344.

MC 152157 (Sub-5–1TA), filed October 10, 1980. Applicant: CLARENCE R. MINKS, Route #2, Box 58D, Broseley, MO 63932. Representative: Clarence R. Minks, Route #2, Box 58D, Broseley, MO 63932. Contract: Irregular. *Ingredients of livestock feed and poultry feed which consists of alfalfa meal, soybean meal, middlings, rice by-products, cotton seed meal, and bagged agriculture lime,* from points in AR, IL, KY, TN, and MS to Sikeston, MO. Restricted to transportation performed for Cargill, Inc. Supporting shipper: Cargill, Inc., 410 West Malone, Sikeston, MO 63801.

THE FOLLOWING APPLICATIONS WERE FILED IN REGION 6. SEND PROTESTS TO: INTERSTATE COMMERCE COMMISSION, REGION 6 MOTOR CARRIER BOARD, P.O. BOX 7413, SAN FRANCISCO, CA 94120.

MC 116544 (Sub-6–19TA), filed October 8, 1980. Applicant: ALTRUK FREIGHT SYSTEMS INC., 1703 Embarcadero Rd., Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. *Frozen prepared foods* between Riverside County, Orange County, CA, Bernalillo County, NM and all points in the states of AL, CO, FL, GA, IA, IN, KY, LA, MI, MO, MS, NE, NM, OH, TN, and TX for 270 days. An underlying ETA seeks 120 days authority. Restriction: Restricted to or from the facilities of Butcher Boy Foods. Supporting shipper: Butcher Boy Foods, 12155 Magnolia Avenue, Riverside, California.

MC 133276 (Sub-6–1TA), filed October 7, 1980. Applicant: BERRY TRANSPORT, INC., 5315 NW St. Helens Rd., Portland, OR 97210. Representative: Nick I. Goyak, O'Connell, Goyak & Ball, P.C., One Southwest Columbia, Suite 555, Portland, OR 97258. *General commodities* (except classes A & B explosives, household goods as defined by the Commission), in containers, *container chassis, iron* and *steel articles* and *machinery* between points in OR, WA, ID, CA, MT and UT for 270 days. Supporting shippers: Johnson Scanstar Line, General Steamship Corp., 421 SW Sixth Avenue, Portland, OR 97204; Japan Line (USA) Ltd., 421 SW Sixth Avenue, Portland, OR 97204; Del Monte Corporation, 1425 NE Irving, Portland, OR 97232.

MC 41932 (Sub-6–2TA), filed October 6, 1980. Applicant: BROWNING FREIGHT LINES, INC., 650 So. Redwood Rd., Salt Lake City, UT 84104. Representative: Ronald D. Browning, 1321 S. E. Water Ave., Portland OR 97214. *Common Carrier:* Regular Route: *General Commodities* (except household goods) between Elko, NV and Reno, NV serving all intermediate points over Interstate Hwy 80 for 270 days. Authority is requested to tack and to interline. Supporting shipper: There are 38 supporting shippers. Their statements may be examined at the Regional office listed. An underlying ETA seeks 120 days authority.

MC 152123 (Sub-6–1TA), filed October 6, 1980. Applicant: JAMES L. BUSCHBOM, P.O. Box 927, Livingston, MT 59047. Representative: Alma Lea Longmire, P.O. Box 30193, Billings MT 59107. *Contract Carrier* Irregular routes: *Lumber* from Pablo, MT to all points in the U.S.A. for the account of Plum Creek Lumber Company, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Plum Creek Lumber Company, Plant #2, Pablo, MT 59855.

MC 141431 (Sub-6–1TA), filed October 7, 1980. Applicant: CAL–VALLEY TRANSPORTATION, INC., 1315 East Holt Blvd., Ontario, CA 91761. Representative: Robert Fuller, 13215 E. Penn St., Suite 310, Whittier, CA 90602. *Contract Carrier,* Irregular routes: *Frozen fruits and vegetables* from Watsonville and Atwater, CA and Bear Lake and Decatur, MI to points in the United States (except AK and HI) under contract with J. R. Wood, Inc. for 270 days authority. Supporting shipper: J. R. Wood, Inc., 7916 West Bellevue, Atwater, CA 95301.

MC 151620 (Sub-6–1TA), filed October 8, 1980. Applicant: COBRA TRUCKING SERVICE, INC., 4012 N. 85th Ave., Phoenix, AZ 85037. Representative: Lawrernce J. Exe., 1701 W. Walnut Parkway, Comption, CA 90220. *Contract carrier,* irregular routes: *General commodities* except household goods as defined by the Commission and classes A and B explosives), between Los Angeles and its commercial zone; CA and Maricopa County and Tucson, AZ, for 270 days. An under lying ETA seeks 120 days. Supporting shipper: LAWI/CSA Consolidators, Inc., 5610 S. Soto St., Huntington Park, CA 90255.

MC 42487 (Sub-6–36TA), filed October 6, 1980. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. *Common carrier,* regular routes: *General Commodities, (except those of unusual value, Classes A and B explosives, livestock, green hides, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment).* Serving the facilities of Purolator, Inc., and Mr. Hanger Corp., Inc., at or near Ringtown, PA, Air Products & Chemicals and J. E. Morgan Kitting Mills, Inc., at or

near Tamaqua, PA and Richmond Screw Anchor Co., at or near Tremont, PA, as off-route points in connection with carrier's otherwise authorized regular route operations, for 270 days. Applicant intends to tack to its existing authority and any authority it may acquire in the future. The proposed authority will be tacked or joined with authority in Docket No. MC 42487 Sub 578, as an off-route point. the Sub 578 authorities, in turn, will be tacked or joined with other present authorities of Applicant at such points as Boston, MA, Buffalo, NY, Chicago, IL, Cincinnati, OH, Detroit, MI, Indianapolis, IN, Minneapolis, MN and St. Louis, MO, to permit service to and from points throughout the United States. Applicant proposes to interline traffic with its present connecting carriers at authorized interline points throughout the United States as provided in tariffs on file with the Interstate Commerce Commission. Supporting shipper(s): Purolator, Inc., R.D. No. 1, P.P. No. 1, Ringtown, PA 17967. Mr. Hanger Corp., Inc., Main Street, Ringtown, PA 17967. Air Products & Chemicals, R.D. No. 2, P.O. Box 351, Hometown, Tamaqua, PA 18252. J. E. Morgan Knitting Mills, Inc., Rt. No. 54, Hometown, Tamaqua, PA 18252. Richmond Screw Anchor Co., 55 N. Pine Street, Tremont, PA 17981.

MC 139171, (Sub-6–10TA), filed October 7, 1980. Applicant: CONTROLLED DELIVERY SERVICE, INC., P.O. Box 1299, City of Industry, CA 91749. Representative: Robert L. Cope, Suite 501, 1730 M St., NW, Washington, DC 20036. *Contract Carrier,* Irregular routes: *General commodities* (except household goods as defined by the Commission and Classes A and B explosives), between OR, on the one hand, and, on the other, AZ, CA, CO, ID, MT, NM, NV, OK, OR, TX, UT, WA, and WY under continuing contract with Seaport Cooperative, Inc., of Portland, OR, for 270 days. Supporting shipper: Seaport Cooperative, Inc., 730 N.W. 11th Avenue, Portland, OR 97209.

MC 139171 (Sub-6–11TA), filed October 8, 1980. Applicant: CONTROLLED DELIVERY SERVICE, INC., P.O. Box 1299, 17295 E. Railroad Avenue, City of Industry, CA 91749. Representative: Robert L. Cope, 1730 M Street, NW, Suite 501, Washington, DC 20036. *Contract carrier;* Irregular routes: *General commodities (except household goods as defined by the Commission, and Classes A and B explosives),* between IL, on the one hand, and, on the other, points in the US, under continuing contract with international Nu-Way Shippers, Inc., of Chicago, IL., for 270 days. Supporting shipper: International Nu-Way Shippers, Inc., 3333 So. Iron St., Chicago, IL 60608.

MC 113678 (Sub-6–24TA), filed October 6, 1980. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, CO 80022. Representative: Roger M. Shaner (same as above). *Blood serums* from Lincoln, NE, to points in the U.S., for 270 days. Supporting shipper: Centennial Corporation, 766 NBC Center, Lincoln, NE.

MC 115826 (Sub-6–19TA), filed October 6, 1980. Applicant: W. J. DIGBY, INC., 6015 East 58th St., Commerce City, CO 80022. Representative: Charles M. Williams, 350 Captiol Life Center, 1600 Sherman St., Denver, CO 80203. *Bottled, Sparkling Mineral Water,* from the ports of entry at Los Angeles and Oakland, CA and Houston, TX and from points in their respective commercial zones to points in AZ, CO, ID, MT, NV, NM, OR, UT, WA and WY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Great Waters of France, Inc., 7217 South Spruce, Englewood, CO 80112.

MC 149364 (Sub-6–6TA), filed October 7, 1980. Applicant: DOUDELL TRUCKING COMPANY, 555 E. Capitol Avenue, Milpitas, CA 95305. Representative: Ronald C. Chauvel, 100 Pine Street, Ste. 2550, San Francisco, CA 94111. *Contract carrier,* irregular routes. *Animal and poultry feed and materials and supplies required to manufacture and distribute animal and poultry feed* between Chandler, AZ and CA, NV, NM, CO, UT, and TX under continuing contracts with Doane Products Company for 270 days. Shipper: Doane Products Company, P.O. Box 879, Joplin, MO 64801.

MC 152115 (Sub-6–1TA), filed October 6, 1980. Applicant: G. K. DISTRIBUTION CO., 13101 E. Rosecrans Blvd., Sante Fe Springs, CA 90670. Representative: George Kuiphof (same address as applicant). *Furniture and furniture parts, including mattress and upholstored box springs* from Los Angeles and Orange Counties, CA to points and places in AZ and NV, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Englander Van Vorst Corp., 6000 South St. Andrews Pl., Los Angeles, CA 90047.

MC 146024 (Sub-6–1TA), filed October 7, 1980. Applicant: G & R PETROLEUM, INC., 253 S.W. 4th Avenue, Ontario, OR 97914. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. *Contract Carrier,* Irregular routes: *Petroleum and petroleum products,* from Boise, ID and points in its commercial zone and Fruitland, ID and points in its commercial zone to points in Malheur County, OR, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Farmers Supply Co-op, 514 S.W. 4th Ave., Ontario, OR 97914.

MC 133215 (Sub-6–1TA), filed October 6, 1980. Applicant: INTERIOR MOTOR FREIGHT, INC., P.O. Box 857, The Dalles, OR 97058. Representative: Jerry R. Woods, Suite 1600, One Main Place, Portland, OR 97204. *Common carrier,* regular routes, *general routes, general commodities* (except household goods as defined by the Commission and commodities in bulk): (1) Between Portland, OR and Goldendale, WA: from Portland over Interstate Hwy 84N to junction U.S. Hwy 97, then over U.S. Hwy 97 to Goldendale, and return over the same route, serving all intermediate points and all points in OR and WA within ten (10) miles of said route; (2) Between Hood River, OR and Goldendale, WA: from Hood River to WA State Hwy 14 via an undesignated bridge over the Columbia River, then over WA State Hwy 14 to Junction U.S. Hwy 97, then over U.S. Hwy 97 to Goldendale, and return over the same route, serving all intermediate points and the off route points of The Dallas and Biggs, OR, for 270 days. Supporting shippers: There are 35 shippers. Their statements may be examined at the Regional office listed. Applicant intends to tack and interline.

MC 26462 (Sub-6–1TA), filed October 3, 1980. Applicant: JACA TRUCK LINES, P.O. Box 87, McDermitt, NV 89421. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. *Equipment, materials and supplies utilized by ranch, farm or mining operations,* between points in Malheur and Harney counties, OR; Owyhee County, ID; Lander, Humboldt, Pershing, Elko, Washoe and Churchill Counties, NV, on the one hand, and on the other, points in AZ, CA, CO, ID, MT, NM, OR, UT, WA and WY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: There are 5 shippers. Their statements may be examined at the Regional office listed.

MC 151472 (Sub-6–5TA), filed October 3, 1980. Applicant: PBI FREIGHT SERVICE, P.O. Box 37, Orem, UT 84057. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110. *Contract Carrier,* Irregular routes: *General commodities* (except household goods as defined by the Commission and Class A and B explosives), between points in CA, NV, UT, CO, AZ, ID, TX, IL, IN, OH, MO and NM, for the account of Trans-West Shipper's Association, for 270 days per Ex Parte MC–67 (Sub-No. 9). Supporting shipper: Trans-West

Shipper's Association, 3029 East 3215 South, Salt Lake City, UT 84109.

MC 134201 (Sub-6–1TA), filed October 7, 1980. Applicant: JIM PALMER TRUCKING, 9730 Derby Dr., Missoula, MT 59801. Representative: John T. Wirth, 717—17th St., Suite 2600, Denver, CO 80202. *Contract Carrier,* irregular routes: *Lumber and wood products,* from Lake County, MT to points in OH, MI, IL, WI, NM, IA, NE, IN, CO, KS and MO, for the account of Plum Creek Lumber Company, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Plum Creek Lumber Company, Box 188, Pablo, MT 59855.

MC 143531 (Sub-6–1TA), filed October 3, 1980. Applicant: POWDER RIVER MOTOR TRANSPORT CORPORATION, P.O. Box 300, Provo, UT 84601. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. *Contract Carrier,* Irregular routes: *Primary and fabricated metal products,* between the facilities of Powder River Enterprises, Inc. at Provo, UT, on the one hand, and, on the other, points in the United States, under a continuing contract(s) with Powder River Enterprises, Inc., for 270 days. Supporting shipper: Powder River Enterprises, Inc., 394 East 900 South, Provo, UT 84601.

MC 56945 (Sub-6–2TA), filed October 3, 1980. Applicant: S & H TRUCK LINES, INC., 13990 Valley Blvd., Fontana, CA 92335. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. *Conduit or pipe, cement or asbestos fiber, and accessories,* restricted to traffic having a subsequent movement by water, from the facilities of Certainteed Corporation at Crestmore, CA, to Oakland, CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Certainteed Corporation, 2100 Avalon, Crestmore, CA.

MC 151853 (Sub-6TA), filed October 6, 1980. Applicant: DONALD L. SHIRLEY, 5242 West Via Camille, Glendale, AZ 85306. Representative: James F. Crosby & Assoc., 7363 Pacific St., No. 210B. Omaha, NE 68114. *Such commodities as are used or dealt in by retail stores,* (1) between Santa Fe Springs and San Diego, CA on the one hand, and, on the other, Phoenix and Tempe, AZ, and (2) between Sante Fe Springs and San Diego, CA; and Phoenix and Tempe, AZ, on the one hand, and, on the other, Window Rock, AZ, for 270 days. An underlying ETA seeks 120 days authority. Restriction: Restricted to shipments originating at or destined to the facilities of Fed Mart Corp. Supporting shipper: Fed Mart Corporation, 7130 Miramar Rd., San Diego, CA 92121.

MC 138875 (Sub-6–26TA), filed October 8, 1980. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Rd., Boise, ID 83709. Representative: F. L. Sigloh (same address as applicant). *Gypsum, gypsum wallboard, joint compounds and materials and supplies used in the application thereof* (except commodities in bulk), from Sevier County, UT to points in Los Angeles, Orange, Riverside and Ventura Counties, CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Georgia-Pacific Corporation, 900 S.W. Fifth Ave., Portland, OR 97204.

MC 152099 (Sub-6–1TA), filed October 6, 1980. Applicant: SNAKE RIVER TRUCKING, INC., Rt. 2, Box 390, Rigby, ID 83442. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. *Contract carrier,* irregular routes: *Iron and steel articles,* from the facilities of Brown Strauss, division of Azcon Corporation, at or near Pleasant Grove, UT to ID for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Brown Strauss, division of Azcon Corporation, P.O. Box 175, Pleasant Grove, UT 84062.

MC 152130 (Sub-6–1TA), filed October 7, 1980. Applicant: TABOR TRUCK LINES, INC., P.O. Box 2728, Sacramento, CA 95812. Representative: Michael T. Applegate, P.O. Box 2728, Sacramento, CA 95812. *Contract carrier,* irregular routes: *General commodities,* with the usual exceptions, from Alameda County, CA to Washoe County, NV, for the account of Foremost-McKesson, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Foremost-McKesson, Inc., One Post St., San Francisco, CA 94104.

MC 151332 (Sub-6–1TA), filed October 6, 1980. Applicant: GARRY E. THREADGILL, d.b.a. GARRY E. THREADGILL TRUCKING CO., 16210 S. E. 135th, Renton, WA 980955. Representative: George R. LaBissoniere, 15 South Grady Way—Suite 233, Renton, WA 98055. *Contract carrier,* Irregular routes: *Steel Furniture or Fixtures,* from points in OH, IN, IL, and WI to points in ID, OR, and WA. For 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Business Furniture Distributors, 3601 Second Avenue South, Seattle, WA 98134.

MC 148791 (Sub-6–2TA), filed October 6, 1980. Applicant: TRANSPORT–WEST, INC., 2125 N. Redwood Road, Salt Lake City, UT 84116. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110. *Contract Carrier,* Irregular routes: *General commodities* (except household goods as defined by the Commission and Class A and B explosives), from Reno, NV and its commercial zone to points in or east of Interstate Hwy 5 and to points in the State of WA, for the account of K-Mart Corporation, for 270 days per Ex Parte MC–67 (Sub-No. 9). Supporting shipper: K-Mart Corporation, 1400 S. McCarran Blvd., Sparks, NV 89431.

MC 143812 (Sub-6–2TA), filed October 7, 1980. Applicant: VAN DIEST TRUCKING, INC., P.O. Box 418, Pomona, CA 91766. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Prune juice concentrate,* in bulk, from Fresno and Yuba City, CA, to Lake Wales, FL, and Sulphur Springs, TX, for 270 days. An underlying ETA seeks 120 day authority. Supporting shipper: Sun Diamond Growers of California, 1050 So. Diamond St., P.O. Box 1727, Stockton, CA 95201.

MC 114416 (Sub-6–14TA), filed October 6, 1980. Applicant: WESTERN TRANSPORT CRANE & RIGGING, 100 Western Way, Missoula, MT 59801. Representative: Theodore F. Anno, P.O. Box 3507, Missoula, MT 59806. (1) *Commodities which because of size or weight require special handling or special equipment,* and (2) *related articles and supplies when their transportation is incidental to the transportation of the commodities in (1) above,* between points in AZ, CA, CO, ID, KS, MT, ND, NE, NM, NV, OK, OR, SD, TX, UT, WA, and WY, restricted to the transportation of shipments originating at or destined to facilities used by Fuller Company for 270 days. Supporting shipper: Fuller Company, S. 10th and Mill Sts., Allentown, PA 18103.

MC 113678 (Sub-6–25TA), filed October 6, 1980. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, CO 80022. Representative: Roger M. Shaner (same as above). *Meats and carnivorous animal foods* from Lincoln, NE, to points in the U.S., for 270 days. Supporting shipper: International Foods, 766 NBC Center, Lincoln, NE.

MC 142122 (Sub-6–1TA), filed October 6, 1980. Applicant: PASCUZZO AND HONEYMAN TRUCKING, INC., 5127 Maywood Ave., Maywood, CA 90270. Representative: Peter Sowa (same as applicant). *Contract Carrier,* Irregular routes: *Salt and Salt Products in bag and block form,* from Lake Point, UT to points in CA for the account of Utah Salt Co., Inc. for 270 days. Supporting shipper: Utah Salt Co., Inc., 1935 South Main—Suite 307, Salt Lake City, UT 84115.

MC 151956 (Sub-6–1TA), filed October 7, 1980. Applicant: CARSON L. PATTERSON, d.b.a. CANYON

EXPRESS TRANSPORT SYSTEM, 2412 E. Isabella, Mesa, AZ 85204. Representative: Andrew V. Baylor, 337 E. Elm St., Phoenix, AZ 85012. *Non-exempt food or kindred products,* from Los Angeles, Orange, Riverside and San Bernardino Counties, CA to Coconino, Maricopa, Pima, Pinal and Yavapai Counties, AZ for 270 days. Supporting shippers: AME Food Service, Inc., 8705 E. McDowell, Scottsdale, AZ 85257; Food Service Marketing, Inc., 5517 N. Black Canyon Highway, Phoenix, AZ 85015; Joseph Solomon Sales, Inc., 2833 Leonis Blvd., Los Angeles, CA 90058.

MC 141804 (Sub-6–81TA), filed October 6, 1980. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same as applicant). *Commodities dealt in or ulitized by or manufactured by or distributed by manufacturers and distributors of containers,* between Wheeling, IL, Clayton, NJ, City of Commerce, CA on the one hand, and, on the other, points in the U.S. (except AK and HI). Restricted to traffic originating at or destined to the facilities of Ekco Products, its divisions and subsidiaries, for 270 days. Supporting shipper: Ekco Products, Inc., 777 Wheeling Rd., Wheeling, IL 60090.

MC 141804 (Sub-6–82TA), filed October 6, 1980. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same as applicant). *(1) Rubber and plastic articles and (2) materials, equipment and supplies used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk).* Between Irving, TX on the one hand, and, on the other, points in the U.S. (except AK and HI), for 270 days. Supporting shipper: Entek Corporation of America, 104 County Line Rd., Irving, TX 75060.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-32883 Filed 10-21-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any aplication, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to application 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.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant 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. 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 protests in the form of verified statements filed on or before December 8, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. 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".

Volume No. OP2–059

Decided: September 29, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 41932 (Sub-14F), filed September 17, 1980. Applicant: BROWNING FREIGHT LINES, INC., 650 South Redwood Rd., Salt Lake City, UT 84104. Representative: Ronald D. Browning, 1321 S.E. Water Ave., Portland, OR 97214. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk in tank vehicles, and those requiring special equipment), between Elko and Reno, NV, over Interstate Hwy 80, serving all intermediate points.

MC 108393 (Sub-155F), filed September 22, 1980. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 E. Ogden Ave., Hinsdale, IL 60521. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of heating and cooling systems, between points in the U.S., under continuing contract(s) with Heil-Quaker Corporation, of Lavergne, TN.

MC 115092 (Sub-112F), filed September 22, 1980. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box 0, Vernal, UT 84078. Representative: Walter Kobos, 1016 Kehoe Drive, St. Charles, IL 60174. Transporting *chemicals,* between points in Brozoria and Fort Bend Counties, TX, on the one hand, and, on the other, points in Natrona County, WY, Rio Blanco County, CO, and Uintah County, UT.

MC 115093 (Sub-24F), filed September 22, 1980. Applicant: MERCURY MOTOR EXPRESS, INC., 2511 North Grady Ave. (P.O. Box 23406), Tampa, FL 33607 (33623). Representative: Joseph W. Watson (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission and Classes A and B explosives), between points in AL, CT, DE, FL, GA, MA, MD, NC, NJ, NY, PA, RI, SC, TN, VA, WV and DC restricted to traffic having a prior or subsequent movement by water.

MC 115353 (Sub-47F), filed September 22, 1980. Applicant: LOUIS J. KENNEDY TRUCKING COMPANY, a corporation, 342 Schuyler Avenue, Kearny, NJ 07032. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of cast iron products (except commodities in bulk, in tank vehicles), between points in the U.S., under a continuing contract(s) with Griffin Pipe Products Co., Oak Brook, IL.

MC 119642 (Sub-11F), filed September 22, 1980. Applicant: JANESVILLE AUTO TRANSPORT COMPANY, a Delaware corporation, 1800 South Jackson, P.O. Box 959, Janesville, WI 53545. Representative: Eugene C. Ewald, 100 West Long Lake Road, Suite 102,

Bloomfield Hills, MI 48013. Transporting *motor vehicles,* between points in the U.S., under continuing contract(s) with General Motors Corporation, of Detroit, MI.

MC 120652 (Sub-2F), filed September 18, 1980. Applicant: GREATER SYRACUSE MOVING & STORAGE CO., INC., Box 23—6255 Taft Rd., N. Syracuse, NY 13212. Representative: Richard D. Mathias, 1100 Connecticut Ave., NW, Washington, DC 20036. Transporting *household goods* as defined by the Commission, (1) between points in NY, on the one hand, and, on the other, points in ME, NH, VT, MA, CT, RI, NJ, PA, MD, DE, VA, WV, OH, MI, IN, IL, MN, IA, MO, AR, MS, AL, GA, SC, NC, TN, KY, WI, FL, LA, TX, OK, KS, NE, SD, ND, and DC, and (2) between points in Onondago County, NY, on the one hand, and, on the other, points in NY. Condition: Applicant has requested, in writing, coincidental cancellation of its Certificate of Registration under MC–120652 Sub 1, issued April 20, 1967, upon issuance of a certificate in this proceeding.

Note.—By part (2) of this application, applicant seeks to convert its Certificate of Registration to a Certificate of Public Convenience and Necessity.

MC 123502 (Sub-56F), filed September 22, 1980. Applicant: FREE STATE TRUCK SERVICE, INC., P.O. Box 760, Glen Burnie, MD 21061. Representative: W. Wilson Corroum (same address as applicant). Transporting *waste residue of coal burning boiler systems,* between points in DE, KY, MD, PA, VA, WV, and DC.

MC 126473 (Sub-47F), filed September 18, 1980. Applicant: HAROLD DICKEY TRANSPORT, INC., Packwood, IA 52580. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting (1) *foodstuffs,* from the facilities of Geo. A. Hormel & Co., at or near Beloit, WI, to points in TX, LA, AR, MS, TN, MD, PA, and VA; and (2)(a) *meats, meat products, and meat by-products,* (b) *foodstuffs* (except the commodities in (a) above), and (c) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (a) and (b) above, in the reverse direction.

MC 126473 (Sub-48F), filed September 18, 1980. Applicant: HAROLD DICKEY TRANSPORT, INC., Packwood, IA 52580. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501.Transporting (1) *foodstuffs,* from the facilities of Geo. A. Hormel & Co., at or near Davenport, IA, to points in AL, CO, CT, DE, FL, GA, IL, IN, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NJ, NY, NH, NC, ND, OH, PA, RI, SC, SD, TN, TX, VT, VA, WV, and DC; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of gelatin products, in the reverse direction.

MC 131033, filed September 19, 1980. Applicant: MARY C. LUKE AND JAMES I. LUKE, a partnership, d.b.a. AMERICA FIRST TOURS, P.O. Box 220, Collinsville, MS 39325. Representative: James I. Luke, Route 3, Box 123, Collinsville, MS 39325. As a *broker,* at Collinsville, MS, to arrange for the transportation of *passengers and their baggage,* between points in Attala, Winston, Noxubee, Leake, Neshoba, Kemper, Scott, Newton, Lauderdale, Jasper, Clarke, Jones, and Wayne Counties, MS, on the one hand, and, on the other, points in the U.S.

MC 141532 (Sub-100F), filed September 23, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., 10244 Arrow Hwy., Rancho Cucamonga, CA 91730.Representative: Michael J. Norton, 1905 South Redwood Rd., Salt Lake City, UT 84104. Transporting *building materials,* between points in Contra Costa, San Joaquin and Los Angeles Counties, CA, on the one hand, and, on the other, points in OR, WA, ID, MT and UT. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 145072 (Sub-45F), filed September 18, 1980. Applicant: M. S. CARRIERS, INC., 1797 Florida St., Memphis, TN 38109. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. Transporting *sugar* (except in bulk), from points in St. James, St. John the Baptist, St. Bernard, Assumption, Orleans, Jefferson, and Lafourche Parishes, LA, to points in AL, AR, FL, GA, IL, IN, KY, MO, MS, NC, OH, SC, TN, TX, VA, and WV.

MC 145072 (Sub-46F), filed September 18, 1980. Applicant: M. S. CARRIERS, INC., 1797 Florida St., Memphis, TN 38109. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. Transporting *plastic articles and materials, equipment and supplies* used in the manufacture of plastic articles (except commodities in bulk), between Atlanta, GA and Swainsboro, GA, on the one hand, and, on the other, points in TX, LA, MS, AL, TN, AR, OK, MO, IL, IA, WI, IN, MI, OH, KY, WVA, PA, NY, DE, NJ, MA, and CT.

MC 145072 (Sub-47F), filed September 18, 1980. Applicant: M. S. CARRIERS, INC., 1797 Florida St., Memphis, TN 38109. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. Transporting *pipe fittings, iron or steel articles, and materials, supplies and equipment used in the manufacture of iron or steel articles,* between Ackerman, MS, Woodstock, TN, and Cicero, IL, on the one hand, and, on the other, points in and east of TX, OK, KS, MO, IA, and MN.

MC 145362 (Sub-2F), filed September 23, 1980. Applicant: NORTHEAST PRODUCE TRANSPORT, INC., 135 Skyline Drive, Ringwood, NJ 07456. Representative: Roy A. Jacobs, 550 Mamaroneck Ave., Harrison, NY 10528. Transporting *frozen fruits and vegetables,* (1) between points in New York, NY, and (2) between points in New York, NY, on the one hand, and, on the other, points in Cumberland County, NJ, restricted to traffic having a prior or subsequent movement by water.

MC 150163 (Sub-4F), filed September 22, 1980. Applicant: HORWITH TRUCKS, INC., R.D. No. 1, Coplay, PA 18037. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966. Transporting *coal,* in bulk, between points in Carbon, Luzerne and Schuylkill Counties, PA, on the one hand, and, on the other, points in the U.S.

MC 150432 (Sub-3F), filed September 23, 1980. Applicant: H & M TRANSPORTATION, INC., U.S. Highways 42 and 70, London, OH 43140. Representative: Owen B. Katzman, 1828 L St. NW., Suite 1111, Washington, DC 20036. Transporting *grain handling equipment,* and *materials, equipment, and supplies* used in the manufacture and distribution of grain handling equipment, between points in the U.S. (except AK and HI), under continuing contract(s) with Sweet Manufacturing Company, of Springfield, OH.

MC 150782 (Sub-1F), filed September 23, 1980. Applicant: CHAIN O'LAKES EXPRESS, INC., Rte. 1, Otter Drive, Waupaca, WI 54981. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Rd., Madison, WI 53719. Transporting (1) *foundry castings and foundry products,* and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Waupaca Foundry, Inc., of Waupaca, WI.

MC 151932F, filed September 19, 1980. Applicant: K & C TRUCKING CO., INC., P.O. Box 407, Glenwooe, IL 60425. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting (1) *primary metal products,* including galvanized (except coating or other allied processing), and

(2) *waste or scrap materials,* viz scrap or waste materials not identified by industry producing, as described in Items 33 and 40, respectively, of the Standard Transportation Commodity Code Tariff, between points in the U.S., under continuing contract(s) with Dietrich Industries, Inc., of Blairsville, PA.

Volume No. OP2–071

Decided: October 10, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 11722 (Sub-74F), filed October 8, 1980. Applicant: BRADER HAULING SERVICE, INC., P.O. Box 655, Zillah, WA 98953. Representative: Philip G. Skofstad, 1525 NE Weidler, Portland, OR 97232. Transporting *mattresses and box springs,* from Twin Falls, ID, to points in OR and WA.

MC 107012 (Sub-587F), filed October 3, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). Transporting *general commodities* (except those of unusual value, housegoods as defined by the Commission, Classes A and B explosives, and commodities in bulk), between points in the U.S.

MC 114312 (Sub-34F), filed October 2, 1980. Applicant: ABBOTT TRUCKING, INC., Route 3, Box 74, Delta, OH 43515. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting *boat trailer parts and empty semi-trailers,* between Delta and Walbridge, OH, restricted to traffic having a prior or subsequent movement by rail.

MC 115093 (Sub-21F), filed September 17, 1980 (Correction), published in the **Federal Register** issue of September 29, 1980, and republished this issue. Applicant: MERCURY MOTOR EXPRESS, INC., 2511 North Grady Ave., P.O. Box 23406, Tampa, FL 33607. Representative: Francis W. McInerny, 1000 Sixteenth St. NW., Washington, D.C. 20036. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in NC, on the one hand, and, on the other, points in CT, DE, MA, MD, NC, NJ, NY, PA, RI, TN, VA, WV, and DC.

Note.—This republication is to include the State of NC in the radial territory description, omitted in the prior publication.

MC 135562 (Sub-9F), filed October 6, 1980. Applicant: O.C.C., INC., 2214 4th S., Seattle, WA 98134. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. Transporting *such commodities* as are dealt in or used by manufacturers of automotive parts between points in the U.S., under continuing contract(s) with Kelsey-Hayes Company, of Romulus, MI.

MC 143702 (Sub-17F), filed October 6, 1980. Applicant: ALL FREIGHT SYSTEMS, INC., 1026 South 10th St., Kansas City, KS 66105. Representative: Donald J. Quinn, Suite 900, 1012 Baltimore, Kansas City, MO 64105. Transporting *foodstuffs,* from the facilities of Delicious Food Carriers, Inc., at Lincoln, NE, to points in the U.S. (except AK and HI).

MC 144203 (Sub-7F), filed October 1, 1980. Applicant: HERMAN BROS., INC., 2565 St. Marys Ave., Omaha, NE 68101. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *liquid nitrogen, liquid oxygen and liquid argon,* between points in the U.S. under continuing contract(s) with Liquid Air Corporation of San Francisco, CA. Conditions: (1) The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary. (2) Any permit to be issued in this proceeding shall be limited in point of time to a period expiring 5 years from its date of issue.

MC 146632 (Sub-3F), filed October 6, 1980. Applicant: BETS TRUCK LEASING, INC., P.O. Box 1050, Bennington, VT 05201. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103. Transporting (1) *laminated sheet steel,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of laminated sheet steel, between points in the U.S., under continuing contract(s) with National Lamination Company, of Des Plaines, IL. Condition: Issuance of a permit is conditioned upon the prior submission by applicant of a statement stating the manner in which contractual provisions are to be fulfilled (i.e., either (1) by furnishing transportation service through the assignment of motor vehicles for a continuing period of time to the exclusive use of each person served, or (2) by furnishing transportation services designed to meet the distinct need of each individual customer, and, if the latter, describe briefly the distinct need for which transportation services have been designed.

Volume No. OP2–073

Decided: October 16, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 29753 (Sub-6F), filed October 6, 1980. Applicant: BOB AIKINS LINES, INC., P.O. Box 264, U.S. 50 West, Lawrenceburg, IN 47025. Representative: Paul J. Snodgrass (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in IN, KY, and OH.

MC 64423 (Sub-2F), filed October 2, 1980. Applicant: FREY'S MOTOR EXPRESS, INC., Fox Farm Rd., P.O. Box 196, R.D. 3, Phillipsburg, NJ 08865. Representative: James M. Cope (same address as applicant). Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), (I) *Over Regular routes* (1) between Philadelphia, PA, and New York, NY: (a) from Philadelphia over U.S. Hwy 611 to Easton, PA, then over U.S. Hwy 22 to junction U.S. Hwy 1, then over U.S. Hwy 1 to New York, and (b) over U.S. Hwy 1, (2) between Philadelphia and Easton, PA: from Philadelphia over PA Hwy 309 to Allentown, PA, then over U.S. Hwy 22 to Easton, (3) between Philadelphia and junction U.S. Hwys 1 and 130: from Philadelphia over U.S. Hwy 30 to junction U.S. Hwy 130, then over U.S. Hwy 130 to junction U.S. Hwy 1, and (4) in connection with (1) thru (3) above, return over the same route, serving all intermediate points and points in NJ and those in Bucks, Montgomery, Lehigh, and Northampton Counties, PA, as off-route points; and (II) *Over irregular routes,* between New York, NY, points in NJ, and those points in and east of York, Dauphin, Schuylkill, Cargon, Luzerne, Wyoming, and Susquehanna Counties, PA. Condition: Issuance of a certificate here is subject to prior or coincidental cancellation at applicant's written request of Certificate MC 64423, issued May 27, 1942.

MC 112713 (Sub-313F), filed October 3, 1980. Applicant: YELLOW FREIGHT SYSTEM, INC., 10990 Roe Ave., Overland Park, KS 66207. Representative: Robert E. DeLand (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in DeSoto Parish, LA, as off-route points in

connection with carrier's otherwise authorized regular-route operations.

MC 123872 (Sub-122F), filed October 6, 1980. Applicant: W&L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Allen E. Bowman (same address as applicant). Transporting (1) *Carpets and rugs*, and (2) *materials, equipment, and supplies* used in the manufacture, installation, and distribution of the commodities in (1) above, (except commodities in bulk), between points in GA, on the one hand, and, on the other, points in AZ, CA, CO, ID, IL, MT, NV, NM, NC, OK, OR, TX, UT, WA, and WY.

MC 133542 (Sub-16F), filed October 2, 1980. Applicant: FLOYD WILD, INC., P.O. Box 91, Marshall, MN 56258. Representative: Samuel Rubenstein, Box 5, Minneapolis, MN 55440. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between points in the U.S., under continuing contract(s) with Schwans Sales Enterprises, Inc., of Marshall, MN.

MC 133542 (Sub-17F), filed October 2, 1980. Applicant: FLOYD WILD, INC., P.O. Box 91, Marshall, MN 56258. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Transporting such *commodities* as are dealt in by farm supply stores and construction companies, (except commodities in bulk), between points in the U.S. under continuing contract(s) with Running Supply, Inc., of Marshall, MN, Lyon Farm Center, Inc., of Marshall, MN, and Dulas Construction, Inc., of Marshall, MN.

MC 133542 (Sub-18F), filed October 2, 1980. Applicant: FLOYD WILD, INC., P.O. Box 91, Marshall, MN 56258. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Transporting *containers*, between points in the U.S., under continuing contract(s) with Viking Coca-Cola Bottling Co., of St. Cloud, MN.

MC 135052 (Sub-32F), filed October 8, 1980. Applicant: ASHCRAFT TRUCKING, INC., 875 Webster St., Shelbyville, IN 46176. Representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., 320 North Meridian St., Indianapolis, IN 46204. Transporting (1) *apparel; or other finished textile products or knit apparel*, (2) *furniture or fixtures*, (3) *chemicals and allied products*, (4) *rubber or miscellaneous plastics products*, (5) *primary metal products; including galvanized* (except coating or other allied processing), (6) *fabricated metal products*, (except ordnance), (7) *machinery*, (except electrical), (8) *transportation equipment*, (9) *instruments or photographic goods; or optical goods, watches or clocks*, and (10) *waste or scrap materials; viz scrap waste materials not identified by industry producing*, as described in Items 23, 25, 28, 30, 33, 34, 35, 37, 38, and 40, respectively, of the Standard Commodity Code Tariff, between points in Shelby and Marion Counties, IN, on the one hand, and, on the other, points in the U.S. (except AK, HI, and IN).

MC 139482 (Sub-181F), filed October 7, 1980. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: Barry M. Bloedel (same address as applicant). Transporting *cellulose insulation, vermiculite, and polyethelene*, (except commodities in bulk), from Lake Mills, WI, to points in IL, IA, MI, MN, MO, NE, ND, and SD.

MC 143953 (Sub-4F), filed October 7, 1980. Applicant: ELITE TRUCKING CO., a Corporation, P.O. Box 69, Station E, St. Joseph, MO 64505. Representative: W.R. England III, P.O. Box 456 Jefferson City, MO 65102. Transporting *metal buildings, Transporting knocked down, and (2) materials, equipment, and supplies* used in the manufacture and distribution of metal buildings, (except commodities in bulk), between points in the U.S., under continuing contract(s) with Pascoe Steel Corporation, of Wathena, KS.

MC 148602 (Sub-2F), filed October 6, 1980. Applicant: ECKDAHL WAREHOUSE CO., a Corporation, 501 South Anderson St., Los Angeles, CA 90033. Representative: John Paul Fischer, 256 Montgomery St., San Francisco, CA 94104. Transporting *such commodities* as are dealt in or used by department and food stores, between points in the U.S., under continuing contract(s) with K mart Corporation, of Ontario, CA.

MC 149543 (Sub-1F), filed October 3, 1980. Applicant: CLARKSON BROS. MACHINERY HAULERS, INC., P.O. Box 788, Cowpens, SC 29330. Representative: Edward P. Bocko, 1689 Warner Ct., Mineral Ridge, OH 44440. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S., under continuing contract(s) with Clarkson Bros., Inc., of Cowpens, SC.

MC 151163 (Sub-1F), filed October 2, 1980. Applicant: DWG TRANSPORT, INC., 1600 Jamesville Ave., P.O. Box 250, Syracuse, NY 13205. Representative: Herbert S. Zischkau III, 277 Park Ave., New York, NY 10172. Transporting (1) *foodstuffs* and (2) *such commodities* as are dealt in by wholesale, retail, chain, convenience and supermarket food and business houses, and discount department stores, and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, between points in the U.S., under continuing contract (s) with Dewitt Wholesale Grocery, Inc., of Syracuse, NY, and Olean Wholesale Grocery Coop, Inc., of Olean, NY.

MC 152042F filed September 29, 1980. Applicant: SIDNEY R. DREXLER, d.b.a. DREXLER HORSE TRANSPORTATION, Rt. 2, Box 315, Hampshire, IL 60140. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. Transporting (1) *Livestock*, and (2) *supplies and equipment* used in the care and exhibition of livestock, between points in IL and WI, on the one hand, and on the other points in AL, AR, DE, FL, GA, IN, IA, KS, KY, LA, MD, MI, MN, MS, NB, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, WV, and DC.

Volume No. OP3–051

Decided: October 8, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 111594 (Sub-101F), filed September 22, 1980. Applicant: C.W. TRANSPORT, INC., 610 High St., Wisconsin Rapids, WI 54494. Representative: Leonard Kofkin, 39 S. LaSalle St., Chicago, IL 60603. Over regular routes, transporting *general commodities* except household goods as defined by the Commission and classes A and B explosives): (1) Between Portal, ND and Galveston, TX: From Portal over U.S. Hwy 52 to Jamestown, ND, then over U.S. Hwy 281 to junction Interstate Hwy 90 near Plankinton, SD, then over Interstate Hwy 90 to junction U.S. Hwy 81, then over U.S. Hwy 81 to junction Interstate Hwy 35 at or near Wichita, KS, then over Interstate Hwy 35 to Dallas, TX, and then over Interstate Hwy 45 to Galveston, and return over the same route; (2) Between Westhope, ND, and Laredo, TX, over U.S. Hwy 83; (3) Between Williston, ND, and St. Ignace, MI, over U.S. Hwy 2; (4) Between Beach, ND, and Port Huron, MI, over Interstate Hwy 94; (5) Between Marmarth, ND, and Memphis, TN: From Marmarth over U.S. Hwy 12 to St. Paul, MN, then over U.S. Hwy 61 to Memphis, and return over the same route; (6) Between Spearfish, SD, and Erie, PA: From Spearfish over Interstate Hwy 90 to junction Interstate Hwy 79, then over Interstate Hwy 79 to Erie, and return over the same route; (7) Between Harrison, NE, and Chicago, IL, over U.S. Hwy 20; (8) Between Bushnell, NE, and Philadelphia, PA: From Bushnell over Interstate Hwy 80 to junction PA Hwy 9,

then over PA Hwy 9 to junction Interstate Hwy 276, then over Interstate Hwy 276 to junction U.S. Hwy 422, then over U.S. Hwy 422 to Philadelphia, and return over the same route, (9) Between Goodland, KS and Norfolk, VA: From Goodland over Interstate Hwy 70 to Wheeling, WV, then over WV Hwy 2 to Moundsville, WV, then over U.S. Hwy 250 to Charlottesville, VA, then over Interstate Hwy 64 to Norfolk, and return over the same route; (10) Between Seminole, TX, and Brunswick, GA. From Seminole over U.S. Hwy 180 to Fort Worth, then over Interstate Hwy 20 to Meridian, MS, then over U.S. Hwy 80 to Montgomery, AL, then over U.S. Hwy 82 to Waycross, GA, then over U.S. Hwy 84 to Brunswick, GA, and return over the same route; (11) Between Glenrio, TX, and New Burn, NC: From Glenrio over Interstate Hwy 40 to Raleigh, NC, then over U.S. Hwy 70 to New Burn, and return over the same route; (12) Between El Paso, TX, and Jacksonville, FL, over Interstate Hwy 10; (13) Between Crookston, MN, and Baton Rouge, LA: From Crookston over U.S. Hwy 75 to Sioux City, IA, then over Interstate Hwy 29 to Kansas City, MO, then over U.S. Hwy 71 to junction U.S. Hwy 190 near Opelousas, LA, then over U.S. Hwy 190 to Baton Rouge, and return over the same route; (14) Between Duluth, MN, and Laredo, TX, over Interstate Hwy 35; (15) Between Lake City, MN, and Baton Rouge, LA: From Lake City over U.S. Hwy 63 to Hoxie, AR, then over U.S. Hwy 67 to Little Rock, AR, then over U.S. Hwy 65 to Natchez, MS, then over U.S. Hwy 61 to Baton Rouge, and return over the same route; (16) Between Hurley, WI, and New Orleans, LA, over U.S. Hwy 51; (17) Between Chicago, IL, and Mobile, AL: From Chicago over Interstate Hwy 90 to junction Interstate Hwy 65 then over Interstate Hwy 65 to U.S. Hwy 31 to Mobile, and return over the same route; (18) Between Sault Ste, Marie, MI, and Miami, FL: From Sault Ste. Marie over Interstate Hwy 75 to Tampa, FL, then over U.S. Hwy 41 to Miami, and return over the same route; (19) Between Cleveland, OH, and Charleston, SC: From Cleveland over Interstate Hwy 77 and U.S. Hwy 21 to Columbia, SC, then over Interstate Hwy 26 to Charleston, and return over the same route; (20) Between St. Louis, MO, and Erie, PA: From St. Louis over Interstate Hwy 64 to Charleston, WV, then over Interstate Hwy 79 to Erie, and return over the same route; (21) Between Great Bend, PA, and junction Interstate Hwys 40 and 81, over Interstate Hwy 81; (22) Between Arlington, VA, and Miami, FL: From Arlington over Interstate Hwy 95 to junction FL Hwy 70, then over FL Hwy 70 to Ft. Pierce, FL. then over U.S. Hwy 1 to Miami, and return over the same route; (23) Between Nevada, MO, and Dalhart, TX, over U.S. Hwy 54; (24) Between Sandusky, OH, and Lockwood, KY: From Sandusky over OH Hwy 4 to junction U.S. Hwy 23 near Marion, OH, then over U.S. Hwy 23 to Lockwood, and return over the same route; (25) Between St. Louis, MO, and Oklahoma City, OK, over Interstate Hwy 44; (26) Between Little Rock, AR, and junction Interstate Hwys 20 and 10, near Kent, TX: From Little Rock over Interstate Hwy 30 to Fort Worth, TX, then over Interstate Hwy 20 to junction Interstate Hwy 10, and return over the same route; (27) Between Presidio and Dallas, TX, over U.S. Hwy 67; (28) Between Terre Haute, IN, and New Orleans, LA: From Terre Haute over U.S. Hwy 41 to Hopkinsville, KY, then over Alt. U.S. Hwy 41 to junction Interstate Hwy 24, then over Interstate Hwy 24 to Chattanooga, TN, then over Interstate Hwy 59 to junction Interstate Hwy 10, and then over Interstate Hwy 10 to New Orleans, and return over the same route; (29) Between Flint, MI, and Indianapolis, IN, over Interstate Hwy 69; (30) Between Birmingham, AL, and Columbia, SC, over Interstate Hwy 20; (31) Between Montgomery, AL, and Greensboro, NC, over Interstate Hwy 85; (32) Between Detroit, MI, and Mackinaw City, MI: From Detroit over Interstate Hwy 96 to Muskegon, MI, then over U.S. Hwy 31 to Mackinaw City, and return over the same route; (33) Between Chicago, IL, and Nashville, TN: From Chicago over Interstate Hwy 57 to junction Interstate Hwy 24, near Pulleys Mill, IL, then over Interstate Hwy 24 to junction Alt. U.S. Hwy 41, then over Alt. U.S. Hwy 41 to Nashville, and return over the same route; (34) Between Baton Rouge and Shreveport, LA: From Baton Rouge over Interstate Hwy 10 to Lake Charles, LA, then over U.S. Hwy 171 to Shreveport, and return over the same route; (35) Between Indianapolis, IN and Moline, IL, over Interstate Hwy 74; (36) Between Peoria, IL, and Taylor, MO, over U.S. Hwy 24; (37) Between Marion, IL, and Sikeston, MO: From Marion over Interstate Hwy 57 to Cairo, IL, then over U.S. Hwy 60 to Sikeston, and return over the same route; (38) Between Madison, WI, and Dubuque, IA, and over U.S. Hwy 151; (39) Between St. Louis, MO, and Arlington, VA, over U.S. Hwy 50; (40) Between Bradford, PA, and junction Interstate Hwy 79 and U.S. Hwy 119 near Morgantown, WV: From Bradford over U.S. Hwy 219 to Dubois, PA, then over U.S. Hwy 119 to junction Interstate Hwy 79 and U.S. Hwy 119, and return over the same route; (41) Between Cleveland, OH, and Milford, PA, over U.S. Hwy 6; (42) Between Akron, OH, and Philadelphia, PA, over Interstate Hwy 76; (43) Between Chattanooga, TN, and Miami, FL, over U.S. Hwy 27; (44) Between Petersburg, VA, and Bradenton, FL: From Petersburg over U.S. Hwy 1 to Daytona Beack, FL, then over Interstate Hwy 4 to Tampa, FL, then over Interstate Hwy 275 to junction U.S. Hwy 41, then over U.S. Hwy 41 to Bradenton, and return over the same route; (45) Between Montgomery, AL, and Savannah, GA, over U.S. Hwy 80; (46) Between San Antonio and Brownsville, TX, over U.S. Hwy 281; (47) Between Asheville, NC, and St. Petersburg, FL, over U.S. Hwy 19; (48) Between Laredo, TX, and Texarkana, AR, over U.S. Hwy 59; and (49) Between Hoxie, AR, and Birmingham, AL: From Hoxie over U.S. Hwy 63 to junction U.S. Hwy 61, then over U.S. Hwy 61 to Memphis, TN, then over U.S. Hwy 78 to Birmingham, and return over the same route; serving in connection with routes (1) to (49) about points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NC, ND, OH, OK, PA, SC, SD, TN, TX, VA, WV, and WI, as intermediate and off-route points.

Note.—Applicant intends to tack this authority with its existing regular-route authority.

Volume No. OP4–090

Decided: October 15, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 34227 (Sub-22F), filed October 8, 1980. Applicant: PACIFIC INLAND TRANSPORTATION COMPANY, a corporation, 15910 East Colfax, Aurora, CO 80011. Representative: James P. Beck, 717 17th St., Suite 2600, Denver, CO 80202. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of industrial cleaners, weed killers and insecticides (except in bulk), between points in the U.S. under continuing contract(s) with Oxford Chemicals, Inc., of Atlanta, GA.

MC 41116 (Sub-88F), filed October 8, 1980. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Austin L. Hatchell, P.O. Box 2165, Austin, TX 78768. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with (a) Congra, Inc., of Oak Brook, IL, and (b) Chase Bag Company, of Omaha, NE.

MC 59117 (Sub-76F), filed August 5, 1980, and previously noticed in the

Federal Register issue of August 26, 1980. Applicant: ELLIOTT TRUCK LINE, INC., 101 E. Excelsior, P.O. Box 1, Vinita, OK 74301. Representative: Wilbur L. Williamson, Suite 615 East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *metallic ores, nonmetallic minerals* (except fuels), *chemicals or allied products, petroleum or coal products and clay, concrete or stone products*, as set forth in paragraphs (10), (14), (28), (29), and (32) of Revised STCC Major Industry Grouping, between points along the Arkansas and Verdigris Rivers in Muskogee, Tulsa and Rogers Counties in OK, on the one hand, and, on the other, points in AR, MO, KS, NM, CO, NE, TX and OK.

Note.—The purpose of this republication is to correctly reflect the territorial description.

MC 59957 (Sub-66F), filed October 3, 1980. Applicant: MOTOR FREIGHT EXPRESS, a corporation, P.O. Box 1029, York, PA 17405. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Portsmouth, NH and South Hill, VA, over U.S. Hwy 1, (2) between Portsmouth, NH and Emporia, VA, over Interstate Hwy 95, (3) between Boston, MA, and Madison, WI, over Interstate Hwy 90, (4) between Boston, MA, and Dubuque, IA, over U.S. Hwy 20, (5) between Providence, RI, and Davenport, IA (a) over U.S. Hwy 6 and (b) from Providence over Interstate Hwy 84 to Scranton, PA, then over Interstate Hwy 81 to Hazelton, PA, then over Interstate Hwy 80 to Davenport, and return over the same route, (6) between New York, NY, and St. Louis, MO (a) from New York over U.S. Hwy 22 to Cambridge, OH, then over U.S. Hwy 40 to St. Louis, and return over the same route, (b) from New York over Interstate Hwy 78 to Lickdale, PA, then over Interstate Hwy 81 to Carlisle, PA, then over Interstate Hwy 76 to New Stanton, PA, then over Interstate Hwy 70 to St. Louis, and return over the same route, (7) between Atlantic City, NJ and Clinton, IA, over U.S. Hwy 30, (8) between Atlantic City, NJ and Hershey, PA, over U.S. Hwy 322, (9) between Atlantic City, NJ, and Cambridge, OH, over U.S. Hwy 40, (10) between Baltimore, MD, and Breezewood, PA, over Interstate Hwy 70, (11) between Ocean City, MD, and St. Louis, MO, over U.S. Hwy 50, (12) between Washington, DC, and Frederick, MD, (a) over Interstate Hwy 270, and (b) over MD Hwy 355, (13) between Virginia Beach, VA, and Middlesboro, KY, over U.S. Hwy 58, (14) between Virginia Beach, VA, and Cairo, IL, over U.S. Hwy 60, (15) between Allen (Floyd County) and Columbus, KY, over KY Hwy 80, (16) between Bluefield, WV, and Dubuque, IA, over U.S. Hwy 52, (17) between New Castle, PA, and Huntington, IN, over U.S. Hwy 224, (18) between Uhrichsville, OH, and Hannibal, MO, over U.S. Hwy 36, (19) between Fort Wayne, In, and Taylor, MO, over U.S. Hwy 24, (20) between Monroe and Cambria Junction, MI, over MI Hwy 50, (21) between Clinton, MI, and Chicago, IL, over U.S. Hwy 12, (22) between Richmond, VA, and Benton Harbor, MI, over U.S. Hwy 33, (23) between Harrison, NJ, and Westfield, NY, from Harrison, NJ over NJ Hwy 17 to the NJ–NY State line, then over NY Hwy 17 to Westfield, NY, and return over the same route, (24) between Concord, NH, and Wilmington, DE, over U.S. Hwy 202, (25) between Concord, NH, and Lexington, MA, over U.S. Hwy 3, (26) between Boston, MA, and Troy, NY, from Boston over MA Hwy 2, to MA–NY State line, then over NY Hwy 2 to Troy, and return over the same route, (27) between Troy and Binghamton, NY, over NY Hwy 7, (28) between Williamstown, MA, and Norwalk, CT, over U.S. Hwy 7, (29) between Manchester, NH, and East Lyme, CT, from Manchester over NH Hwy 101 to Milford, NH, then over NH Hwy 13 to the MA–NH State line, then over MA Hwy 13 to Fitchburg, MA, then over MA Hwy 12 to Auburn, MA, then over MA Hwy 52 to the CT–MA State line, then over CT Hwy 52 to East Lyme, and return over the same route, (30) between Glens Falls, NY, and North Cape May, NJ, over U.S. Hwy 9, (31) between Kingston, NY, and Millersburg, PA, over U.S. Hwy 209, (32) between Albany, NY, and Fort Lee, NJ, over U.S. Hwy 9W, (33) between Sandy Creek, NY, and Bristol, VA, over U.S. Hwy 11, (34) between Painted Post, NY, and Clarksville, VA, over U.S. Hwy 15, (35) between Sayre, PA, and Ridgeway, VA, over U.S. Hwy 220, (36) between Buffalo, NY, and Rich Creek, VA, over U.S. Hwy 219, (37) between Norfolk, VA, and Frankfort, KY, over U.S. Hwy 460, (38) between Erie, PA, and Bristol, VA, over U.S. Hwy 19, (39) between St. Louis, MO, and Joliet, IL, over U.S. Hwy 66, (40) between Greenup and Morton, IL, over IL Hwy 121, (41) between Lafayette, OH, and Louisville, KY, over U.S. Hwy 42, (42) between Morganfield, KY, and East St. Louis, IL, from Morganfield over KY Hwy 56 to the IL–KY State line, then over IL Hwy 13 to East St. Louis, and return over the same route, (43) between Peru and Springfield, IL, over IL Hwy 29, (44) between Chicago, IL, and Hopkinsville, KY, over U.S. Hwy 41, (45) between South Bend, IN, and Bowling Green, KY, from South Bend over U.S. Hwy 31 to Louisville, then over U.S. 31W to Bowling Green, and return over the same route, (46) between Moline, IL, and Mount Vernon, KY, over U.S. Hwy 150, (47) between Keokuk, IA, and Indianapolis, IN, over U.S. Hwy 136, (48) between Marshall, MI, and Somerset, KY, over U.S. Hwy 27, (49) between Somerset, MI, and Russell Springs, KY, over U.S. Hwy 127, (50) between Bryan, OH, and Tell City, IN, from Bryan over OH Hwy 2 to the IN–OH State line, then over IN Hwy 37 to Tell City, and return over the same route, (51) between Harrison, OH, and Terre Haute, IN, over IN Hwy 46, (52) between St. John, IN, and Bowling Green, KY, over U.S. Hwy 231, (53) between Hawesville, KY, and Evansville, IN, from Hawesville over the Ohio River Bridge to Cannelton, IN, then over IN Hwy 66 to Evansville, and return over the same route, (54) between Celina, OH, and Vincennes, IN, from Celina over OH Hwy 29 to the IN–OH State line, then over IN Hwy 67 to Vincennes, and return over the same route, (55) between Ellis and Lawrenceburg, IN, over IN Hwy 1, (56) between Bellefontaine, OH, and Henning, IL, from Bellefontaine over OH Hwy 47 to the IN–OH State line, then over IN Hwy 28 to the IL–IN State line, then over IL Hwy 119 to Henning, and return over the same route, (57) between Silver Creek and Albany, NY, over NY Hwy 5, (58) between Rochester and Weedsport, NY, over NY Hwy 31, (59) between Weedsport and Elbridge, NY, over NY Hwy 31B, (60) between Jersey City, and Wilkes-Barre, PA, from Jersey City over U.S. Hwy 1 to Weehawken, NJ, then over NJ Hwy 3 to Clifton, NJ, then over U.S. Hwy 46 to East Stroudsburg, PA, then over PA Hwy 611 to Scranton, PA, and then over PA Hwy 315 to Wilkes-Barre, and return over the same route, (61) between Reading and Scranton, PA, from Reading over PA Hwy 61 to Molino, then over PA Hwy 895 to McKeansburg, then over PA Hwy 443 to South Tamaqua, then over PA Hwy 309 to Wilkes-Barre, then over U.S. Hwy 11 to Scranton, and return over the same route, (62) between Clarks Ferry and Halls, PA, over PA Hwy 147, (63) between Marshall, MI, and Madison, WI, over Interstate Hwy 94, (64) between Dundee, MI, and Duffield, VA, over U.S. Hwy 23, (65) between Richmond, VA, and Sandusky, OH, over

U.S. Hwy 250, (66) between Findlay, OH, and Lexington, KY, over U.S. Hwy 68, (67) between Cleveland, OH, and Princeton, WV, over Interstate Hwy 77, (68) between Monroe, MI, and London, KY, over Interstate Hwy 75, (69) between Arlington, KY, and Rockford, IL, over U.S. Hwy 51, (70) between Middlesboro and London, KY, from Middlesboro over U.S. Hwy 25E to Corbin, then over U.S. Hwy 25 to London, and return over the same route, (71) between St. Louis, MO, and Dubuque, IA, over U.S. Hwy 61, (72) between Wilmington, DE, and Suffolk, VA, over U.S. Hwy 13, (73) between Chicago, IL, and Mayfield, KY, over U.S. Hwy 45, (74) between Chicago and Cairo, IL, over Interstate Hwy 57, (75) between Chicago, IL, and Burlington, IA, over U.S. Hwy 34, (76) between East St. Louis, IL, and Louisville, KY over Interstate Hwy 64, (77) between Decatur and Champaign, IL, over Interstate Hwy 72, (78) between Chicago and Norris City, IL, over IL Hwy 1, (79) between Rock Island, IL, and St. Louis, MO, over U.S. Hwy 67, and (80) between Sabula and Davenport, IA, over U.S. Hwy 67, routes (1) through (80) serving all intermediate points, and serving as off-route points, points in Dubuque and Scott Counties, IA; Barry, Berrien, Branch, Calhoun, Cass, Hillsdale, Kalamazoo, Lenawee, Monroe, St. Joseph, and Van Buren Counties, MI, Franklin, Jefferson, St. Charles and St. Louis Counties, MO, Hillsboro, Merrimack, and Rockingham Counties, NH; that part of NY, in, south and west of the counties of Fulton, Herkimer (south of the Adirondack Forest Preserve), Oneida, Oswego, Rensselaer, and Saratoga; and Dane, Dodge, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington and Waukesha Counties, WI, and points in DE, IL, IN, KY, MD, MA, OH, PA, RI, VA, NJ, and WV.

Note.—Applicant states it intends to tack this authority with its existing regular-route authority.

MC 97977 (Sub-7F), filed September 25, 1980. Applicant: CARTAGE SERVICE, INC., 2437 E. 14th St., Los Angeles, CA 90021. Representative: Robert Fuller, 13215 E. Penn St., Suite 310, Whittier, CA 90602. Transporting *general commodities* (except Classes A and B explosives and commodities in bulk), between points in California, restricted to traffic having an immediately prior or subsequent movement by rail.

MC 99667 (Sub-5F), filed October 8, 1980. Applicant: TRI-VALLEY TRANSPORTATION, INC., 524 East 4th St., Grand Island, NE 68801. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. Transporting *meats, meat products, meat byproducts, and articles* distributed by meat-packing houses, as described in Section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, between points in Buffalo, Colfax, and Dawson Counties, NE, on the one hand, and, on the other, points in KS, CO, ND, SD, OK, WY, AZ, and CA.

MC 109397 (Sub-527F), filed October 8, 1980. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). Transporting (1) *primary metal products*, and (2) *fabricated metal* products, between points in Jackson County, MS, on the one hand, and, on the other, points in the U.S.

MC 121496 (Sub-46F), filed October 8, 1980. Applicant: CANGO CORPORATION, 2727 North Loop West, Houston, TX 77008. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Transporting *petroleum and petroleum products*, in bulk, in tank vehicles, from points in Acadia Parish, LA, to points in TX.

MC 134286 (Sub-171F), filed October 9, 1980. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Edward A. O'Donnell (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in the U.S. Condition: Issuance of a certificate in this proceeding is subject to coincidental cancellation of its certificates issued under MC 134286 and subnumbers thereunder.

Note.—Applicant relies on past operations and has no shipper support.

MC 136897 (Sub-30F), filed October 8, 1980. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Rd., P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, 4040 East McDowell Rd., Suite 320, Phoenix, AZ 85008. Transporting *plastic containers*, from Dallas, TX to Tempe, AZ, under continuing contract(s) with Aloe Vera Products, of Tempe, AZ.

MC 138956 (Sub-17F), filed October 8, 1980. Applicant: ERGON TRUCKING, INC., 202 East Pearl St., Jackson, MS 39201. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. Transporting *abrasives*, in bulk, between points in Jefferson and St. Tammany Parishes, LA, on the one hand, and, on the other, points in AL, FL, MS, and TX.

MC 139906 (Sub-131F), filed October 8, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 30303, Salt Lake City, UT 84127. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. Transporting (1) *electric storage batteries*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of electric storage batteries, between points in the U.S. (except AK and HI).

MC 143386 (Sub-2F), filed October 8, 1980. Applicant: RC COLA-7UP BOTTLING CO. OF HGN, INC., 601 North 77 Sunshine Drive, Harlingen, TX 78550. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. Transporting *canned citrus juice*, between points in the U.S., under a continuing contract(s) with Texsun Corporation, of Weslaco, TX.

MC 146807 (Sub-18F), filed October 7, 1980. Applicant: S n W ENTERPRISES, INC., P.O. Box 1131, Wilkes-Barre, PA 18702. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. Transporting *such commodities* as are dealt in or used by the manufacturers and distributors of confectionery, from points in IL, OK, GA, IN, TX, TN, MO, KY, MS, AL, KS, OH, NC, SC, LA, FL, MN, WI, MI, and NY, to the facilities of Topps Chewing Gum, Inc., at Duryea and Scranton, PA.

MC 146927 (Sub-17F), filed October 8, 1980. Applicant: DIXIE TRANSPORT, INC., P.O. Box 1126, Hattiesburg, MS 39401. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. Transporting *such commodities* as are dealt in or used by distributors of paper and paper products, between points in Mobile County, AL, on the one hand, and, on the other, points in NC, SC, GA, FL, TN, MO, KY, AR, TX, and CA.

MC 147096 (Sub-6F), filed October 2, 1980. Applicant: MADISON BROTHERS DELIVERY SERVICE, INC., 101 Indiana Ave., Toledo, OH 43602. Representative: Brian S. Stern, 5411–D Backlick Road, Springfield, VA 22151. Transporting (1) *aluminum and aluminum products*, and (2) *materials, equipment*, and *supplies* used in the manufacture and distribution of the commodities described in (1), above, between the facilities of Reynolds Metals Company at or near (a) Jones Mills, Gum Springs, AR, and (b) Memphis, TN, on the one hand, and, on the other, points in the U.S.

MC 148127 (Sub-28F), filed October 8, 1980. Applicant: LINEHAUL EXPRESS CORPORATION, P.O. Box 5078,

Manchester, NH 03108. Representative: Neal R. Michaud (same address as applicant). Transporting *frozen food products,* between points in NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151346 (Sub-2F), filed October 3, 1980. Applicant: ZEE CORPORATION, P.O. Box 396, Langhorne, PA 19047. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. Transporting (1) *iron and steel articles,* and (2) *materials, equipment and supplies* used in the manufacture and distribution thereof between points in the U.S., under continuing contract(s) with Raritan River Steel Co., of Perth Amboy, NJ.

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Decided: October 10, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 808 (Sub-67F), filed October 3, 1980. Applicant: ANCHOR MOTOR FREIGHT, INC., 29201 Telegraph Rd., Southfield, MI 48034. Representative: J. D. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. Transporting *motor vehicles,* between points in the U.S., under continuing contract(s) with General Motors Corporation of Troy, MI.

MC 29948 (Sub-12F), filed October 2, 1980. Applicant: EMPIRE LINES, INC., West 1125 Sprague Ave., Spokane, WA 99210. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St., NW, Washington, D.C. 20005. Over regular routes, Transporting *passengers and their baggage,* and *express* and *newspapers* in the same vehicle with passengers, between the port of entry on the US–Canada boundary line at or near Porthill, ID, and the intersection of US Hwy 95 and ID Hwy 1, over ID Hwy 1, serving all intermediate points.

Note.—Applicant intends to tack this authority with existing regular route authority at the intersection of US Hwy 95 and ID Hwy 1.

MC 35628 (Sub-438F), filed October 7, 1980. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, P.O. Box 175, 110 Ionia Ave. N.W., Grand Rapids, MI 49503. Representative: Michael P. Zell (same as above). Transporting (1) *foodstuffs,* between points in Traverse County, MI on the one hand, and, on the other, points in the U.S.

MC 127848 (Sub-10F), filed October 3, 1980. Applicant: WAYNE W. SELL CORPORATION, 236 Winfield Road, Sarver, PA 16055. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. Transporting *coal* (in bulk, in dump vehicles), from points in Armstrong, Butler, Indiana and Mercer Counties, PA, to points in OH and NY.

MC 128798 (Sub-5F), filed October 1, 1980. Applicant: GALASSO TRUCKING, INC., 8 Kilmer Road, Larchmont, NY 10538. Representative: Larsh B. Mewhinney, 555 Madison Ave., New York, NY 10022. Transporting *canned foodstuffs, bakery goods, pickles and relishes,* between points in the U.S., under continuing contract(s) with Campbell Soup Company, of Camden, NJ.

MC 131058F, filed October 7, 1980. Applicant: IRELAND TRAVEL CLUB, INC., Rt. 1, Box 122, Union Grove, NC 28689. Representative: Elon Ireland (same as above). To engage in operations in interstate or foreign commerce, as a *broker,* at Union Grove, NC, in arranging transportation of *passengers and their baggage,* in special or charter operations, beginning and ending at points in Forsyth, Yadkin, Wilkes, Surry, Iredell, and Catawba Counties, NC, and extending to points in the U.S.

MC 131059F, filed October 6, 1980. Applicant: TOUROPA INTERNATIONAL, INC., 40 East 49th St., New York, NY 10017. Representative: Walter P. Graf, P.O. Box 5279, Clinton, NJ 08809. To engage in operations as a *broker,* at New York, NY, in arranging for the transportation of *passengers and their baggage,* between points in the U.S.

MC 136898 (Sub-10F), filed October 7, 1980. Applicant: BAKER TRANSPORT, INC., P.O. Box 668, Hartselle, AL 35650. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL. Transporting *lumber,* between points in the U.S., under continuing contract(s) with Baker Industries, Inc. of Hartselle, AL.

MC 140389 (Sub-91F), filed October 7, 1980. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 304, Conley, GA 30027. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between the facilities of Armstrong Container, Inc., at Atlanta, GA, on the one hand, and, on the other, points in AL, DE, FL, IL, IN, KY, LA, MD, MS, NJ, NY, NC, OH, PA, SC, TN, VA, WV, and DC.

MC 141958 (Sub-20F), filed October 3, 1980. Applicant: FEDCO FREIGHTLINES, INC., P.O. Box 422, Effingham, IL 62401. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Transporting (1) *toys* and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1), between points in the U.S., under continuing contract(s) with Strombecker Corporation, of Chicago, IL.

MC 143059 (Sub-137F), filed October 6, 1980. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, KY 40232. Representative: Janice K. Taylor (same address as applicant). Transporting (1) *forest products,* and (2) *lumber or wood products,* (except furniture), described in Item Nos. 08, and 24, of the Standard Transportation Commodity Code, respectively, between points in Los Angeles County, CA, on the one hand, and, on the other, points in the U.S.

MC 143328 (Sub-36F), filed October 7, 1980. Applicant: EUGENE TRIPP TRUCKING, P.O. Box 2730, Missoula, MT 59806. Representative: David A. Sutherland, 1150 Connecticut Ave., NW., Suite 400, Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives and commodities in bulk), between those points in the U.S. in and west of MI, WY, CO, NM, and TX (except AK and HI), on the one hand, and, on the other, points in AZ, CA, and NV, restricted to traffic originating at or destined to the facilities used by Ralston Purina Company.

MC 143348 (Sub-2F), filed October 3, 1980. Applicant: PROFESSIONAL DELIVERY SYSTEMS, INC., 8408 Zell Lane, Richmond, VA 23229. Representative: Paul C. Anderson (same as above). Transporting *such commodities* as are dealt in or used by manufacturers of cosmetics, between points in the U.S., under continuing contract with Avon Products, Inc., of Newark, DE.

MC 144709 (Sub-9F), filed October 6, 1980. Applicant: MINERAL CARRIERS, INC., P.O. Box 110, Bound Brook, NJ 08805. Representative: Paul J. Keeler, P.O. Box 253, South Plainfield, NJ 07080. Transporting *coffee oil,* between points in the U.S., under continuing contract(s) with The Nestle Company, Inc., of White Plains, NY.

MC 147259 (Sub-6F), filed October 6, 1980. Applicant: CHURCHILL TRANSPORTATION, INC., 5000 Wyoming, Dearborn, MI 48126. Representative: Gerald E. Churchill (same address as applicant). Transporting *automotive parts,* and *materials, equipment and supplies* used in the manufacture of motor vehicles, between points in MI, on the one hand, and, on the other, points in CA.

MC 149008 (Sub-1F), filed October 6, 1980. Applicant: TRUCK LEASING, INC., P.O. Box 502, Cyril, OK 73069. Representative: Marvin Simpson, 127 McCall Rd., Manhattan, KS 66502. Transporting *building materials*, between points in CO, IA, IL, KS, MO, NE, OK, and TX.

MC 152109F, filed October 6, 1980. Applicant: KAIBAB TRANSPORTATION, INC., P.O. Box 20506, Phoenix, AZ 85306. Representative: Michael F. Marrone, 1150 17th St., Suite 1000, Washington, D.C. 20036. Transporting *asphalt roofing products*, between points in the U.S., under continuing contract(s) with Tamko Asphalt Products, Inc., of Denver, CO.

MC 152109 (Sub-1F), filed October 6, 1980. Applicant: KAIBAB TRANSPORTATION, INC., P.O. Box 20506, Phoenix, AZ 85036. Representative: Michael F. Marrone, 1150 17th St., Suite 1000, Washington, D.C. 20036. Transporting *crushed, automobile bodies*, between points in the U.S., under continuing contract(s) with Milford Pepper, d.b.a. Century Enterprises, Inc., of Denver, CO.

MC 152109 (Sub-2F), filed October 6, 1980. Applicant: KAIBAB TRANSPORTATION, INC., P.O. Box 20506, Phoenix, AZ 85306. Representative: Michael F. Marrone, 1150 17th St., Suite 1000, Washington, D.C. 20036. Transporting *gypsum wallboard, wallboard paper, starch, and potash*, between points in the U.S., under continuing contract(s) with American Gypsum Company, of Albuquerque, NM.

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Decided: October 10, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 35628 (Sub-437F), filed October 7, 1980. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, P.O. Box 175, 110 Ionia Ave., N.W., Grand Rapids MI 49503. Representative: Michael P. Zell (same as above). Transporting *foodstuffs* and *materials, equipment and supplies* used in the production and distribution of foodstuffs, (a) between the facilities used by Ore Ida Foods, Inc. at or near Greenville, MI, Plover, WI, and Massillon, OH, and (b) between points in (a) one the one hand, and, on the other, points in the U.S.

MC 105269 (Sub-91F), filed October 6, 1980. Applicant: GRAFF TRUCKING COMPANY, INC., 2110 Lake St., Kalamazoo, MI 49005. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in IL, IN, IA, KY, MI, MN, MO, OH, PA, WV, and WI, restricted to traffic originating at or destined to the facilities of Mays Chemical Company, Inc.

MC 112298 (Sub-5F), filed October 6, 1980. Applicant: RAY'S GARAGE, INC., 14429 W. Highway 24, Hales Corners, WI 53130. Representative: James Salentine (same address as applicant). Transporting (1) *machinery, equipment and parts*, and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1), between points in the U.S. (except AK and HI.)

MC 113059 (Sub-12F), filed October 7, 1980. Applicant: KELLER TRANSPORT, INC., Route 9 Katy Lane, Billings, MT 59102. Representative: F.E. Keller (same address as applicant). Transporting *asphalt, road oil, and asphalt rejuvenators*, between points in MT, ND, SD, and WY.

MC 113908 (Sub-509F), filed September 29, 1980. Applicant: ERICKSON TRANSPORT CORP., 2255 North Packer Road, P.O. Box 10068 G. S., Springfield, MO. Representative: B. B. Whitehead (same address as applicant). Transporting *lecithin between points in the U.S.*

MC 118899 (Sub-15F), filed October 6, 1980. Applicant: BALTIMORE TANK LINES, INC., 180 Eighth Avenue, P.O. Box 1028, Glen Burnie, MD 21061. Representative: Lawrence E. Lindeman, 425 13th Street NW., Suite 1032, Washington, DC 20004. Transporting *petroleum and petroleum products*, in bulk, in tank vehicles, from points in New Castle County, DE, to points in MD.

MC 119789 (Sub-721F), filed October 6, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). Transporting *chemicals*, in containers, from Greensboro, NC to points in the U.S. (except AK and HI.)

MC 123649 (Sub-10F), filed October 3, 1980. Applicant: MAGILL TRUCK LINES, INC., 211 West 53rd North, Wichita, KS 67204. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202. Transporting *animal and poultry feed and animal and poultry feed ingredients, and sanitation and health products*, between points in AZ, AR, KS, MO, NE, NM, OK, TX and WY.

MC 126118 (Sub-259F), filed October 3, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). Transporting *such commodities* as are dealt in and used by manufacturers of medical, surgical and hospital supplies and materials (except in bulk), between points in the U.S. Condition: Any certificate issued in this proceeding is subject to the prior or coincidental cancellation, at applicant's written request, of MC–126118 Sub 174F, issued June 20, 1980.

MC 126588 (Sub-6F), filed September 29, 1980. Applicant: KERR MOTOR LINES, INC., 174 Jackson St., Binghamton, NY 13903. Representative: Herbert M. Canter, 305 Montgomery St., Syracuse, NY 13202. Transporting *pulp, paper or allied products and printed matter*, as described in Item 26 of the Standard Transportation Commodity Code Tariff, between points in Delaware County, NY, on the one hand, and, on the other, points in CT, DE, IL, IN, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, and DC.

MC 134599 (Sub-187F), filed October 3, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 30303, Salt Lake City, UT 84127. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. Transporting *general commodities*, between points in the U.S., under continuing contract(s) with Scott Paper Company, its divisions and subsidiaries. Condition: Any certificate issued in this proceeding, to the extent it authorizes the transportation of classes A and B explosives, shall be limited to a period expiring five years from the date of issuance.

MC 138438 (Sub-92F), filed September 29, 1980. Applicant: D. M. BOWMAN, INC., Route 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. Transporting (1) *gypsum, gypsum products, building materials, paper products, chemicals, and plastic products*, and (2) *materials, equipment, and supplies* used in the manufacture, installation, and distribution of the commodities in (1), between points in the U.S., restricted to traffic originating at or destined to the facilities used by Georgia Pacific Corporation.

MC 140928 (Sub-3F), filed September 29, 1980. Applicant: VULCAN FREIGHT LINES, INC., P.O. Box 6223–A, Birmingham, AL 35217. Representative: John R. Frawley, Jr., 5506 Crestwood Blvd., Birmingham, AL 35212. Transporting (1) *alcoholic beverages* (except commodities in bulk). Between points in the U.S., on the one hand, and, on the other, points in Jefferson, Calhoun, Montgomery, Madison,

Tuscaloosa and Mobile Counties, AL, and (2) *equipment, material, and supplies* used in the distribution of the commodities in (1) (except commodities in bulk) between points in AL, on the one hand, and, on the other, points in the U.S.

MC 149288 (Sub-2F), filed October 6, 1980. Applicant: TRIPPLE A DELIVERY SERVICE, INC., 244 W. Main St., Groveport, OH 43125. Representative: Boyd E. Ferris, 50 W. Broad St., Columbus, OH 43215. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in Franklin County, OH, on the one hand, and, on the other, points in the U.S.

MC 150339 (Sub-6F), filed October 6, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same address as applicant). Transporting *clay, concrete, glass or stone products*, between points in the U.S., under continuing contract(s) with Belair Road Supply Company, Inc., of Baltimore, MD.

MC 150339 (Sub-7F), filed October 6, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same address as applicant). Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with The Drackett Products Company, of Cincinnati, OH.

MC 151429 (Sub-1F), filed October 6, 1980. Applicant: REMPEL-TRAIL TRANSPORTATION LTD., P.O. Box 5300, Vancouver, BC, Canada V6B 4B6. Representative: Jack R. Davis, 1100 IBM Bldg., Seattle, WA 98101. In foreign commerce only, transporting *muriatic acid*, in bulk, in tank vehicles, from ports of entry on the international boundary line between the U.S. and Canada in MT and ND to points in ND and MT.

Note.—The person or persons which appear to be in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 151679 (Sub-1F), filed October 3, 1980. Applicant: L. G. KITCHENS TRANSPORTATION, INC., 31197 Clark Rd., Lucerne Valley, CA 92356. Representative: D. Gary Tyson, 1545 Wilshire Blvd., Suite 606, Los Angeles, CA 90017. Transporting *non-metallic minerals* (except fuels), between points in the U.S., under continuing contract(s) with Industrial Mineral Ventures, Inc., of Las Vegas, NV.

MC 152019 (Sub-1F), filed October 6, 1980. Applicant: C.A.T. TRUCKING, INC., State Hwy 3 & 46 West, P.O. Box 487, Greensburg, IN 47240. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., 320 North Meridian St., Indianapolis, IN 46204. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with Crown Zellerbach Corporation, of South Glens Falls, NY.

MC 152088F filed October 3, 1980. Applicant: RICH TRUCKING, INC., 1300 Island Ave., McKees Rocks, PA 15136. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave. Pittsburgh, PA 15222. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with Rich Leasing, Inc., of Pittsburgh, PA.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-32810 Filed 10-21-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions, Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's rules of practice (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after October 22, 1980.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed on or before November 21, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices on or before November 21, 1980, or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

Volume No. 351

Decided: October 2, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 17605 (Sub-5F), filed July 24, 1979. Applicant: RONALD E. WATSON, Box 217, Ross, OH 45061. Representative: Paul F. Beery, 275 East State St., Columbus, OH 43215. Transporting (1) *coal,* from points in Clay, Leslie and Bell Counties, KY, to points in IN and OH; (2) *coal, sand, and gravel,* from points in Butler, Warren and Preble Counties, OH, to points in OH, KY, and IN.

MC 44735 (Sub-52F), filed February 4, 1980, previously noticed in the FR issue of April 22, 1980. Applicant: KISSICK TRUCK LINES, INC., 7101 East 12th St., Kansas City, MO 64126. Representative: William B. Barker, 641 Harrison St., Topeka, KS 66603. Transporting (1) *irrigation systems, parts and accessories for irrigation systems, pipe, light poles, mast arms, brackets, bases, transmission poles, and equipment and supplies* used in the installation of the commodities in (1) above, (except commodities in bulk), from the facilities of Valmont Industries, Inc., at or near Valley, NE, to points in AR, IL, IN, IA, KS, MN, MO, OK, TX, and WI, (2) *equipment, materials, and supplies* used in the manufacture of the commodities named in (1) above, in the reverse direction, (3) *used irrigation systems, parts and accessories,* for used irrigation systems, *and equipment materials, and supplies* used in the installation of used irrigation systems, between points in AR, IL, IN, IA, KS, MN, MO, OK, TX, and WI, and (4) (a) *solar energy heating and cooling systems, and* for the commodities in (4)(a) above woodburning heating appliances, (b) *parts* and *accessories* and (c) *materials, supplies and accessories* used in the manufacture, distribution, installation and operation of the commodities in (4)(a) above, between the facilities of Valmont Industries, Inc., at or near Valley, NE, on the one hand, and, on the other, points in AR, IL, IN, IA, KS, MN, MO, OK, TX, and WI. (Hearing site: Kansas City, MO, or Omaha, NE.)

MC 139294 (Sub-6F), filed May 27, 1980. Applicant: H.T.L. INC., P.O. Box 122, Fairfield, AL 35064. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Transporting (1) (a) *iron and steel articles* and (b) *pipe,* and (2) *materials, supplies and equipment* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk, in tank vehicles), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by the Berg Steel Pipe Corp.; (3) (a) *iron and steel articles,* and (b) *pipe,* from points in Bay County, FL, to points in the U.S. (except AK and HI); (4) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (3) above (except commodities in bulk, in tank vehicles), in the reverse direction.

MC 145855 (Sub-5F), filed May 22, 1980. Applicant: JOHN RAY TRUCKING COMPANY, INC., P.O. Box 206, Eastaboga, AL 36260. Representative: John W. Cooper, 200 Woodward Bldg., 1927 First Ave., North, Birmingham, AL 35203. Transporting (1) *metal articles* (except in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between Anniston, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Halden Machine Company and Southern Plating and Machine Company, of Anniston, AL.

Volume No. 359

Decided: October 16, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 150186 (Sub-1F), filed August 26, 1979. Applicant: BEVERAGE TRUCKING, INC., 80 Baldarelli Court, Springfield, MA 01104. Representative: Patrick A. Doyle, 60 Robbins Rd., Springfield, MA 01104. Transporting *malt beverages* from points in Oswego and Onondaga Counties, NY, to points in ME, NH, VT, MA, CT, and RI, under continuing contract(s) with Miller Brewing Co., of Milwaukee, WI.

Volume No. 360

Decided: October 10, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 147102 (Sub-4F) (correction), filed May 29, 1980, published in the **Federal Register,** issue of July 10, 1980, and republished, as corrected, this issue. Applicant: E.T.I. COMPANY, a partnership, 4055 William Penn Hwy., Easton, PA 18042. Representative: Rick A. Rude, Suite 611, 1730 Rhode Island Ave., NW., Washington, DC 20036. Transporting such commodities as are dealt in or used by manufacturers or distributors of industrial *machinery* and equipment. The purpose of this republication is to include *machinery* in the commodity description.

MC 149532F, filed July 1, 1980. Applicant: LEROY K. TRUCKING CO., INC., 99 Evergreen Avenue, Newark, NJ 07114. Representative: Lawrence S. Burstein, One World Trade Center, Suite

2373, New York, NY 10048. Transporting (1) *brass, bronze, copper, and nickel products, and* (2) *materials and supplies* used in the manufacture of the commodities in (1) above, (a) from New York, NY, to Norwich, CT, and (b) between Norwich, CT, on the one hand, and, on the other, points in NJ, MA, and RI, and points in Nassau, Suffolk, Westchester, Dutchess, Ulster, Sullivan, Rockland, and Orange Counties, NY, and Philadelphia, PA, and (3) *copper scrap,* from Norwich, CT, to points in Queens County, NY, under continuing contract(s) in (1), (2), and (3) above with Phelps Dodge Corporation, of New York, NY.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-32884 Filed 10-21-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's rules of practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. 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.

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.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant 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. 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 protests in the form of verified statements filed on or before November 21, 1980, (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. 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".

Volume No. OP2-072

Decided: October 16, 1980.

By the Commission, Review Board, Number 3, Members Parker, Fortier, and Hill.

MC 105733 (Sub-82F), filed October 2, 1980. Applicant: RITTER TRANSPORTATION, INC., P.O. Box 1064-A, Rahway, NJ 07065. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, DC 20005. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 131052F, filed September 30, 1980. Applicant: J. W. BOYLES, 500 S. Western (P.O. Box 25852), Oklahoma City, OK 73125. Representative: G. Timothy Armstrong, 200 North Choctaw, P.O. Box 1124, El Reno, OK 73036. As a *broker,* to arrange for the transportation of *general commodities* (except household goods), between points in the U.S.

Volume No. OP3-049

Decided: October 14, 1980.

By the Commission, Review Board Number 2, Members Parker, Fortier and Hill. Member Hill not participating

MC 56945 (Sub-3F), filed October 2, 1980. Applicant: S & H TRUCK LINES, INC., 13990 Valley Blvd., Fontana, CA 92335. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 143794 (Sub-17F), filed September 30, 1980. Applicant: EAST-WEST MOTOR FREIGHT, INC., P.O. Box 607, Highway 45 South, Selmer, TN 38375. Representative: Stephen L. Edwards, 806 Nashville, Bank & Trust Building, Nashville, TN 37201. *Broker* in arranging for the transportation of *general commodities* (except household goods), between points in the U.S.

Volume No. OP4-091

Decided: October 15, 1980.

By the Commission, Review Board Number, Members Carleton, Joyce, and Jones.

MC 40456 (Sub-16F), filed October 3, 1980. Applicant: JOHN BENKART & SONS CO., a corporation, 2500 North Charles St., Pittsburgh, PA 15214. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. Transporting *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons and munitions) for the United States Government, between points in the U.S.

MC 108207 (Sub-559F), filed October 9, 1980. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 109847 (Sub-33F), filed October 8, 1980. Applicant: AMERICAN TRANSPORTATION, INC., 797 Amity Rd., Bethany, CT 06460. Representative: Mel P. Booker, Jr., 110 S. Columbus St., Alexandria, VA 22314. Transporting *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.

MC 139277 (Sub-3F), filed October 8, 1980. Applicant: AL E. HALL TRUCKING, 210 Livingston St., Gridley, IL 61744. Representative: Patrick H. Smyth, 19 So. LaSalle St., Suite 401, Chicago, IL 60603. Transporting (1) *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the United States Government, and (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.

MC 148477 (Sub-2F), filed October 2, 1980. Applicant: DAILY DELIVERY SERVICE, INC., 1905 Maplewood Avenue, Hagerstown, MD 21740. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. Transporting *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.

Volume No. OP5–034

Decided: October 16, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 97068 (Sub-23F), filed October 7, 1980. Applicant: H. S. ANDERSON TRUCKING COMPANY, a corporation, P.O. Box 3656, Port Arthur, TX 77640. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons or munitions), for the U.S. Government, between points in the U.S.

MC 127539 (Sub-85F), filed October 6, 1980. Applicant: PARKER REFRIGERATED SERVICE, INC., 1108 54th Avenue East, Tacoma WA 98424. Representative: Michael D. Duppenthaler, 211 South Washington Street, Seattle, WA 98104. Transporting general commodities (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 141548 (Sub-19F), filed October 1, 1980. Applicant: INTERIOR TRANSPORT, INC., P.O. Box 3347, Spokane, WA 99220. Representative: George H. Hart, 1100 IBM Building, Seattle, WA. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 147869 (Sub-2F), filed October 6, 1980. Applicant: PIERCE TRAFFIC CORPORATION, P.O. Box 528, Eugene, OR 97440. Representative: David C. White, 2400 S.W. Fourth Ave., Portland, OR 97201. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 149288 (Sub-3F), filed October 6, 1980. Applicant: TRIPLE A DELIVERY SERVICE, INC., 244 W. Main St., Groveport, OH 43125. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. Transporting *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.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-32865 Filed 10-21-80; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30,000 (Sub-1—Sub-10)]

Union Pacific Corp. and Union Pacific Railroad Co. et al.; Applications Accepted for Consideration; Correction

Decision: Finance Docket No. 30,000; Union Pacific Corporation and Union Pacific Railroad Company—Control—Missouri Pacific Corporation and Missouri Pacific Railroad Company; Finance Docket No. 30,000 (Sub-No. 1); Union Pacific Corporation and Union Pacific Railroad Company—Control—The Western Pacific Railroad Company; Finance Docket No. 30,000 (Sub-No. 2); Union Pacific Corporation—Securities; Finance Docket No. 30,000 (Sub-No. 3); Missouri Pacific Corporation—Securities; Finance Docket No. 30,000 (Sub-No. 4); The Western Pacific Railroad Company—Securities; Finance Docket No. 30,000 (Sub-No. 5); Union Pacific Railroad Company—Trackage rights at Kansas City over—Missouri Pacific Railroad Company; Finance Docket No. 30,000 (Sub-No. 6); Union Pacific Railroad Company—Trackage rights at St. Joseph, MO over—Missouri Pacific Railroad Company; Finance Docket No. 30,000 (Sub-No. 7); Missouri Pacific Railroad Company—Trackage rights at Omaha-Council Bluffs, NE—IA over—Union Pacific Railroad Company; Finance Docket No. 30,000 (Sub-No. 8); Union Pacific Railroad Company and Missouri Pacific Railroad Company—Pooling between Omaha-Council Bluffs and Kansas City; Finance Docket No. 30,000 (Sub-No. 9); Union Pacific Railroad Company and Missouri Pacific Railroad Company—Pooling between Beloit and Salina, KS; Finance Docket No. 30,000 (Sub-No. 10); Union Pacific Railroad Company and Missouri Pacific Railroad Company—Pooling between Lincoln and Kansas City.

AGENCY: Interstate Commerce Commission.

ACTION: Correction to notice accepting applications for consideration.

SUMMARY: The Commission is accepting for consideration the applications for Union Pacific Corporation, Pacific Rail System, Inc., and Union Pacific Railroad Company to control (1) Missouri Pacific Corporation and Missouri Pacific Railroad Company and (2) The Western Pacific Railroad Company. The Commission is also accepting for consideration related applications by these parties to enter into trackage rights and pooling agreements, and to issue securities. The Commission is setting a schedule for the consolidated proceeding. The original notice, published at 45 FR 68484, October 15, 1980, contained an error and an omission, both of which are corrected below.

FOR FURTHER INFORMATION CONTACT: Ellen Hanson, (202) 275–7245.

SUPPLEMENTARY INFORMATION: On page 68485, column 3, delete the second item (1) and the second item (2), and the second paragraph designation (3). Run the text of the paragraph immediately preceding the second item (1) (beginning with "Because we have determined.") into the text of former paragraph (3).

At the end of former paragraph (3), at the bottom of column 3, insert the following language:

> We are waiving on our motion the requirements found in our regulations that railroads filing written comments file as part of those comments copies of existing preferential solicitation agreements and a list of run-through train operations. Where such information is relevant, we believe commenting railroads will have every incentive to file such information voluntarily. Where it is not relevant, we don't want such information.

As corrected, page 68485, last paragraph following item No. 7 reads as follows:

Because we have determined that this proceeding constitutes a major transaction within the meaning of our *Railroad Consolidation Procedures,* Ex Parte 282—(Sub-No. 3), served August 25, 1980, railroads filing written comments must, in addition to the above information, submit a statement of whether the commenting railroad intends to file inconsistent applications, petitions for inclusion, trackage rights, or any other affirmative relief requiring an application to be filed with the Commission. This will be considered a prefiling notice without which the Commission will not entertain applications for this type of relief. We are waiving on our motion the requirements found in our regulations that railroads filing written comments file as part of those comments copies of existing preferential solicitation agreements and a list of run-through

train operations. Where such information is relevant, we believe commenting railroads will have every incentive to file such information voluntarily. Where it is not relevant, we don't want such information.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-33009 Filed 10-21-80; 8:45 am]

BILLING CODE 7035-01-M

Recission of Revised Policy Concerning Applications for Operating Authority To Handle Traffic to and from Points in Canada

AGENCY: Interstate Commerce Commission.

ACTION: Notice of recission of policy statement.

SUMMARY: A decision by the United States Court of Appeals for the District of Columbia Circuit in No. 79-1214, *American Bus Association* v. *ICC* (decided June 25, 1980), found the Commission's policy statement entitled *Revised Policy Concerning Applications for Operating Authority to Handle Traffic to and from Points in Canada*, 43 FR 60706 (December 28, 1978) to have been unlawfully adopted. The Court found that the Commission improperly failed to provide notice and comment pursuant to 5 U.S.C. 553. The Court did not reach the merits of the policy statement. The purpose of this notice is (1) to advise the public that the revised policy statement has been voided, so that Canadians restrictions imposed between 1975 and 1978 can no longer be considered null and void and (2) to inform the public that the Commission is proposing procedures in Ex Parte No. MC-142 (Sub-No.1), *Removal of Restrictions from Authorities of Motor Carriers of Property*, 45 FR 61326 (September 16, 1980), which would enable motor carriers to eliminate certain foreign commerce restrictions in their outstanding certificates and permits on an expeditious basis.

EFFECTIVE DATE: October 22, 1980.

FOR FURTHER INFORMATION CONTACT: Howell I. Sporn, (202) 275-7575, or Donald J. Shaw, Jr., (202) 275-7292

SUPPLEMENTARY INFORMATION:

A decision of the Court of Appeals for the District of Columbia Circuit has vacated a Commission policy statement entitled *Revised Policy Concerning Applications for Operating Authority to Handle Traffic to and from Points in Canada*, 44 FR 60706 (December 28, 1978). In that policy statement the Commission advised the public that it was revising an earlier policy statement on the subject (published at 39 FR 42440 (December 5, 1974), and supplemented at 40 FR 53480 (November 18, 1975)) which had required carriers to specify origins and destinations to be served in Canada as well as ports of entry, and grants of authority were specifically limited accordingly. The new policy statement advised the public that the Commission would not include these restrictions in future grants of authority, and that carriers issued operating authority subsequent to March 3, 1975, (the effective date of the initial policy action) containing restrictions of this nature could consider them to be null and void. Carriers holding authorities issued before March 3, 1975, were reminded that similar restrictions contained in their authorities were still valid and enforceable.

Carriers issued authority after March 3, 1975, are notified that because of the Court's decision they can no longer consider restrictions in their authorities to be null and void. Carriers holding authority with these foreign commerce restrictions are further notified of the Commission's proposal in Ex Parte No. MC-142 (Sub-No. 1), *Removal of Restrictions from Authorities of Motor Carriers of Property*, 45 FR 61326 (September 16, 1980).

The Commission is proposing procedures which would enable any carrier issued authority related to traffic moving from or to points in Canada or Mexico, and restricted to (1) the transportation of traffic originating at or destined to specific points in the two foreign countries, or (2) specific ports of entry on the International Boundary Line between the United States and the two countries, to have the restrictions removed on an expedited basis. This relief would be available for carriers issued authority both before and after March 3, 1975.

Ex Parte No. MC-142 (Sub-No. 1) was initiated by the Commission to implement Section 6 of the Motor Carrier Act of 1980. As pertinent here, the new statute requires the Commission to implement, by regulations, procedures to process applications seeking to remove restrictions in outstanding certificates or permits within 180 days of the enactment of the new legislation. We are proposing that foreign commerce restrictions be considered proper subjects for the restrictions removal program to be adopted.

Carriers affected by the revised policy statement are invited to comment on our proposal in Ex Parte No. MC-142 (Sub-No. 1), during the comment period in that proceeding.

Decided: October 6, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-32886 Filed 10-21-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-69]

Certain Airtight Cast-Iron Stoves; Rejection of Consent Order Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Rejection of consent order agreement submitted in Investigation No. 337-TA-69, Certain Airtight Cast-Iron Stoves.

SUMMARY: Notice is hereby given that Motions No. 69-23, 69-28, and 69-30 have been denied by the Commission. The Administrative Law Judge in this investigation had previously recommended that the consent order agreements be rejected (Orders No. 69-27, 69-31 and 69-32). Interested persons may obtain copies of the administrative law judge's recommendation, the Commission's order and opinion (and all other public documents) by contacting the Office of the Secretary to the Commission, 701 E St., N.W., Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: Jeffrey S. Neeley, Office of the General Counsel, U.S. International Trade Commission, 701 E St., N.W., Washington, D.C. 20436; telephone 202-523-0359.

By order of the Commission.

Issued: October 15, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-33003 Filed 10-21-80; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-89]

Certain Apparatus for the Continuous Production of Copper Rod; Denial of Three Motions, Granting of One Motion

On October 15, 1980, the Commission voted to deny (1) Krupp's Motion to Admit Additional Evidence or to Remand to the Administrative Law Judge; (2) Southwire's Motion to Strike Krupp Respondents' Prehearing Brief; and (3) Southwire's objection to the appearance of Phelps Dodge Corporation. The Commission also

voted to grant Southwire's Motion to Substitute Exhibits.

Copies of the Commission's Action and Order and any other public documents in this investigation are available to the public during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone 201–523–0161.

By Order of the Commission.

Issued: October 16, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-33002 Filed 10-21-80; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-76]

Certain Food Slicers and Components Thereof; Denial of Motion To Terminate Respondent Albert E. Price, Inc., and Remand of Proposed Consent Order Agreement

AGENCY: United States International Trade Commission.

ACTION: Having determined that this matter is properly before the Commission and having reviewed the record in this investigation, including the recommendation of the presiding officer and the joint motion to terminate (motion docket No. 76–1), and papers in support thereof, the Commission has voted to deny the joint motion to terminate Albert E. Price, Inc., as respondent in Investigation No. 37–TA–76, and remanded the proposed consent order agreement to the presiding officer for revision. The Commission believes that the consent order agreement is defective in that: (1) it fails to specify that the food slicers presently under investigation are prohibited from importation and sale in the United States; and (2) it lacks a provision waiving all rights to seek judicial review or otherwise challenge or contest the validity of the consent order.

EFFECTIVE DATE: October 10, 1980.

FOR FURTHER INFORMATION CONTACT: Warren H. Maruyama, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436; telephone (202) 523–0143.

SUPPLEMENTARY INFORMATION:

Background. This investigation, under Section 337 of the Tariff Act of 1930, concerns alleged infringement of claim 7 of U.S. Letters Patent 3,766,817 by repondents E. Mishan and Sons, Albert E. Price Inc., Crest Industries Corporation, and Taiwan Timing Co. The Commission instituted Investigation No. 337–TA–76 on December 4, 1979, and published notice thereof in the **Federal Register** on December 21, 1979 (44 FR 75733).

On March 21, 1980, complainant Prodyne Enterprises, Inc., respondent Albert E. Price, Inc. and the Commission investigative attorney filed a joint motion to terminate the investiation as to Price, and submitted a proposed consent order agreement to the presiding offier. The presiding officer certified the consent order agreement to the Commission on May 7, 1980, and certified her recommendation that the proposed consent order be rejected on June 24, 1980. The Commission published notice of the motion to terminate the investigation as to respondent Price in the **Federal Register** on July 16, 1980 for public comment (45 FR 47770), in addition, requested comments from government agencies pursuant to 19 CFR 210.14(a)(2).

Pursuant to 19 CFR 210.51(a), the Commission has denied the joint motion to terminate respondent Price (Motion 76–1), and has remanded the proposed consent order agreement to the presiding officer.

Reconsideration. Any party wishing to petition for reconsideration of the Commission's action must do so within fourteen (14) days of service of the Commission order. Such petitions must be in accord with Commission Rule § 210.56 (19 CFR 210.56).

Additional Information. Copies of the Commission's Order and Opinion and any other public documents in this investigation are available to the public during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, United States Internationl Trade Commission, 701 E Street, N.W., Washington, D.C. 20436, Telephone (202) 523–0161.

By order of the Commission.

Issued: October 14, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-33004 Filed 10-21-80; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 22-42]

Peanuts, Shelled or Not Shelled Blanched, or Otherwise Prepared or Preserved (Except Peanut Butter); Investigation and Hearing

AGENCY: United States international Trade Commission.

ACTION: Institution of an investigation under section 22(d) of the Agricultural Adjustment Act (7 U.S.C. 624) to determine whether changed circumstances exist which require the modification or suspension of the section 22 quantitative import restriction on peanuts, set forth in item 951.00[1] of the Appendix to the Tariff Schedules of the United States, for the 12-month quota period beginning August 1, 1980. Specifically, the Commission instituted the investigation under section 22(d) to determine whether the annual import quota for the 12-month period beginning August 1, 1980, may be modified or suspended without rendering or tending to render ineffective, or materially interfering with, any program or operation undertaken by the Department of Agriculture with respect to peanuts, or reducing substantially the amount of any product processed in the United States from peanuts.

EFFECTIVE DATE: October 15, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen D. Burket, 202/523–0033.

SUPPLEMENTARY INFORMATION:

Background.

Since July 1, 1953, U.S. imports of peanuts have been subject to an annual quota (beginning on August 1 of each year) of 1,709,000 pounds (aggregate quantity, shelled basis). This quota was imposed, based on a U.S. Tariff Commission (now the U.S. International Trade Commission) finding, as a result of an investigation under section 22 of the Agricultural Adjustment Act of 1933. In 1955 and 1956, as a result of actions taken under section 22(d) of that act, the import quota was temporarily relaxed to allow for imports in excess of the quota in order to relieve shortages of certain types of peanuts in the United States.

The current investigation (No. 22–42) is being instituted following receipt on October 1, 1980, of a petition filed by counsel on behalf of the Peanut Butter and Nut Processors Association and the Natonal Confectioners Association requesting that the Commission make such an investigation under section 22(d), and alleging that because of severe drought conditions in producing areas in the United States and a resultant decline in U.S. production of peanuts, it is urgent that action be taken to suspend entirely the import restriction for the current quota period.

[1] Item 951.00 provides that whenever, in any 12-month period beginning August 1 in any year, an aggregate quantity of 1,709,000 pounds (shelled basis) of peanuts, shelled or not shelled, blanched, or otherwise prepared or preserved (except peanut butter) provided for in TSUS items 145.20, 145.21, and 145.48 (part 9A, schedule 1) has been entered, no such products may be entered during the remainder of such period. Peanuts in the shell are charged against the quota on the basis of 75 pounds for each 100 pounds of peanuts in the shell.

Authority. Section 22(d) of the Agricultural Adjustment Act provides that "After investigation, report, finding, and declaration in the manner provided in the case of a proclamation issued pursuant to subsection (b) of this section, any proclamation or provision of such proclamation may be suspended or terminated by the President whenever he finds and proclaims that the circumstances requiring the proclamation or provision thereof no longer exist or may be modified by the President whenever he finds and proclaims that change circumstances require such modification to carry out the purposes of this section." This investigation will be subject to the provisions of part 204 of the Commission's Rules of Practice and Procedure (19 CFR 204).

PUBLIC HEARING: The Commission will hold a public hearing in connection with this investigation beginning at 10 a.m., e.s.t., Monday, December 1, 1980, in the Hearing Room of the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m., e.s.t.), November 24, 1980. All persons desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 10 a.m., e.s.t., on November 25, 1980, in Room 117 at the U.S. International Trade Commission Building. For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rule of Practice and Procedure, Part 204 (19 CFR 204) and Part 201 (19 CFR 201).

WRITTEN SUBMISSIONS: In addition to or in lieu of an appearance at the hearing, interested persons may submit to the Commission a written statement of information pertinent to the subject matter of this investigation. Written statements should be addressed to the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, and must be received not later than December 10, 1980. All written submissions, except for confidential business data, will be available for public inspection.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

By order of the Commission.

Issued: October 16, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-33006 Filed 10-21-80; 8:45 am]

BILLING CODE 7020-02-M

[731-TA-35 (Preliminary)]

Portable Electric Nibblers From Switzerland; Institution of Preliminary Antidumping Investigation and Scheduling of Conference

AGENCY: United States International Trade Commission.

ACTION: Institution of preliminary antidumping investigation to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry is materially retarded, by reason of imports from Switzerland of hand-directed or -controlled nibblers with self-contained electric motors, provided for in item 683.20 of the Tariff Schedules of the United States (TSUS), sold or likely to be sold at less than fair value.

EFFECTIVE DATE: October 16, 1980.

FOR FURTHER INFORMATION CONTACT: Daniel Leahy, Senior Investigator (202-523-1369).

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted following receipt of a petition on October 7, 1980, filed by the Widder Corp., Naugatuck, Conn., on behalf of the domestic industry producing portable electric nibblers. The petition alleged sales at less than fair value (LTFV) of portable electric nibblers produced in Switzerland.

Authority. Section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673(a)) requires the Commission to make a determination of whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports alleged to be, or likely to be, sold in the United States at less than fair value. Such a determination must be made within 45 days after the date on which a petition is filed under section 732(b) or on which notice is received from the Department of Commerce of an investigation commenced under 732(a). Accordingly, the Commission, on October 16, 1980, instituted preliminary antidumping investigation No. 731-TA-35. This investigation will be subject to the provisions of Part 207 of the Commission's Rules of Practice and Procedure (19 CFR Part 207, 44 FR 76457) and particularly, subpart B thereof.

Written submissions. Any person may submit to the Commission on or before November 3, 1980, a written statement of information pertinent to the subject matter of this investigation. A signed original and nineteen copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference. The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 10 a.m., e.s.t., on October 29, 1980, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the senior investigator for the investigation, Mr. Daniel Leahy (202-523-1369). It is anticipated that parties in support of the petition for antidumping duties and parties opposed to such petition will each be collectively allocated one hour within which to make an oral presentation at the conference. Further details concerning the conduct of the conference will be provided by the senior investigator.

Inspection of petition. The petition filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

Issued: October 17, 1980.

Issued by the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-33005 Filed 10-21-80; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Proposed Consent Decree in Action To Enjoin Discharge of Water Pollutants by Orange County, Fla.

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice

is hereby given that on October 15, 1980 a proposed consent decree in *United States of America* v. *Orange County, Florida* (M.D. Fla. Civ. No. 79–189–Orl–Civ.–R), was lodged with the United States District Court for the Middle District of Florida. The proposed consent decree establishes compliance schedules by which Orange County will eliminate the discharges of pollutants from five wastewater treatment plants. In addition, the proposed decree requires the payment of stipulated civil penalties for violations of certain of its provisions and the establishment of a $200,000 environmental trust fund to be used for beneficial environmental projects.

The proposed consent decree may be examined at the office of the United States Attorney, 80 North Hughey Avenue, Orlando, Florida, and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2644, Ninth and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of one dollar, seventy cents (ten cents per page reproduction charge) payable to the Treasurer of the United States.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of this notice. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Orange County, Florida*, (M.D. Fla. Civ. No. 79–189–Orl–Civ.–R), D.J. Ref. 90–5–1–1–1144.

Angus MacBeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 80–32882 Filed 10–21–80; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Tripartite Advisory Panel on International Labor Standards; Meeting

In accordance with Section 10(a) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is hereby given of a meeting of the Tripartite Advisory Panel on International Labor Standards, which is a subcommittee of the President's Committee on the International Labor Organization.

Name: Tripartite Advisory Panel on International Labor Standards.

Date: November 6, 1980.

Time: 10 a.m.

Place: Department of Labor, 3rd and Constitution Ave., N.W., Room C–5515, Washington, D.C. 20210.

This meeting will be closed to the public under authority of Section 10(d) of the Federal Advisory Committee Act, as amended. During its closed session, the Committee will discuss classified materials relating to United States participation in the International Labor Organization. Additionally, the meeting will involve discussion of information the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action. It is not practicable to segregate a portion of the meeting to permit public participation.

All communications regarding this subcommittee should be addressed to Carin A. Clauss, Solicitor of Labor, U.S. Department of Labor, 3rd and Constitution Ave., N.W., Washington, D.C. 20210, telephone (202) 523–7656.

Ray Marshall,

Secretary of Labor.

[FR Doc. 80–33114 Filed 10–21–80; 8:45 am]

BILLING CODE 4510–28–M

NUCLEAR REGULATORY COMMISSION

Privacy Act of 1974; Notices of Systems of Records

Proposed Minor Amendments

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Proposed minor amendments of systems of records.

SUMMARY: The Nuclear Regulatory Commission is proposing minor amendments to the NRC Systems of Records, NRC–1, 4, 7, 8, 9, 11, 15, 16, 18, 20, 22, 27, 31, 33, 34, 36, and 38. The proposed amendments would clarify and update the information contained in the NRC Systems of records. The NRC is also proposing minor amendments to the Prefatory Statement of General Routine Uses.

COMMENT DATE: Comments are due on or before November 21, 1980.

ADDRESS: Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: Sarah N. Wigginton, FOI/PA Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Phone: (301) 492–8133.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, the Nuclear Regulatory Commission has published notices of those systems of records maintained by the NRC which contain personal information about individuals and from which such information can be retrieved by an individual identifier. The notices were published as a document subject to publication in the annual compilation of Privacy Act documents. The amendments are of a minor nature and do not include any substantive changes.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 552a of Title 5 of the United States Code, as amended, notice is hereby given that adoption of the following amendments to the NRC Systems of Records is contemplated. All interested persons who desire to submit written comments should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch by November 21, 1980. Copies of comments on the proposed amendments may be examined at the Commission's Public Document Room 1717 H Street NW., Washington, D.C.

1. Paragraphs one through four of the Prefatory Statement of General Routine Uses are amended to read as follows:

Prefatory Statement of General Routine Uses

The following routine uses apply to each system of records notice set forth below which specifically references this Prefatory Statement.

* * * * *

1. In the event that a system of records maintained by the NRC to carry out its functions indicates a violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rules or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. A record from this system or records may be disclosed, as a routine

use, to a Federal, State, local or foreign agency if necessary to obtain information relevant to an NRC decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

3. A record from this system of records may be disclosed, as a routine use, to a Federal, State, local or foreign agency in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. A record from this system of records may be disclosed as a routine use, in the course of discovery and in presenting evidence to a court, magistrate, administrative tribunal, or grand jury, including disclosures to opposing counsel in the course of settlement negotiations.

* * * * *

2. The paragraphs of NRC–1, "Appointment and Promotion Certificate Records," entitled "Storage" and "Retention and disposal" are amended to read as follows:

NRC–1

SYSTEM NAME:

Appointment and Promotion Certificate Records—NRC.

* * * * *

STORAGE:

Paper records are maintained in file folders in the Records Retention Center, St. Louis, Missouri. Microfiche records are kept in the Division of Organization and Personnel.

* * * * *

RETENTION AND DISPOSAL:

Retained for 2 years from date of selection, then personal records are destroyed by shredding; nonpersonal records are destroyed through regular trash disposal system.

* * * * *

3. The paragraphs of NRC–4, "Conflict of Interest Files," entitled "Categories of records in the system" and "Authority for maintenance of the system" are amended to read as follows:

NRC–4

SYSTEM NAME:

Conflict of Interest Files—NRC.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

a. General biographical data (i.e., name, birthdate, home address, position title, home and business telephone, citizenship, educational history, employment history, professional society memberships, honors, fellowships received, publications, licenses, and special qualifications);

b. Financial status (i.e., nature of financial interests and in whose name held, creditors, character of indebtedness, interest in real property, monthly U.S. Civil Serivce Annuity, and status as Uniformed Services Retired Officer);

Certifications by employees that they and members of their families are in compliance with the Commission's stock ownership regulations;

d. Requests for approval of outside employment by NRC employees and NRC responses thereto;

e. Determination (i.e., no conflict or apparent conflict of interest, questions requiring resolution, steps taken toward resolution); and

f. Information pertaining to appointment (i.e., proposed period of NRC service, estimated number of days of NRC employement during period of service , proposed pay, clearance status, description of services to be performed and explanation of need for the services, justification for proposed pay, description of expenses to be reimbursed and dollar limitation, and description of government-owned property to be in possession of appointee).

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 18 U.S.C. 201 (1976);

b. Executive Order 11222, May 8, 1965;

c. 10 CFR 0.735–29; 10 CFR 0.735–40.

* * * * *

4. The paragraphs of NRC–7, "Division of Document Control Workload Assignment and Production Records," entitled "System name," "System location," "Routine uses of records maintained in the system, including categories of users and the purposes of such uses," "Safeguards, " and "System manager(s) and address" are amended to read as follows:

NRC–7

SYSTEM NAME:

Division of Technical Information and Document Control Workload Assignment and Production Records-NRC

SYSTEM LOCATION:

Primary system—Division of Technical Information and Document Control, Office of Administration, NRC, 7910 Woodmont Avenue, Bethesda, Maryland.

Duplicate system—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Part 1 (a), (b), (e), (f), and (g).

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATERGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used by the Division of Technical Information and Document Control for any of the routine uses specified in the Prefatory Statement.

* * * * *

SAFEGUARDS:

Files relating to comparative employee production and analysis thereof are maintained in locked desks. Budgetary and staffing projection data are maintained in locked and unlocked files. All files are under immediate control of the supervisory staff.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Technical Information and Document Control, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

* * * * *

5. The parapgraph of NRC–8, "Employee Appeals, Grievances and Complaints Records," entitled "System location" is amended to read as follows:

NRC–8

SYSTEM NAME:

Employee Appeals, Grievances and complaints Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Organization and Personnel, Office of Administration, NRC, 7910 Woodmont Avenue, Bethesda, Maryland.

Duplicate system—duplicate systems exist, in whole or in part, at locations listed in Addendum I, Parts 1 and 2.

* * * * *

6. The paragraph of NRC–9, "Equal Employment Opportunity Records Files," entitled "Retention and disposal" is amended to read as follows:

NRC-9

SYSTEM NAME:

Equal Employment Opportunity Records Files—NRC.

* * * * *

RETENTION AND DISPOSAL:

Retained indefinitely.

* * * * *

7. The paragraphs of NRC-11, "General Personnel Records (Official Personnel Folder and Related Records)," entitled "System location," "Routine uses of records maintained in the system, including categories of users and the purposes of such uses," and "Retention and disposal" are amended to read as follows:

NRC-11

SYSTEM NAME:

General Personnel Records (Official Personnel Folder and Related Records—NRC.

SYSTEM LOCATION:

Primary system—Division of organization and Personnel, Office of Administration, NRC, 7910 Woodmont Avenue, Bethesda, Maryland.

Duplicate system—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2; at the Department of Energy computer facility, Germantown, Maryland; and at the National Institutes of Health computer facility, Bethesda, Maryland. The duplicate systems maintained in a particular office, division or branch may contain information of specific application to employees in that organization in addition to that information contained in the primary system.

* * * * *

ROUNTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. By the Office of Personnel Management and Merit Systems Protection Board for making a decision when an NRC employee or former NRC employee questions the validity of a specific document in an individual's record;

b. To provide information to a prospective employer of a government employee. Upon transfer of the employee to another Federal agency, the information in transferred to such agency;

c. To update the Office of Personnel Management systems concerning the Central Personnel Data File (CPDF), the Executive Inventory File and security investigations index hires, and to update adverse actions and terminations records of the Merit Systems Protection Board;

d. To provide statistical reports to Congress, agencies, and the public on characteristics of the Federal work force;

e. To provide information to the Office of Personnel Management and Merit Systems Protection Board for review and audit purposes;

f. To provide members of the public with the names, position titles, grades, salaries, appointments (temporary or permanent), and duty stations of employees;

g. Medical records may be used for providing information to the Public Health Service in connection with Health Maintenance Examinations and to other Federal agencies responsible for Federal benefit programs administered by the Department of Labor (Office of Workmen's Compensation Programs) and the Office of Personnel Management; and

h. For any of the routine uses specified in the Prefatory Statement.

* * * * *

RETENTION AND DISPOSAL:

The Official Personnel Folder is sent to the National Personnel Records Center within 30 days of the date of the employees separation from the Federal service. Some records such as letters of reprimand, indebtedness and vouchers are maintained for two years or destroyed by shredding when an individual resigns, transfers or is separated from the Federal service. SF-1, "Service Record Card," is retained indefinitely after separation or transfer.

* * * * *

8. The paragraph of NRC-15, "National Standards Committee Membership Files," entitled "Categories of records in the system" is amended to read as follows:

NRC-15

SYSTEM NAME:

National Standards Committee Membership Files-NRC.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

This system is a comprehensive record of NRC personnel on the nuclear standards committees and contains members' names, the names of the committees to which they belong, and the names of the NRC offices in which the members work.

* * * * *

9. The paragraph of NRC-16, "Facility Operator Licensees Records Files," entitled "Routine uses of records maintained in the system, including categories of users and the purposes of such uses" is amended to read as follows:

NRC-16

SYSTEM NAME:

Facility Operator Licensees Records Files—NRC.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To determine if the individual meets the requirements of 10 CFR Part 55 to take an examination or to be issued an operator's license;

b. For any of the routine uses specified in the Prefatory Statement, except paragraph number 3;

c. To provide researchers with information for statistical evaluations related to selections, training and examination of facility operators;

d. To provide for examination and testing material and obtain results from contractors; and

e. To provide facility management with sufficient information to enroll the individuals in the licensed operator requalification program.

* * * * *

10. The paragraphs of NRC-18, "Office of Inspector and Auditor Index File and Associated Records" entitled "Authority for maintenance of the system," "Routine uses of records maintained in the system, including categories of users and the purposes of such uses," and "Safeguards" are amended to read as follows:

NRC-18

SYSTEM NAME:

Office Inspector and Auditor Index File and Associated Records—NRC.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. Subsections 25(c) and 161(c) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2035(c) and 2201(c) (1976);

b. Subsection 201(f), Energy Reorganization Act of 1974, 42 U.S.C. 5841(f) (1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. A record in the system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency or to an individual or organization, if the

disclosure is reasonably necessary to elicit information or to obtain the cooperation of a witness or an informant.

b. A record in the system of records relating to a case or matter falling within the purview of the Office of Inspector and Auditor that has been referred for audit, inspection or investigation may be disclosed as a routine use to the referring agency, group, organization or individual to notify such agency, group, organization or individual of the status of the case or matter or of any decisions or determination that has been made.

c. A record in the system of records relating to an individual held in custody pending arraignment, trial, or sentence, or after conviction, may be disclosed as a routine use to a Federal, State, local or foreign prison, probation, parole or pardon authority, or to any agency or individual concerned with the maintenance, transportation, or release of such an individual.

d. A record in the system of records relating to a case or matter may be disclosed as a routine use to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States.

e. A record in the system of records may be disclosed as a routine use to a Federal, State, local or foreign law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency.

f. A record in the system of records in the nature of an audit, inspection or investigation report relating to the integrity and efficiency of the Commission operation and management may be disseminated outside the Commission as part of the Commission's reponsibility to inform the Congress and the public about Commission operations.

g. A record in the system of records may be disclosed for any of the routine uses specified in the Prefatory Statement.

* * * * *

SAFEGUARDS:

The index is maintained in unlocked file cabinets and the associated records are located in lockable metal filing cabinets or safes. All records are under visual control during normal working hours, available only to authorized personnel whose duties require access, and stored in a room that is locked after normal working hours.

* * * * *

11. The paragraph of NRC–20, "Official Travel Records," entitled "Retrievability" is amended to read as follows:

NRC–20

SYSTEM NAME:

Official Travel Records—NRC.

* * * * *

RETRIEVABILITY:

Records are accessed by name, social security account number, authorization number, estimated travel start day, authorization process day, voucher process day, and voucher payment schedule number.

* * * * *

12. The paragrah of NRC–22, "Personnel Performance Appraisals," entitled "Retention and Disposal" is amended to read as follows:

NRC–22

SYSTEM NAME:

Personnel Performance Appraisals—NRC.

* * * * *

RETENTION AND DISPOSAL:

Retained 1 year, or until subsequent rating is prepared, whichever is later, then destroyed by shredding.

* * * * *

13. The paragraphs of NRC–27, "Radiation Exposure Information and Reports System (REIRS)," entitled "Categories of individuals covered by the system" and "Categories of records in the system" are amended to read as follows:

NRC–27

SYSTEM NAME:

Radiation Exposure Information and Reports System (REIRS)—NRC.

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals monitored for radiation exposure while employed by or visiting or temporarily assigned to certain NRC licensed facilities; individuals who were exposed to radiation or radioactive materials in incidents required to be reported pursuant to 10 CFR 20.403 and 20.405 by all NRC licensees; individuals who may have been exposed to radiation or radioactive materials off-site from a facility, plant, installation, or other place of use of licensed materials, or in unrestricted areas, as a result of an incident involving byproduct, source, or special nuclear material; as the required by NAVMED P–5055, Radiation Health Protection Manual, monitored individuals terminating their service with the Navy prior to 1977; and monitored employees of all the registrants of the State of Illinois.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to individual's name; sex; social security account number; date of birth; job category; period of employment; place and period date of exposure; name, address, and license number of individual's employer; licensee name and number reporting the incident; radiation doses or estimates of exposure received during this period; types of radiation; part(s) or organ(s) exposed; and nuclide(s) involved. Some reports will indicate whether the individual is a contractor or a utility employee. Between January 1972 and May 1974 the following information was also recorded for individuals over-exposed to radiation: sex, training experience, regular occupation of the exposed individuals; device or method used to determine dose(s); brief statement describing the incident and the causes; corrective actions taken; status of exposed individual (i.e., medical treatment); type, age, and manufacturer of malfunctioning equipment; and cumulative dose prior to incident.

* * * * *

14. The paragraphs of NRC–31, "Secretariat Records Facility Files," entitled "System name," "System location," "Categories of individuals covered by the system," "Categories of records in the system" "Authority for maintenance of the system," "Route uses of records maintained in the system including categories of users and the purposes of such uses," "Storage," "Retrievability," "Safeguards," "Retention and disposal," and "Systems exempted from certain provisions of the act" are amended to read as follows:

SYSTEM NAME:

Correspondence and Records Branch, Office of the Secretary, NRC.

SYSTEM LOCATION:

Office of the Secretary, Correspondence and Records Branch, NRC, 1717 H Street, N.W., Washington, DC 20555.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The majority of records in this system consist of internal NRC memoranda between NRC employees and the Chairman, a Commissioner, or the Secretary in the ordinary course of carrying out the official business of the NRC. Records also include correspondence from Members of Congress and their staffs including constituent referrals, and White House

correspondence referred to the NRC for response. Correspondence may identify an individual's social security number, date of birth, address, and employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information concerning all subjects which directly or indirectly relate to the fulfillment of NRC's statutory mandate. Records include information dealing with the policy, legal, administrative, and adjudicatory functions of the NRC.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. Section 201, Energy Reorganization Act of 1974, 42 U.S.C. 5841 (1976);

b. 44 U.S.C. 3101 (1970).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records may be used for any of the routine uses specified in the Prefatory Statement.

* * * * *

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Most records are accessed by subject matter headings and are not individually identifiable. Access to some correspondence by individual name is available through correspondence control documents.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Classified materials are maintained in approved safes, and unclassified records are maintained in rolling file equipment. Access to floor where records are held is controlled 24 hours per day by Federal Protective Officers.

RETENTION AND DISPOSAL:

Retained indefinitely.

* * * * *

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1), the Commission has exempted portions of the system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f). The exemption rule is contained in Section 9.95 of the NRC regulations (10 CFR 9.95).

15. The paragraphs of NRC–33, "Special Inquiry File," entitled "System location" and "Storage" are amended to read as follows:

NRC–33

SYSTEM NAME;

Special Inquiry File.

SYSTEM LOCATION:

a. Primary system: Special Inquiry Group, U.S. Nuclear Regulatory Commission, 7920 Norfolk Avenue, Bethesda, Maryland.

b. Duplicate system: a duplicate system exists, in whole or in part, at the TERA Advanced Services Corporation, 7101 Wisconsin Avenue, Suite 1400, Bethesda, Maryland.

* * * * *

STORAGE:

Maintained in microfiche, disks, tapes, and paper in file folders. Documents are maintained in secured vault facilities.

* * * * *

16. The paragraph of NRC–34, "Advisory Committee on Reactor Safeguards (ACRS) Correspondence Index and Associated Records," entitled "System manager(s) and address" is amended to read as follows:

SYSTEM NAME:

Advisory Committee on Reactor Safeguards (ACRS) Correspondence Index and Associated Records—NRC.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Technical Informaiton Branch, Advisory Committee on Reactor Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

* * * * *

17. The paragraphs in NRC–36, "Employee Locator Records Files," entitled "Storage," "Safeguards," and "System manager(s) and address" are amended to read as follows:

SYSTEM NAME:

Employee Locator Records Files—NRC.

* * * * *

STORAGE:

Maintained on index cards.

* * * * *

SAFEGUARDS:

Maintained in controlled access room under 24-hour visual control of NRC operators. Access to and use of these records are limited to those persons whose official duties require such access.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Telecommunications Branch, Division of Facilities and Operations Support, Office of Administration, U.S.

Nuclear Regulatory Commission, Washington, DC 20555.

* * * * *

18. The paragraphs of NRC–38, "Mailing Lists," entitled "System location" and "System manager(s) and address" are amended to read as follows:

NRC–38

SYSTEM NAME:

Mailing Lists—NRC.

SYSTEM LOCATION:

Primary system: Division of Technical Information and Document Control, Office of Administration, NRC, 7920 Norfolk Avenue, Bethesda, Maryland.

* * * * *

SYSTEM MANAGER(S) AND ADDRERSS:

Director, Division of Technical Information and Document Control, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Bethesda, Maryland, this 9th day of October, 1980.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 80–32716 Filed 10–21–80; 8:45 am]

BILLING CODE 7590–01–M

Utility Management and Technical Resources; Report NUREG/CR–1656

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for comments.

SUMMARY: The Nuclear Regulatory Commission (NRC) is currently reassessing its requirements regarding nuclear power plant utility management and technical resources. NUREG/CR–1656 is a report prepared by Teknekron Research Inc. under contract to the NRC to analyze and evaluate utility management and technical resources for dealing with events like that at Three Mile Island Unit 2. Teknekron (1) analyzed licensee submittals in response to an NRC request to identify management and technical short-term and long-term resources for reacting to TMI–2 type accidents, (2) developed acceptance criteria that specify minimum management and technical (onsite and offsite) resources, and (3) evaluated the adequacy of licensee management and technical resources (onsite and offsite). Public comments on this report will be considered in development of new requirements or guidance.

DATE: Comment period expires December 8, 1980.

ADDRESS: Copies of the report are available for $8.00 from GPO Sales Program, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence P. Crocker (301) 492–9437.

SUPPLEMENTARY INFORMATION: Interested persons are invited to submit written comments to Mr. Harold R. Denton, Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, on or before December 8, 1980.

Dated at Bethesda, Maryland, this 9th day of October, 1980.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Licensee Qualifications Branch, Division of Human Factors Safety.

[FR Doc. 80–32647 Filed 10–21–80; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Section 337 Case on Certain Skateboards and Platforms Therefor: Solicitation of Public Views

Under the provisions of section 337 of the Tariff Act of 1930, the United States International Trade Commission (USITC) issued an order excluding certain imported skateboards from entry into the U.S. (see USITC Investigation No. 337–TA–37).

The Commission determined that the importation and sale in the United States of certain skateboards infringed U.S. Letters Patent No. 3,565,454 and, by stipulation of the parties, that such importation has the effect or tendency to injure substantially or to destroy a domestic industry in violation of section 337. The report of the USITC was referred, on October 9, 1980, to the USTR who receives it for the President, leads an interagency review and advises the President whether to approve the order, or whether to disapprove it for policy reasons.

The President, under section 337(g) (19 U.S.C. 1337(g)), has 60 days following receipt of the Commission's determination and order during which he may disapprove the order for policy reasons, approve the order making it final immediately or take no action allowing the order to become final following the 60 day period.

In order to prepare the recommendation to the President, the Trade Policy Staff Committee welcomes the views and comments of interested parties concerning the policy issues, economic and political, which should be considered in relation to the exclusion of this product from importation into the United States.

Written comments should be submitted in 20 copies to the Secretary, Trade Policy Staff Committee, Room 735, Office of the United States Trade Representative, 1800 G Street, N.W., Washington, D.C. 20506. Such submissions should be received by the close of business, November 14, 1980. For further information, call Alice Zalik (202) 395–3432.

Ann H. Hughes,

Chairman, Trade Policy Staff Committee.

[FR Doc. 80–32917 Filed 10–21–80; 8:45 am]

BILLING CODE 3190–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02–5385]

H.B.R. Capital Corp.; Issuance of a License To Operate as a Small Business Investment Company

On April 8, 1980, a notice was published in the **Federal Register** (45 FR 23843) stating that H.B.R. Capital Corporation, located at 1775 Broadway, New York, New York 10019, has filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1980) for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business April 25, 1980, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 02/02–5385 to H.B.R. Capital Corporation on October 9, 1980.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies)

Dated: October 11, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80–32997 Filed 10–21–80; 8:45 am]

BILLING CODE 8025–01–M

WATER RESOURCES COUNCIL

Principles and Standards for Planning Water and Related Land Resources; Change in Discount Rate

Notice is hereby given that the interest rate to be used by Federal agencies in the formulation and evaluation of plans for water and related land resources is 7⅜ percent for the period October 1, 1980, through and including September 30, 1981.

The rate has been computed in accordance with Chapter IV, D., "The Discount Rate" in the "Standards for Planning Water and Related Land Resources" of the Water Resources Council, as amended (39 FR 29242), and is to be used by all Federal agencies in plan formulation and evaluation of water and related land resources projects for the purpose of discounting future benefits and computing costs, or otherwise converting benefits and costs to a common time basis.

The Department of the Treasury on October 16, 1980, informed the Water Resources Council pursuant to Chapter IV, D., (b) that the interest rate would be 10¼ percent based upon the formula set forth in Chapter IV, D., (a): "* * * the average yield during the preceding Fiscal Year on interest-bearing marketable securities of the United States which, at the time the computation is made, have terms of 15 years or more remaining to maturity * * *." However, Chapter IV, D., (a) further provides "* * * that in no event shall the rate be raised or lowered more than one-quarter of one percent for any year." Since the rate in Fiscal Year 1980 was 7⅛ percent (44 FR 62116), the rate for Fiscal Year 1981 is 7⅜ percent.

Dated: October 17, 1980.

Richard N. Vannoy,

Acting Director.

[FR Doc. 80–32933 Filed 10–21–80; 8:45 am]

BILLING CODE 6410–01–M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 206
Wednesday, October 22, 1980

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.

TIME AND DATE: 11 a.m., Friday, October 31, 1980.

PLACE: 2033 K Street NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1936-80 Filed 10-20-80; 3:20 pm]

BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., October 28, 1980.

PLACE: 2033 K Street NW., Washington, D.C., fifth floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Discussion of Disclosure of Information under Section 8(o) of the Act.

Enforcement matters/request for authorization to take testimony in a private investigation; offer of settlement.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1937-80 Filed 10-20-80; 3:47 pm]

BILLING CODE 6351-01-M

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., October 28, 1980.

PLACE: 2033 K Street NW., Washington, D.C., fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Dealer Options/ The Commission will consider recommendations to republish the proposed rules for the regulation of dealer options in the Federal Register for additional comment.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1938-80 Filed 10-20-80; 3:47 pm]

BILLING CODE 6351-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, October 27, 1980, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Application for Federal deposit insurance:

Florence Savings Bank, Northampton, Massachusetts, an operating noninsured bank, for Federal deposit insurance.

Application for consent to purchase stock in a foreign financial entity:

Colonial Bank, Waterbury, Connecticut, for consent to acquire stock of Colonial International, S.A., a corporation organized in Panama.

Application for consent to purchase assets, assume liabilities, and establish branches:

Washington Trust Bank, Spokane, Washington, an insured State nonmember bank, for consent to purchase the assets of and assume the liability to pay deposits made in Eastern Washington Bank, Moses Lake, Washington, and for consent to establish the two offices of Eastern Washington Bank as branches of Washington Trust Bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,493-L—Banco Economias, San German, Puerto Rico.

Case No. 44,528-L—Banco de Ahorro de Puerto Rico, San Juan, Puerto Rico.

Memorandum and Resolution re: First State Bank & Trust Co., Rio Grande City, Texas.

Memorandum and Resolution re: First Augusta Bank & Trust Company, Augusta, Georgia.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

Reports of committees and officers:

Report of actions taken by the Division of Liquidation under delegated authority—Expenditures.

Report of actions taken by the Division of Liquidation under delegated authority—Compromise Settlements.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: October 20, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1939-80 Filed 10-20-80; 3:46 pm]

BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5. U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance

Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, October 27, 1980, to consider the following matters:

Disposition of minutes of previous meetings.

Memorandum and Resolution re: Amendments to Part 329 of the Corporation's rules and regulations redefining "Time Deposits" to reduce maturity from 30 to 14 days.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550, 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: October 20, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1940-80 Filed 10-20-80; 3:45 pm]

BILLING CODE 6714-01-M

6

NATIONAL INSTITUTE OF EDUCATION.

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH (NIE):

"FEDERAL REGISTER" CITIATION OF PREVIOUS ANNOUNCEMENT: S-1395-80 filed July 21, 1980, 9:51 a.m.

DATE AND TIME: October 31, 1980, 9 a.m.-3:30 p.m.

PLACE: Room 823, National Institute of Education, 1200 19th Street NW., Washington, D.C.

STATUS: Certification has been received from the Department of Education Office of General Counsel, that in the opinion of that office, the NCER "would be authorized to close portions of its meeting on October 31, 1980, under 5 U.S.C. 522b(c)(9)(B) and 45 CFR 1440.2(a)(9) for the purposes of reviewing and discussing with the Director of NIE, the proposed executive branch budget for fiscal year 1982, in particular, the sections dealing with the proposed budget and funding priorities of NIE." Agenda item #5 will be closed, the rest of the agenda remains open to the public.

MATTERS TO BE CONSIDERED:

1. Swearing-in Ceremony (9 a.m.-9:20 a.m.).
2. Director's Report (9:20 a.m.-10:20 a.m.).
3. NIE Legislative Situation (10:20 a.m.-10:40 a.m.).
4. Review and Reports Committee Report: NCER Annual Report.
5. Closed session: Fiscal year 1982 Budget (11 a.m.-11:30 a.m.).
6. Review Discussion: Research on Teaching (1 p.m.-3:30 p.m.).

CONTACT PERSON FOR MORE INFORMATION: Ella L. Jones, Administrative Coordinator; telephone: 202/254-7900.

Peter H. Gerber,

Chief, Policy and Administrative Coordination.

[S-1934-80 Filed 10-20-80; 11:15 am]

BILLING CODE 4000-05-M

7

NATIONAL RAILROAD PASSENGER CORPORATION.

Board of Directors Meeting.

In Accordance with Rule 4a. of Appendix A of the Bylaws of the National Railroad Passenger Corporation notice is given that the Board of Directors will meet on October 29, 1980.

A. The meeting will be held on Wednesday, October 29, 1980, in the National Guard Association Building, 3rd Floor, One Massachusetts Avenue, Northwest, Washington, D.C., beginning at 9:30 a.m.

B. The meeting will be open to the public at 10:30 a.m. beginning with agenda item No. 3, as described below.

C. The agenda items to be discussed at the meeting follow.

Agenda—National Railroad Passenger Corporation, Meeting of the Board of Directors—October 29, 1980

(9:30) Closed Session

1. Internal Personnel Matters.
2. Litigation Matters.

(10:30) Open Session

3. Approval of Minutes of Regular Meeting of September 24, 1980.
4. Resolution of Appreciation for Robert G. Dunlop.
5. Approval of Pennsylvania Liquor License.
6. 1981 Board Meeting Dates.
7. Commitment Approval Requests:

80-183 Acquire Facility for the Amtrak Insfitute for Rail Services.
81-01 Lease Conversion for Control Data Peripheral Equipment.
81-03 Wilmington, Delaware—Equipment PCB Decontamination Program.
80-215 Handicapped and Elderly Accessibility Modifications—Fiscal Year 1981 Programs.
77-154-S4 Michigan Track Upgrade—Phase V.
81-05 Broadway Limited—Showcase Route Improvements.
77-2-R1 Construct Permanent Station—St. Louis, Missouri.
81-04 Station Expansion—Houston, Texas.
81-09 Amtrak Customer Information System—Demonstration Project.
80-01-R1 Revision to CAR 80-01, Conversion of Five Amdinettes to Lounge/Dinettes.
80-181 Purchase and Rebuild Six Used Diesel Switcher Locomotives.
80-200 Acquisition of 30 HEP Diesel-Electric Locomotives.
80-210 Fiscal Year 1981 HEP Conversion Program/Supplemental Funding for Previous Programs.
79-78-S2 Continuation of Hi-Level HEP Program/Supplemental Funding for Previous Programs.

8. Board Committee Reports:

Equipment.
Finance.
Northeast Corridor Improvement Project.

9. President's Report.
10. Advertising Presentation.
11. New Business.
12. Adjournment.

D. Inquiries regarding the information required to be made available pursuant to Appendix A of the Corporation's Bylaws should be directed to the Assistant Corporate Secretary at (202) 383-3991.

October 17, 1980.

Barbara J. Willman,

Assistant Corporate Secretary.

[S-1935-80 Filed 10-20-80; 1:12 pm]

federal register

Wednesday
October 22, 1980

Part II

Department of the Interior

Fish and Wildlife Service

Proposed Listing With Endangered Status and Critical Habitat for the Minito Gecko

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Listing With Endangered Status and Critical habitat for the Monito Gecko

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes that the Minoto gecko, *Sphaerodactylus micropithecus*, known only from Isla Monito in the Commonwealth of Puerto Rico, be determined an Endangered Species under provisions of the Endangered Species Act of 1973, as amended. This action is being taken because of the extremely small population size coupled with suspected heavy predation by rats. In addition, the Service proposes that the entire inland of Monito be declared Critical Habitat. If this action is made final, all provisions of Section 7 and 9 of the Act would apply to this species.

DATES: Comments on the proposed rule from the public must be received by January 21, 1981. Public meetings on this proposal will be held December 2 and December 3, 1980 in Puerto Rico beginning at 10:00 a.m. each day.

ADDRESSES: Submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials relating to this rule are available for public inspection during normal business hours at the Service's Office of Endagered Species, 1000 North Glebe Road, Arlington, Virginia. the meetings will be held at the following places:

December 2, 1980—Amphitheater/ General Studies, University of Puerto Rico, Mayaguez, Puerto Rico; and

December 3, 1980—Conference Room, Department of Natural Resources, Puerta de Tierra (San Juan) Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington D.C. 20240 (703/ 235–2771) or the Endangered Species Staff of the Service's Regional Office, Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303 (404/221–3583).

SUPPLEMENTARY INFORMATION:

Background

The Monito gecko was discovered on Isla Monito, 5 km. northwest of Mona Island in the Mona Passage, in May of 1974. Only one adult has ever been collected in spite of intensive survey by serveral investigators (see A. Schwartz, Proc. Biol. Soc. Wash. 90(4):985–992, 1977, for a complete review of surveys of the herpetofauna of Monito). In addition, an egg was collected at the same time which later hatched in the laboratory; both specimens have been deposited at the Florida State Museum. Dr. Howard W. Campbell, who, with Dr. Fred G. Thompson, collected the gecko and egg during a two day visit, reported that "An ecological factor of considerable concern on Monito is the dense population of introduced rats. No quantitative estimate is available for their numbers, but it should be noted that, at night, one is never out of sight of at least one foraging rat and frequently several will be in sight at any givem moment. The apparent low number of *Ameiva* (a type of lizard) and *Sphaerodactylus* might be the result of rat predation. If the *Sphaerodactylus* turns out to be an endimic species or subspecies and if its numbers are as low as our data indicate, a rat removal program may be necessary for its preservation." The rat involved is *Rattus rattus*.

Previous surveys of Monito had not revealed the presence of any lizards of the genus *Sphaerodactylus*, which are normally abundant members of a herpetofauna when present (see Rolle et al., Caribbean Journal of Science, 4(1):321–322, 1964). Schwartz (op. cit.) described the gecko as a distinct species and noted that the Monito *Sphaerodactylus* was difficult to ally with any geographically proximate species, including *S. monensis* residing only 5 km. away. Monito is a very small island (only about 300 x 500 meters) with steep sides; the presence of an endemic lizard so distinct from nearby forms makes the island and its lizard unique. The apparent rarity of this species, coupled with an abundance of rats (which are known predators on lizards and their eggs), is of concern to herpetologists.

Section 4(a) of the Act (16 U.S.C. 1531 et. seq.) states:

> General—(1) The Secretary shall by regulation determine whether any species is an endagered species or a threatened species because of any or the following factors:
>
> (1) The present or threatened destruction, modification, or curtailment of its habitat or range;
>
> (2) Overutilization for commercial, sporting, scientific, or educational purposes;
>
> (3) Disease or predation;
>
> (4) The inadequacy of existing regulatory machanisms; or
>
> (5) Other natural or man-made factors affecting its continued existence.

This authority has been delegated to the Director. The Monito gecko and its relation to these factors is as follows:

Summary of Factors Affecting the Species

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.*

In the past, Monito has been considered as a target for Naval bombing practice. While there are no such plans at present, any major alteration of Monito could be detrimental to the continued survival of this species.

2. *Overutilization for commerical, sporting, scientific, or educational purposes.*

While there are no data on population size, the apparent extreme rarity of this species indicates that removal of specimens could be detrimental.

3. *Disease or predation.*

The presence of large numbers of introduced rats on Monito is thought to be the major factor in the current precarious status of this species. Rats are predacious and are known to feed on both lizards and lizard eggs.

4. *The inadequacy of existing regulatory mechanisms.*

The Monito gecko currently receives no protection.

5. *Other natural or man-made factors affecting its continued existence.*

None known.

Effects of the Proposal if Published as a Final Rule

Endangered species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered species. The regulations referred to above, which pertain to Endangered species, are found at Section 17.21 of Title 50, and are summarized below.

With respect to the Monito gecko, all prohibitions of Section 9(a)(1) of the Act, as implemented by 50 CFR 17.21, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commerical activity, or sell or offer for sale this species in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Regulations published in the Federal Register of September 26, 1975 (40 FR 44412), codified at 50 CFR 17.22 and 17.23, provided for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened species under certain circumstances. Such permits involving Endangered species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Section 7(a) of the Act provides (in part):

(1) The Secretary shall review other programs administered by him and utilize such programs in furtherance of the Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of Endangered species and Threatened species listed pursuant to Section 4 of the Act.

(2) Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to an 'agency action') is not likely to jeopardize the continued existence of any Endangered species or Threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to Subsection (h) of this section. In fulfilling the requirements of this paragraph each agency shall use the best scientific and commercial data available.

Provisions for Interagency Cooperation are codified at 50 CFR Part 402. If published as a final rule this proposal would require Federal agencies not only to insure that activities they authorize, fund, or carry out, do not jeopardize the continued existence of the Monito gecko but also to insure that their actions do not result in the destruction or adverse modification of this Critical Habitat which has been determined by the Secretary to be critical.

Critical Habitat

The Act defines "Critical Habitat" as (i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of Section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time it is listed in accordance with the provisions of Section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

The Service believes that, since the Monito gecko is known to occur only on tiny Monito Island, this area should be designated Critical Habitat. If this area were to be destroyed, the gecko would become extinct. In addition, the rat problem is such that the island needs to be carefully managed to insure the continued existence of the lizard.

Section 424.12(b) of 50 CFR further states that, when considering the designation of Critical Habitat, the Director shall focus on the biological or physical constituent elements within the defined area that are essential to the conservation of the species. Known primary constituent elements shall be listed with the Critical Habitat description. The following elements are known or believed to be constituent elements of the habitat of the Monito gecko.

1. *Cover.* The habitat for the Monito gecko must provide sufficient cover to hide from predators and from unfavorable environmental conditions.

2. *Disturbance.* The habitat must be spared from extreme disturbance, such as from bombing practice as was proposed in the past but is not under present consideration.

3. *Predators. The habitat must be free from introduced predators, such as the black rat on Monito.*

Section 4(f)(4) of the Act requires, to the maximum extent practicable that any proposal to determine Critical Habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Secretary, may adversely modify such habitat if undertaken, or may be impacted by such designation. Such activities are identified below for this species. It should be emphasized that Critical Habitat designation may not affect each of the activities listed below, as Critical Habitat designation only affects Federal agency activities, through Section 7 of the Act. At this time, no Federal activities are known which would be affected by this proposed action.

Examples of activities that could be detrimental to the environment of this species and lead to further reduction of its range include:

1. The use of Monito as a bombing range as has been considered in the past.

2. The physical alteration of the island, including the mining of guano.

Section 4(b)(4) of the Act requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. The Service has prepared a draft impact analysis and believes at this time that economic and other impacts of this section are not significant in the foreseeable future. The Service is notifying Federal and commonwealth agencies that may have jurisdiction over the land and water under consideration in this proposed action. These Federal agencies and other interested persons or organizations are requested to submit information on economic or other impacts of this proposed action (see below).

The Service will prepare a final impact analysis prior to the time of final rules, and will use this document as the basis for its decision as to whether or not to exclude any area from Critical Habitat.

Proposed Critical Habitat

The 1979 Amendments require Federal agencies to confer with the Service on any agency action which is likely to result in the destruction or adverse modification of Critical Habitat proposed to be designated for proposed species. The purpose of this requirement is to identify and resolve all potential conflicts between a proposed action and conservation of endangered and threatened species at an early point in the decision-making process. That purpose is to be achieved with respect to proposed species through informal/formal discussions between the Federal agency and the Service on potential impacts of a proposed Critical Habitat.

The Service believes that the goal of early resolution of potential conflicts between proposed Critical Habitat and proposed actions can best be achieved by consolidating the discussions on proposed Critical Habitats with consultations conducted for proposed species. By consolidating conferences on proposed Critical Habitat with consultations conducted on proposed species/Critical Habitat, additional procedural steps can be avoided so as to reduce the potential for delay. While not required by the statute, the Service recommends, for administrative ease and effeciency, that this procedure be followed. A biological assessment

prepared for construction projects will identify the proposed species that may be affected by the action, setting the stage for concurrent discussions on those species.

The Federal agency and the Service should attempt to consolidate discussions on listed and proposed species in non-construction cases as well. As with all discussions on endangered species problems, early initiation increases the chances of resolution of potential conflicts.

For proposed projects which impact only proposed Critical Habitats, the requirements for conferring will be met on an informal basis. The Service will be responsible for documenting the conference for administrative purposes. Although consolidation of conferences on proposed species with consultations on listed species is encouraged, the Service does not intend that the informal nature of the conference on proposed species be changed or that any of the formal requirements for consultation be imposed on Federal agencies with respect to proposed Critical Habitats.

Public Comments Solicited

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation of this Endangered species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) The location of and the reasons why any habitat of this species should or should not be determined to be Critical Habitat as provided for by Section 7 of the Act;

(2) Current or planned activities which may adversely affect the subject areas which are being considered for Critical Habitat;

(3) The foreseeable economic and other impacts of Critical Habitat designation on Federally funded or authorized projects.

(4) Biological and other relevant data concerning any threat (or lack thereof) to this species and;

(5) Additional information concerning the range and distribution of the species in Puerto Rico.

Public Meetings

The Service hereby announces that public meetings will be held on this proposed rule. The public is invited to attend these meetings and to present opinions and information on the proposal. Specific information relating to the public meetings have been set out in the section above.

National Environmental Policy Act

A draft environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, and may be examined by appointment during regular business hours. A determination will be made at the time of a final rule as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 and 40 CFR Parts 1500–1508.

The primary author of this rule is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

Regulation Promulgation

Accordingly, it is proposed that Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations be amended as follows: 1. By adding the Monito gecko herein considered to the list, alphabetically under "Reptiles" as indicated below:

§ 17.11 Endangered and threatened wildlife.

Species		Historic range	Population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Gecko, Monito	*Sphaerodactylus micropithecus*	U.S.A. (Puerto Rico)	Entire	E		17.95(c)	NA

2. It is further proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

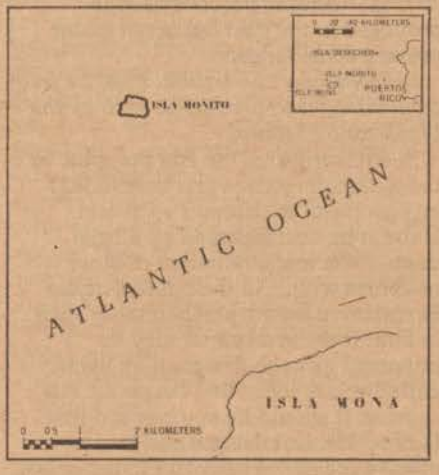
§ 17.95 [Amended]

(a) It is proposed that § 17.95(c), *Reptiles*, be amended by adding Critical Habitat of the Monito gecko before that of the giant anole as follows:

Monito Gecko

Sphaerodactylus micropithecus

Puerto Rico—Isla Monito; entire island.



The following elements are known or believed to be constituent elements of the habitat of the Monito gecko.

1. *Cover.* The habitat of the Monito gecko must provide sufficient cover to hide from predators and from unfavorable environmental conditions.

2. *Disturbance.* The habitat must be spared from extreme disturbance, such as from bombing practice as was proposed in the past but is not under present consideration.

3. *Predators.* The habitat must be free from introduced predators, such as the black rat on Monito.

Note.—The Department of the Interior has determined that this rule is not a significant

rule and does not require preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Dated: September 30, 1980.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

[FR Doc. 80-32824 Filed 10-21-80; 8:45 am]

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October 22, 1980

Part III

Department of the Interior

Fish and Wildlife Service

Proposed Determination of Critical Habitat for the Hawksbill Sea Turtle in Puerto Rico

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Determination of Critical Habitat for the Hawksbill Sea Turtle in Puerto Rico

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule, Critical Habitat for the Hawksbill sea turtle.

SUMMARY: The Service proposes to designate Critical Habitat for the hawksbill sea turtle (*Eretmochelys imbricata*) in the Commonwealth of Puerto Rico. Nesting of this species occurs in scattered localites throughout the Caribbean although in no place is nesting as abundant as in the past. The proposed beaches on Mona Island represent a significant nesting area for this species in the Caribbean and were singled out as of major importance at the World Conference on Sea Turtle Conservation held in November 1979, in Washington, D.C. Areas on the islands of Culebra, Culebrita, and Cayo Norte are also regularly used by nesting hawksbills. The hawksbill sea turtle was listed as Endangered on June 2, 1970 (35 FR 8495) and is protected under the provisions of the Endangered Species Act of 1973. An earlier proposal (May 24, 1978; 43 FR 22224–22225) was withdrawn on March 6, 1979 (44 FR 12382) because of procedural and substantive changes made by the Endangered Species Act Amendments of 1978. The proposed rule would identify habitat subject to Federal agency consultation pursuant to Section 7(a) of the Act. Comments and date related to this proposal are solicited.

DATES: Comments on the proposed rule from the public must be received by January 21, 1981. Public meetings on this proposal will be held on December 2, 1980, December 3, 1980 and December 4, 1980 in Puerto Rico at 10:00 a.m.

ADDRESSES: Submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Comments and materials received will be available for public inspection by appointment during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia. The time, place and date of the public meetings on this proposal will be:

December 2, 1980—Amphitheater/ General Studies, University of Puerto Rico, Mayaguez, Puerto Rico

December 3, 1980—Conference Room, Department of Natural Resources, Puerto de Tierra (San Juan), Puerto Rico; and

December 4, 1980—Conference Room, Department of Natural Resources Headquarters, Isle Culebra, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, (703/ 235–2771).

SUPPLEMENTARY INFORMATION:

Background

The hawksbill sea turtle is a rare and critically Endangered reptile throughout the world (see Parsons, 1972, Carr and Stancyk, 1975; and Pritchard, 1979) and has been officially listed as Endangered since 1970. Much of the hope for the survival and recovery of this species depends upon the maintenance of suitable and undisturbed nesting beaches and the protection of nesting beaches is a strategy endorsed by scientists throughout the world (World Conference on Sea Turtle Conservation, 1979) for the conservation of this species. The Service recognizes that areas containing such beaches may qualify for recognition as Critical Habitat as referred to in Section 7 of the Act.

In accordance with the July 18, 1977, Memorandum of Understanding between the Fish and Wildlife Service and National Marine Fisheries Service, the Fish and Wildlife Service was given responsibility for sea turtles while on land. Such responsibility includes proposing and designation of Critical Habitat. The designation of marine Critical Habitat is the jurisdiction of the National Marine Fisheries Service; therefore, this proposal includes only land areas.

Hawksbill sea turtles are known to nest on all of Mona Island's 7.2 kilometers of beaches. The offshore areas appear to support a somewhat stable and resident population (Thurston and Wiewandt, 1975; Wiewandt, 1973; A. Carr, pers. commun)., In addition, green turtles and, rarely, leatherback turtles may also nest on Mona (T. Wiewandt, pers. commun). The designation of Mona Island as Critical Habitat for the hawksbill sea turtle was recommendation number 83 in the World Action Plan for the Conservation of Sea Turtles (World Conference on Sea Turtle Conservation, 1979). The entire island of Mona is already Critical Habitat for the listed yellow-shouldered blackbird, Mona ground iguana, and Mona boa.

Nesting of hawksbill sea turtles occurs on suitable sandy beaches on the north shore of Culebra Island, as well as the nearby islands of Cayo Norte and Isla Culebrita. Turtles are known to feed on the rich offshore reefs around these islands. In addition to hawksbills, occasional nesting has been reported for leatherback, loggerhead, and green turtles on these beaches (T. Carr, 1974). The Critical habitat for the Endangered giant anole barely overlaps the proposed Critical Habitat of the hawksbill on Playa Resaca.

The hawksbill sea turtle is a tropicopolitan species. It occurs in waters off the east coats of the continental United States (primarily Florida), the U.S. Virgin Islands, mainland Puerto Rico, the Hawaiian Islands, Pacific Trust Territory, American Samoa, Guam, and Territory of the Northern Marianas, Nesting is known to occur very rarely in Florida (Lund, 1978) and more frequently in the Virgin Islands (Island Resources Foundation, 1978) and on remote islands under U.S. jurisdictions in the Pacific Ocean (Pritchard, 1977). Dodd (1978) has provided a list of nesting areas for the hawksbill in the United States and in areas under its jurisdiction.

The main threats to the worldwide apparent decline in populations of the hawksbill sea turtle comes from three main sources: killing the animal so that the scutes covering the bony shell may be removed to fashion tortoise-shell items, or the animal may be stuffed and sold to tourists; removal of eggs for human consumption or the destruction of eggs by predators; destruction or alteration of the nesting beaches. Additional problems that this species may encounter include killing for meat (this happens occasionally but hawksbill meat is considered poisonous in many parts of the world), incidental catch in trawls (of minor problem in the Caribbean), accidental entanglement in fishing nets, pollution and destruction of resting and feeding reefs, and harassment while nesting and swimming. The problems faced by this species were treated in detail at the recent (November 26–30, 1979) World Conference on Sea Turtle Conservation held in Washington, D.C.

Critical Habitat for beaches used by nesting hawksbills in the Commonwealth of Puerto Rico was proposed on May 24, 1978 in the **Federal Register** (43 FR 22224–22225). Those areas were withdrawn from consideration on March 6, 1979 (44 FR 12382–12384) because of the substantive changes made to the requirements for the determination of Critical Habitat

made by the Endangered Species Act Amendments of 1978. The areas in the present proposal are essentially the same as those of the original proposal. This proposal is in compliance with the requirements of the 1978 and later amendments.

Mona Island is presently owned by the Commonwealth of Puerto Rico who manages the island as a Natural Reserve. A management plan has been developed which takes the fragile nature of the island's beaches into account. The island is uninhabited except for Puerto Rico Conservation Rangers who enforce wildlife laws.

Culebra Island—The areas proposed as Critical Habitat include all the major sand beaches on the north shore if the island. These areas are presently owned by the U.S. Navy but are scheduled to be transferred to the Commonwealth of Puerto Rico sometime in 1981. The beaches are visited occasionally by fishermen but there are no permanent dwellings in the vicinity. Under draft agreements, these beaches will not be further developed and will be managed by the Commonwealth as marine turtle nesting beaches with numerous conditions on human use and activities.

Culebrita—Isla Culebrita is presently uninhabited and is part of the National Wildlife Refuge System. No development is present and there is virtually no public access. This island may be transferred to the Commonwealth of Puerto Rico in 1981, pending Congressional approval, although this has not been decided as yet. If transfer is completed as expected, the same restrictions with regard to human activities that will apply to Culebra will also apply to this island.

Cayo Norte—Cayo Norte is in private ownership in two separate parcels. No one presently lives on the island, although there are reportedly some occupied dwellings. The beach may occasionally be visited by private boats but the remoteness of the island makes such visits rare.

Critical Habitat

The Act defines "Critical Habitat" as (i) the specific areas within the georgraphical area occupied by the species, at the time it is listed in accordance with the provisions of Section 4 of this Act, on which are found those physical or biological features (i) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time it is listed in accordance with the provisions of Section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

The Service believes that certain beaches and adjacent landward areas within the geographical area occupied by the hawksbill sea turtle in the Commonwealth of Pureto Rico should be designated as Critical Habitat. This species is highly susceptible to changes in its nesting habitat and unless these areas are managed carefully with regard to nesting and the successful incubation and hatching of eggs, the species could disappear from these beaches, which are reputed to be among the best in the world for hawksbills. The Service believes that the designation of Critical Habitat is essential to the conservation of this species and will work carefully in cooperation with the Department of Natural Resources in Puerto Rico to insure survival of the species, which requires special management considerations and protection.

Section 424.12(b) of 50 CFR further states that, when considering the designation of Critical Habitat, the Director shall focus on the biological or physical constituent elements within the defined area that are essential to the conservation of the species. Known primary constituent elements shall be listed with the Critical Habitat description. The following elements are known or believed to be constituent elements in the nesting habitat of the hawksbill sea turtle.

1. *Presence of clean sand.* The hawksbill sea turtle requires clean sand free of pollutants such as oil, to have successful incubation of its eggs.

2. *Obstructions.* Tree roots, beach debris, steep banks, and offshore obstructions such as rocks or jetties may prohibit or hinder successful nesting. Beaches should be free from or have a minimum of such obstructions.

3. *Depth of sand.* There must be sufficient depth of sand to allow successful incubation and hatching without the eggs being drowned by sea water intrusion.

4. *Lights of land.* Areas behind and on the nesting beach should be free of lights. Lights may inhibit females from nesting and disorient hatchlings (Philibosian, 1976).

5. *Beach disturbance.* Beaches should receive a minumum of disturbance, especially after dark. Loud noise and even silhoettes may inhibit females from nesting. In addition, vehicles on a beach or even careless human walking may collapse nesting cavities.

Section 4(b)(4) of the Act requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. The Service has prepared a draft impact analysis and believes at this time that economic and other impats of this section are not significant in the foreseeable future. The Service is notifying Federal and Commonwealth agencies that may have jurisdiction over the land and water under consideration in this proposed action. These Federal agencies and other interested persons or organizations are requested to submit information on economic or other impacts of this proposed action (see below).

The Service will prepare a final impact analysis prior to the time of final rules, and will use this document as the basis for its decision as to whether or not to exclude any area from Critical Habitat for the hawksbill sea turtle.

Effect of This Proposal if Published as a Final Rule

Section 7(a) of the Act provides (in part):

(1) The Secretary shall review other programs administered by him and utilize such programs in furtherance of the Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of Endangered species and Threatened species listed pursuant to Section 4 of this Act.

(2) Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an 'agency action') is not likely to jeoparize the continued existence of any Endangered species or Threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to Subsection (h) of this section. In fulfilling the requirements of this paragraph each agency shall use the best scientific and commercial data available.

Provisions for Interagency Cooperation are codified at 50 CFR Part 402. If published as a final rule this proposal would require Federal agencies not only to insure that ativities they authorize, fund, or carry out, do not jeopardize the continued existence of the hawksbill sea turtle but also to insure that their actions do not result in the destruction or adverse modification of these Critical Habitats which have

been determined by the Secretary to be critical. Section 4(f)(4) of the Act requires, to the maximum extent practicable that any proposal to determine Critical Habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Secretary, may adversely modify such habitat if undertaken, or may be impacted by such designation. Such activities are identified below for this species. It should be emphasized that Critical Habitat designation may not affect each of the activities listed below, as Critical Habitat designation only affects Federal agency activities, through Section 7 of the Act. At this time, no Federal activities are known which would be significantly affected by this proposed action.

Examples of activities that could be detrimental to the environment of this species and lead to further reduction of its range include:

1. The destriction of reef areas needed for feeding and resting or atual physical disturbance or pollution.
2. The modification of nesting beaches through removal of sand.
3. The placement of artificial lighting too near the nesting beach which could disorient hatchlings.
4. Putting human recreational facilities too close to nesting beaches which could allow the destruction of already completed nests or the spooking of nesting females as they come onto shore to lay.
5. Pollution of the nesting beaches by oil or other fouling materials.
6. The use of off-road vehicles on nesting beaches.
7. The creation of off-shore barriers which could prevent the females from reaching the beaches.
8. General harassment by people and domestic and introduced animals.

The above eight examples are provided as illustrations of the types of activities which may be detrimental to the physical environment of hawks-bill sea turtle nesting beaches. They are not necessarily examples of what is actually happening at each of the areas proposed as Critical Habitat.

If published as a final rule this proposal would require Federal agencies not only to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the hawksbill sea turtle, but also requires them to insure their actions are not likely to result in the destruction or adverse modification of their Critical Habitat which has been determined by the Director (who is authorized to make such designations on behalf of the Secretary). Provisions for Interagency Cooperation are codified at 50 CFR Part 402.

Proposed Critical Habitat

The 1979 Amendments require Federal agencies to confer with the Service on any agency action which is likely to result in the destruction or adverse modification of Critical Habitat proposed to be designated for listed species. The purpose of this requirement is to identify and resolve all potential conflicts between a proposed action and conservation of endangered and threatened species at an early point in the decisionmaking process. That purpose is to be achieved with respect to listed species through informal/formal discussions between the Federal agency and the Service on potential impacts of a proposed Critical Habitat. Some of the proposed areas already constitute critical habitat for other species. The Service believes that the goal of early resolution of potential conflicts between proposed Critical Habitat and proposed actions can best be achieved by consolidating the discussions on proposed Critical Habitats with consultations conducted for already listed species. By consolidating conferences on proposed Critical Habitat with consultations conducted on listed species/Critical Habitat, additional procedural steps can be avoided so as to reduce the potential for delay. While not required by the statute, the Service recommends, for administrative ease and efficiency, that this procedure be followed. A biological assessment prepared for construction projects will identify the listed species that may be affected by the action, setting the stage for concurrent discussions on those species.

The Federal agency and the Service should attempt to consolidate discussions on listed and proposed species in non-construction cases as well. As with all discussions on endangered species problems, early initiation increases the chances of resolution of potential conflicts.

For proposed projects which impact only proposed Critical Habitats, the requirements for conferring will be met on an informal basis. The Service will be responsible for documenting the conference for administrative purposes. Although consolidation of conferences on proposed species with consultations on listed species is encouraged, the Service does not intend that the informal nature of the conference on proposed species be changed or that any of the formal requirements for consultation be imposed on Federal agencies with respect to proposed Critical Habitats.

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Public Comments Solicited

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation of this Endangered species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) The location of and the reasons why any habitat of this species should or should not be determined to be Critical Habitat as provided for by Section 7 of the Act;

(2) Current or planned activities which may adversely affect the subject areas

which are being considered for Critical Habitat and;

(3) The foreseeable economic and other impacts of Critical Habitat designation on federally funded or authorized projects.

Public Meetings

The Service hereby announces that public meetings will be held on this proposed rule. The public is invited to attend these meetings and to present opinions and information on the proposal. Specific information relating to the public meetings have been set out in the section above.

National Environmental Policy Act

A draft environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, and may be examined by appointment during regular business hours. A determination will be made at the time of a final rule as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 and 40 CFR Parts 1500–1508.

The primary author of this rule is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240, (703/235–1975).

Regulation Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

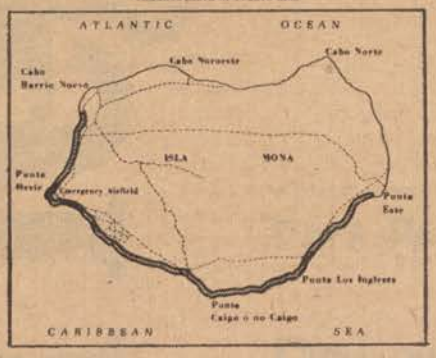
1. It is proposed that § 17.95(c), Reptiles, be amended by adding Critical Habitat of the hawksbill sea turtle before that of the leatherback sea turtle as follows:

Hawksbill Sea Turtle

(Eretmochelys imbricata)

Puerto Rico—(1) Island Mona. All areas of beachfront on the west, south, and east sides of the island from mean high tide inland to a point 150 meters from shore. This includes all 7.2 kilometers of beaches on Isla Mona. (2) Culebra Island. The following areas of beachfront on the north shore of the island from mean high tide inland to a point 150 meters from shore: Playa Resaca, Playa Brava, and Playa Larga. (3) Cayo Norte. South beach, from mean high tide inland to a point 150 meters from shore. (4) Isla Culebrita. All beachfront areas on the southwest facing shore, east facing shore, and northwest facing shore of the island from mean high tide inland to a point 150 meters from shore.

HAWKSBILL SEA TURTLE
COMMONWEALTH OF PUERTO RICO



Dated: September 30, 1980.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

[FR Doc. 80-32825 Filed 10-21-80; 8:45 am]

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federal register

Wednesday
October 22, 1980

Part IV

Department of the Interior

Bureau of Land Management

Federal Installations; Implementation of Section 3(e) of the Alaska Native Claims Settlement Act; Final Rule

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2650

[Circular No. 2478]

Federal Installations; Implementation of Section 3(e) of the Alaska Native Claims Settlement Act

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking provides the procedures to be used by the Secretary of the Interior to carry out the provisions of section 3(e) of the Alaska Native Claims Settlement Act. The procedure will be used to determine which lands held by Federal departments or agencies were in actual use during the time prescribed in the Act and which such lands were not in actual use and can be conveyed to Native Corporations under the Act.

EFFECTIVE DATE: November 21, 1980.

FOR FURTHER INFORMATION CONTACT:
Beaumont McClure, (202) 343–6511
or
Robert C. Bruce, (202) 343–8735
or
Robert Arnold, Bureau of Land Management, 701 C Street, Box 3, Anchorage, Alaska 99513, (907) 271–5760.

SUPPLEMENTARY INFORMATION: On September 18, 1979, proposed rulemaking was published in the **Federal Register** (44 FR 54254). Comments were invited for 60 days ending November 19, 1979. Written responses were received from the State of Alaska, the Department of Transportation, the Alaska Railroad, Alaska Federation of Natives, Inc., Bering Straits Native Corporation, Bristol Bay Native Corporation, Calista Corporation, Choggiung, Chugach Natives, Inc., Eklutna Inc., Galena, Gana-a' yoo, Ltd., Holy Cross, Koniag, Inc., Interior Village Association, Northway, Sealaska Corporation, Unalakleet Native Corporation and Yak-Tat Kwaan, Inc. These responses have been reviewed and analyzed.

Generally, those who commented expressed the opinion that the proposed rulemaking was necessary in order to carry out the Congressional intent of section 3(e) of the Alaska Native Claims Settlement Act. This rulemaking sets up the general guidelines under which the Department of the Interior will determine which lands held by Federal agencies are available for conveyance to Native corporations under this part. It is important to note that the status of each tract will be addressed by the Bureau of Land Management on a case-by-case basis. It is impossible in one rulemaking to take into account all of the individual issues which could affect section 3(e) determinations. For this reason, the final rulemaking does not contain specific examples.

The comments also recommended specific changes that would make the final rulemaking clearer and more understandable. The following discussion summarizes the comments and suggestions received on a section-by-section basis.

Authority

It was suggested that the word "certain" be deleted from the phrase "certain Federal installations in Alaska" as it appeared in the proposed rulemaking. As explained in the section on "lands subject to determination", the provisions of section 3(e) of the Alaska Native Claims Settlement Act and this rulemaking apply to Federal installations located within areas withdrawn by sections 11(a)(1), 16(a), or 16(d) or selected in accordance with section 14(h)(8)(B). Since the Federal lands subject to determination are specifically identified in the final rulemaking, the word "certain" has been deleted.

Definitions

This section received the largest number of comments, generally suggesting that the definitions were incomplete or unclear. After careful analysis and in response to comments, the definitions section of the final rulemaking defines three terms—"holding agency", "appropriate selection period" and "State Director". Other terms which appeared in the definitions section of the proposed rulemaking are now contained in a new section, "Criteria for determination". The term "smallest practicable tract" is contained in the Authority section, which uses that term as it is used in the Alaska Native Claims Settlement Act.

A definition of the term "holding agency" has been added. The term was added in response to a comment that the agency actually controlling the lands may not necessarily be the agency which was using the lands on December 18, 1971. The term "Federal installation" as used in the proposed regulations defined the lands subject to determination and is now addressed in the section on "Criteria for determination".

The term "appropriate selection period" was added as suggested by one comment, in order to avoid the questions raised by § 2655.1(c) (1), (2) and (3) in the proposed rulemaking, which listed specific time periods for selection. Since the Alaska Native Claims Settlement Act itself, its implementing regulations and subsequent congressional enactments, list the appropriate selection periods for Native corporations, it is unnecessary to include that information in this final rulemaking. This will avoid amending the regulations each time Congress acts on selection periods. The third definition added to the final rulemaking is "State Director" which means Director, Alaska State Office, Bureau of Land Management.

Lands Subject to Determination

This section of the proposed rulemaking drew a few comments which pointed out three omissions in the first paragraph of the section. First, there is no mention of Federal department or agency lands located within the areas withdrawn; second, the withdrawal authorities cited should include section 16(d) of the Alaska Native Claims Settlement Act; and third, there is no reference in the paragraph to selections made by the regional corporation for southeast Alaska under section 14(h)(8)(B) of the Act. These omissions have been corrected. The final rulemaking does not include a reference to section 11(a)(3) of the Act as suggested in some comments. This change is not appropriate since determinations pursuant to section 3(e) of the Act do not apply to lands withdrawn under section 11(a)(3). As explained above, several comments questioned the need for stating specific selection periods and this has been deleted.

Criteria for Determination

This section has been added to further clarify the procedures for making a determination and clarify some of the misunderstanding expressed in the comments on the definitions section. Almost all of the comments found the definitions section of the proposed rulemaking unclear. Therefore, the final rulemaking has been redrafted to reflect the three criteria which the Bureau of Land Management will use in order to make a 3(e) determination as to whether the lands are public lands and, thus, subject to conveyance to a Native corporation. These criteria, which were previously reflected but not expressly stated in the definitions section are: (1) Nature and time of use, (2) area to be retained by the Federal agency, and (3) interest to be retained by the Federal agency. Each point will be discussed individually.

(1) Nature and time of use—This criterion derives from § 2655.0–5(a)(1) in the proposed rulemaking and sets out three provisions. The first is that the use must be for a purpose "directly and necessarily connected with a Federal agency as of December 18, 1971". The comments suggested this language would more clearly reflect the intent of section 3(e) than the language in the proposed rulemaking.

The second provision is that the activity must be continuous, depending on the type of use, throughout the appropriate selection period. Two aspects of this provision need to be addressed. The final rulemaking provides that use by the agency during the entire selection period is necessary in order for the lands to be exempt from Native selection. This provision represents a compromise between those comments which favored establishing each agency's use solely on the basis of use on December 18, 1971, and those comments which expressed the view that use at any time during the appropriate selection period and, in some cases, proposed or future use, should make the lands subject to retention by the agency. The provision that use should be continuous, considering the type of use, reflects this compromise.

The third provision is that the agency claiming the land, if different from the agency using the land on December 18, 1971, must have a similar function to that of the original using agency. Again, this portion of the final rulemaking serves to assure that ongoing agency activities are not disrupted, while at the same time precluding Federal agencies performing new and different functions from asserting rights superior to the selecting Native corporations.

(2) Area to be retained by the Federal agency—This criterion derives from §§ 2655.0–5 (a) and (b) in the proposed rulemaking. The first subsection of this section of the final rulemaking states that the area which the Federal agency can retain shall be no bigger than reasonably necessary to support the agency's use. This provision responds to those comments which found inclusion of this provision in the definitions section confusing and repetitive; and further clarifies "smallest practicable tract". The next subsection requires that the tract in question be described in appropriate terms (i.e. by the U.S. survey, smallest aliquot part, metes and bounds or protraction diagram). This provision comes from § 2655.2(a)(2) of the proposed rulemaking and responds to comments which requested an explanation. The third provision lists those types of agency use which fall within the definition of section 3(e), i.e. "land actually used in connection with the administration of Federal installations." This provision is essentially a restatement of §§ 2655.0–5 (a) and (b) in the definitions section of the proposed rulemaking in response to those comments which objected to the inclusion of these items in the definitions section. Improved lands, in subparagraph (A) of § 2655.2(b)(3) are a category of lands that most comments felt qualified as actually being used. Some comments thought subparagraph (B) of that section, concerning buffer zones, should be omitted. However, the regulation reflects the comments which felt that reasonable buffer zones were legitimate actual uses of lands by Federal agencies under the section 3(e) definition. Subparagraph (C) includes unimproved lands used for storage as lands retainable by Federal agencies. It is another clarification of § 2655.0–5(a)(1) of the proposed rulemaking in response to comments.

There were many comments on subparagraph (D) of § 2655.2(b)(3) of the proposed rulemaking concerning gravel. The final rulemaking states that lands containing gravel can be retained by the agency if the use is in direct connection with the agency's purpose. In response to comments which found the proposed rulemaking's "immediate future" standard not justified by the statutory definition nor administratively practical, the Department of the Interior uses the end of the appropriate selection period. This is consistent with the section on "Nature and time of use" as applied to all other Federal lands. Again, this provision reflects a compromise between those comments which indicated the agency's use should be limited to those occurring on December 18, 1971, and those comments which suggested that some uses could extend to an indefinite time in the future.

Subparagraph (E) of § 2655.2(b)(3) is a restatement of §§ 2655.0–5 (a)(3) and (b) of the proposed rulemaking. Agencies will be able to retain lands used by a third party which are directly connected to the holding agency's purposes, but lands used primarily to derive revenue will be available for Native selection.

Although two comments objected to wording in the proposed rulemaking that excludes from lands actually used, those lands which produce revenues for the holding agency if such revenue production can be defined as falling within the mandate of their statutory authority, this language has been retained. The statutory mandates can be interpreted so broadly as to cover almost any kind of revenue production, thereby defeating the intent of the Alaska Native Claims Settlement Act.

(3) *Interest to be retained by Federal agency.* This provision deals with the issue raised in § 2655.2(c)(2) of the proposed rulemaking, namely when easements will be retained and under what authority. In most instances, the holding agency shall retain a full fee interest in the tract; however, the Department has determined that rights-of-way and electronic, light or visibility clear zones may be reserved as easements under section 17(b) of ANCSA and BLM's regulations 43 CFR 2650.4–7. This is consistent with the authority and the intent of section 16(b) of ANCSA and will fully protect the Federal interest. The consultation provisions for section 17(b) easements will govern in the cases where easements are reserved.

Determination Procedures

This section has been amended to remove ambiguities and thus make the procedure easier for the public, Federal agencies and the Bureau of Land Management to understand and follow. Paragraph (a) has been reworked as suggested by comments. It incorporates information contained in the first two sentences of § 2655.2 and paragraphs (d) and (f) of the proposed rulemaking concerning notice, submission of information and time extensions. Two changes were made. At the request of one comment, the information, including maps, should be furnished in triplicate for administrative convenience. As a result of several comments, the final rulemaking provides that the State Director shall provide copies of the information submitted by the holding agency to affected Native corporations.

Another change from the proposed rulemaking is the provision for time extensions of 60 rather than 90 days. Several comments objected to the granting of a 90-day extension saying that it would unduly delay the decision process, while others opposed any extensions. Therefore, the final rulemaking provides for a 60-day extension, which should be adequate for completion of information gathering, yet at the same time reduce the time lag on a determination.

Paragraph (b) of the section in the final rulemaking on determination procedures is essentially the same as paragraph (a) in the proposed rulemaking concerning the information to be furnished by the agency. One change suggested by a comment was that the information be submitted for each discrete tract subject to a determination. Another suggestion was

that the list of rights, interests, or permitted uses granted to others should include the dates of issuance and expiration. This information should prove helpful in making the section 3(e) determination, and consequently the suggestion was adopted.

Paragraph (c) in the final rulemaking incorporates paragraph (g) of the proposed rule pertaining to Native comments, and provides that Native corporations have the same time period for comment as agencies do to submit information. In order to allow for delays in mailing, the time period commences from the date of receipt of the information by the Native corporation.

Paragraph (d) concerning the burden of proof on the agency is a reworking of paragraph (c)(1), the second and third sentences of paragraph (d), and paragraph (e) of the proposed rulemaking. This stipulation resulted from one comment.

Paragraph (e) is a rewrite of paragraph (h) which clarifies points of confusion on the issuance of decision documents that were raised in several of the comments.

The discussion of whether land should be retained in full fee or as an easement as provided in paragraph (c)(2) of the proposed rulemaking has been dealt with in the criteria section.

Adverse Decisions

This section is almost identical to the proposed rulemaking. One addition to paragraph (a) is that the State Director, Alaska, be notified of the Secretary's decision.

Paragraph (b) of § 2655.4 was modified because the comments suggested that baseless appeals might be filed on any determination that was objectionable to a Federal agency or a Native interest. Also, the first sentence was changed to indicate that this provision applies whether the appeal is lodged by an agency or a Native corporation.

Editorial changes and corrections have been made as necessary.

The principal author of this final rulemaking is Beaumont McClure, Alaska Program Staff, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management, and Susan Shands of the Office of the Solicitor, Department of the Interior.

Note.—The Department of the Interior has determined that this document is not a significant regulatory action requiring the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Under the authority of the Alaska Native Claims Settlement Act of 1971 (43 U.S.C. 1601 et seq.), a new Subpart 2655 is added to Part 2650, Group 2600, Subchapter B, Chapter II, Title 43 of the Code of Federal Regulations as set forth below.

Guy R. Martin,

Assistant Secretary of the Interior.

October 17, 1980.

Subpart 2655—Federal Installations

Sec.

2655.0–3 Authority.
2655.0–5 Definitions.
2655.1 Lands subject to determination.
2655.2 Criteria for determinations.
2655.3 Determination procedures.
2655.4 Adverse decisions.

Authority: Alaska Claims Settlement Act of 1971 (43 U.S.C. 1601 et seq.).

Subpart 2655—Federal Installation

§ 2655.0–3 Authority.

Section 3(e)(1) of the act provides that the Secretary shall determine the smallest practicable tract enclosing land actually used in connection with the administration of Federal installations in Alaska.

§ 2655.0–5 Definitions.

As used in this subpart, the term:

(a) "Holding agency" means any Federal agency claiming use of a tract of land subject to these regulations.

(b) "Appropriate selection period" means the statutory or regulatory period within which the lands were available for Native selection under the act.

(c) "State Director" means the Director, Alaska State Office, Bureau of Land Management.

§ 2655.1 Lands subject to determination.

(a) Holding agency lands located within areas withdrawn by sections 11(a)(1), 16(a), or 16(d) of the act and subsequently selected by a village or regional corporation under sections 12 or 16, or selected by the regional corporation under sections 12 or 16, or selected by the regional corporation for southeast Alaska in accordance with section 14(h)(8)(B) are subject to a determination made under this subpart.

(b) Lands in the National Park System, lands withdrawn or reserved for national defense purposes and those former Indian reserves elected under section 19 of the act are not subject to a determination under section 3(e)(1) of the act or this subpart. Lands withdrawn under section 11(a)(3) or 14(h), except 14(h)(8)(B), of the act do not include lands withdrawn or otherwise appropriated by a Federal agency and, therefore, are not subject to a determination under section 3(e)(1) of the act of this subpart.

§ 2655.2 Criteria for determinations.

Land subject to determination under section 3(e)(1) of the act will be subject to conveyance to Native corporations if they are determined to be public lands under this subpart. If the lands are determined not to be public lands, they will be retained by the holding agency. The Bureau of Land Management shall determine:

(a) Nature and time of use.

(1) If the holding agency used the lands for a purpose directly and necessarily connected with the Federal agency as of December 18, 1971; and

(2) If use was continuous, taking into account the type of use, throughout the appropriate selection period; and

(3) If the function of the holding agency is similiar to that of the Federal agency using the lands as of December 18, 1971.

(b) Specifications for area to be retained by Federal agency.

(1) Area shall be no larger than reasonably necessary to support the agency's use.

(2) Tracts shall be described by U.S. Survey (or portion thereof), smallest aliquot part, metes and bounds or protraction diagram, as appropriate.

(3) Tracts may include:

(i) Improved lands;

(ii) Buffer zone surrounding improved lands as is reasonably necessary for purposes such as safety measures, maintenance, security, erosion control, noise protection and drainage;

(iii) Unimproved lands used for storage;

(iv) Lands containing gravel or other materials used in direct connection with the agency's purpose and not used simply as a source of revenue or services. The extent of the areas reserved as a source of materials will be the area disturbed but not depleted as of the date of the end of the appropriate selection period; and

(v) lands used by a non-governmental entity or private person for a use that has a direct, necessary and substantial connection to the purpose of the holding agency but shall not include lands from which proceeds of the lease, permit, contract, or other means are used primarily to derive revenue.

(c) Interest to be retained by Federal agency.

(1) Generally, full fee title to the tract shall be retained; however, where the tract is used primarily for access, electronic, light or visibility clear zones or right-of-way, an easement may be reserved in lieu of full fee title where the State Director determines that an easement affords sufficient protection, that an easement is customary for the

particular use and that it would further the objectives of the act.

(2) Easements reserved in lieu of full fee title shall be reserved under the provisions of section 17(b) of the act and § 2650.4–7 of this title.

§ 2655.3 Determination procedures.

(a) The State Director shall make the determination pursuant to the provisions in this subpart. Where sufficient information has not already been provided, the State Director shall issue written notice to any Federal agency which the Bureau of Land Management has reason to believe might be a holding agency. The written notice shall provide that the information requested be furnished in triplicate to the State Director within 90 days from the receipt of the notice. Upon receipt of information the State Director will promptly provide affected Native corporations with copies of the documents. Upon adequate and justifiable showing as to the need for an extension by the holding agency, the State Director may grant a time extension up to 60 days to provide the information requested in this subpart.

(b) The information to be provided by the holding agency shall include the following for each tract which is subject to determination:

(1) The function and scope of the installation;

(2) A plottable legal description of the lands used;

(3) A list of structures or other alterations to the character of lands and their function, their location on the tract, and date of construction;

(4) A description of the use and function of any unaltered lands;

(5) A list of any rights, interests or permitted uses the agency has granted to others, including other Federal agencies, along with dates of issuance and expiration and copies of any relevant documents;

(6) If available, site plans, drawings and annotated aerial photographs delineating the boundaries of the installation and locations of the areas used; and

(7) A narrative explanation stating when Federal use of each area began; what use was being made of the lands as of December 18, 1971; whether any action has taken place between December 18, 1971, and the end of the appropriate selection period that would reduce the area needed, and the date this action occurred.

(c) The State Director shall request comments from the selecting Native corporation relating to the identification of lands requiring a determination. The period for comment by the Native corporation shall be as provided for the agency in § 2655.3(a) of this title, but shall commence from the date of receipt of the latest copy of the holding agency's submission.

(d) The holding agency has the burden of proof in proceedings before the State Director under this subpart. A determination of the lands to be retained by the holding agency under section 3(e) of the act and this subpart shall be made based on the information available in the case file. If the holding agency fails to present adequate information on which to base a determination, all lands selected shall be approved for conveyance to the selecting Native corporation.

(e) The results of the determination shall be incorporated into appropriate decision documents.

§ 2655.4 Adverse decisions.

(a) Any decision adverse to the holding agency or Native corporation shall become final unless appealed to the Alaska Native Claims Appeal Board in accordance with 43 CFR Part 4, Subpart J. If a decision is appealed, the Secretary may take personal jurisdiction over the matter in accordance with 43 CFR Part 4.5. In the case of appeals from affected Federal agencies, the Secretary may take jurisdiction upon written request from the appropriate cabinet level official. The requesting official, the State Director and any affected Native corporation shall be notified in writing of the Secretary's decision regarding the request for Secretarial jurisdiction and the reasons for the decision shall be communicated in writing to the requesting agency and any other parties to the appeal.

(b) When an appeal to a decision to issue a conveyance is made by a holding agency or a Native corporation on the basis that the Bureau of Land Management neglected to make a determination pursuant to section 3(e)(1) of the act, the matter shall be remanded by the Alaska Native Claims Appeals Board to the Bureau of Land Management for a determination pursuant to section 3(e)(1) of the act and these regulations: *Provided,* That the holding agency or Native corporation has reasonably satisfied the Board that its claim is not frivolous.

[FR Doc. 80–32856 Filed 10–21–80; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

ENVIRONMENTAL PROTECTION AGENCY

62815 9–22–80 / Approval and promulgation of Implementation Plan, Ohio

62814 9–22–80 / Revision to the New Hampshire State Implementation Plan

FEDERAL MEDIATION AND CONCILIATION SERVICE

62798 9–22–80 / Mediation assistance in the Federal Service

HEALTH AND HUMAN SERVICES DEPARTMENT

Health Care Financing Administration—

49440 7–24–80 / Medicare and Medicaid programs; protection of patients funds

NUCLEAR REGULATORY COMMISSION

62789 9–22–80 / Primary reactor containment leakage testing for water-cooled power reactors

Deadlines for Comments On Proposed Rules for the Week of October 26 through November 1, 1980

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

68659 10–16–80 / Raisins produced from grapes grown in Calif.; supplementary regulations and conversion factors; comments by 10–31–80

Animal and Plant Health Inspection Service—

57700 8–29–80 / Specifically approved States to receive stallions imported from CEM-affected countries; comments by 10–28–80

CIVIL AERONAUTICS BOARD

64864 9–30–80 / Filing of tariffs and payment of commissions to air freight forwarders and foreign air freight forwarders; comments by 10–30–80

COMMERCE DEPARTMENT

International Trade Administration—

57116 8–27–80 / Extension of validity period for export licenses; clarification of effect of amendment applications; comments by 10–27–80

National Oceanic and Atmospheric Administration—

68698 10–16–80 / Atlantic Surf Clam and Ocean Quahog Fisheries; closure of an area of the fishery Conservation zone (FCZ) offshore and south of Chincoteague, Va., to surf clam fishing; comments by 10–31–80

60457 9–12–80 / Atlantic Mackerel Fishery Management Plan, reserve allocation and foreign fishing; comments by 10–27–80

65642 10–3–80 / Foreign fishing; trawl and herring gillnet fisheries of the Eastern Bering Sea and Northeast Pacific Ocean; comments by 10–31–80

60957 9–15–80 / Precious corals fishery, proposed regulations; comments by 10–30–80

EDUCATION DEPARTMENT

Bilingual Education and Minority Language Affairs Office—

60382 9–11–80 / Federal financial assistance to meet special educational needs of refugee children and to enhance their transition into American society; comments by 10–27–80

ENERGY DEPARTMENT

Economic Regulatory Administration—

57138 8–27–80 / Amendments to normal business practices rule; comments by 10–27–80

58788 9–4–80 / Motor gasoline allocation; adjustments and downward certification; comments by 10–31–80

Federal Energy Regulatory Commission—

66811 10–8–80 / First sale regulation under Natural Gas Policy Act; ceiling prices; comments by 11–1–80

ENVIRONMENTAL PROTECTION AGENCY

48510 7–18–80 / Acrylamide; response to the Interagency Testing Committee; comments by 10–31–80

[Corrected at 45 FR 68411, 10–15–80]

65628 10–3–80 / Air quality implementation plan, Illinois; comment period extended to 10–31–80

[*See also* 45 FR 50825, 7–31–80]

64219 9–29–80 / Approval and promulgation of State plans for designated facilities and pollutants, New Jersey and Virgin Islands; comments by 10–29–80

48524 7–18–80 / Chloromethane and chlorinated benzenes proposed test rule; amendment to proposed health effects standards; comments by 10–31–80

[Corrected at 45 FR 68410, 10–15–80]

56845 8–26–80 / Discretionary authority and State Implementation Plan Revisions; comments by 10–27–80

48512 7–18–80 / Exemptions for test rules; proposed statement of policy and procedures; comments by 10–31–80

63886 9–26–80 / Idaho State air quality Implementation Plan, proposed revision; comments by 10–27–80

[Corrected at 45 FR 68410, 10–15–80]

63302 9–24–80 / Louisiana; submission of interim Authorization Plan, Phase I, Hazardous Waste Management Program; comments by 10–30–80

63887 9–26–80 / Ohio air quality control, attainment status designations; comments by 10–27–80

57461 8–28–80 / Pesticide chemicals in or on raw agricultural commodities; parsnips, rutabagas and upland cress; comments by 10–29–80

63888–63889 9–26–80 / Pesticide chemicals in or on raw agricultural commodities; proposed tolerances for O,O-dimethyl S-[(4-oxo-1,2,3-benzotriazin-3 (4H)-yl)]methyl phosphorodithioate and thiabendazole; comments by 10–27–80

64214 9–29–80 / Proposed revision of the Virginia State Implementation Plan; comments by 10–29–80

62170 9–18–80 / Submission for approval of Interim Authorization Plan, Phase I Hazardous Waste Management Program, Arkansas; comments by 10–27–80

59598 9–10–80 / Water quality standards; navigable waters of the Commonwealth of Kentucky; comments by 10–27–80

FEDERAL COMMUNICATIONS COMMISSION

51252 8–1–80 / Amending rules regarding the multipoint distribution service; reply comments extended to 10–27–80

55237 8–19–80 / FM broadcast station in Wray, Colo.; table of assignments; reply comments by 10–27–80

55240 8–19–80 / FM broadcast station in Smithfield, Utah; table of assignments; reply comments by 10–27–80

55238 8–19–80 / FM broadcast station in Spokane Wash.; table of assignments; reply comments by 10–27–80

55239 8–19–80 / FM broadcast station in Ladysmith, Wis.; table of assignments; reply comments by 10–27–80

55243 8–19–80 / Representation of stations by representatives owned by competing stations in the same area; reply comments by 10–31–80

FEDERAL MARITIME COMMISSION

57152 8–27–80 / Time/volume rate contracts; tariff filing regulations applicable to carriers and conferences in the foreign commerce of the United States; comments by 10–27–80

FEDERAL TRADE COMMISSION

47705 7–16–80 / Food advertising; methods useful to consumers; comments by 11–1–80

[Originally published at 45 FR 23705, 4–8–80]

59588 9–10–80 / Rules for using energy cost and consumption information used in labeling and advertising of consumer appliances under the Energy Policy and Conservation Act; comments by 10–27–80

[*See also* 45 FR 53340, 8–11–80]

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

56823 8–26–80 / Canned peaches; standards of identity and quality; comments by 10–27–80

64601 9–30–80 / Establishment of registration and product listing for manufacturers of human blood and blood products; exemption of certain transfusion services and clinical laboratories from registration; comments by 10–30–80

63836 9–26–80 / Ice cream and frozen custard identity standards; label declaration of color additive FD&C yellow No. 5; objections by 10–27–80

57735 8–29–80 / Oligosaccharide, peptide, and certain other antibiotic drugs; comments by 10–28–80

[Corrected at 45 FR 65618, 10–3–80]

64569 9–30–80 / Penicillin antibiotic drugs; Amoxicillin Trihydrate chewable tablets; comments by 10–30–80

56832 8–26–80 / Phenothiazine products; bioequivalence requirements; comments by 10–27–80

[Corrected at 45 FR 63002, 9–23–80]

Health Care Financing Administration—

57150 8–27–80 / Medicare; ambulance service provision; comments by 10–27–80

HOUSING AND URBAN DEVELOPMENT

Community Planning and Development, Office of the Assistant Secretary—

56839 8–26–80 / Community Development Block Grants; grant administration requirements for use of eseron accounts for property rehabilitation loans and grants; comments by 10–27–80

Federal Housing Commissioner—Office of Assistant Secretary for Housing—

57444 8–28–80 / Minimum property standards; plastic drain waste and vent pipe and fittings, acrylonitrile-butadiene-styrene and poly (vinyl chloride); proposed revision of use of materials Bulletin No. 79; comments by 10–27–80

56800 8–26–80 / Mutual mortgage insurance and insured home improvement loans; condition of property—adjustment for damage or neglect; comments by 10–27–80

Office of the Secretary—

57437 8–28–80 / Mortgagee Review Board; flexibility in administrative actions; comments by 10–27–80

57440 8–28–80 / Procedures for appeals proceedings before hearing officers; comments by 10–27–80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

59914 9–11–80 / Federal aid in fish and wildlife restoration; correction to proposed revisions to regulations; comments by 10–31–80

[*See also* 45 FR 57471, 8–28–80]

Indian Affairs Bureau—

64960 10–1–80 / San Carlos Indian River Project, Arizona; revision of power rates; comments by 10–31–80

National Park Service—

63884 9–26–80 / Blue Ridge Parkway, Va.–N.C.; snowmobile regulations; comments by 10–27–80

Surface Mining Reclamation and Enforcement Office—

64604 9–30–80 / Abandoned mines lands reclamation program; comments by 10–29–80

64961 10–1–80 / Procedures and criteria for approval or disapproval of State program submissions; comments by 10–31–80

INTERSTATE COMMERCE COMMISSION

61333 9–16–80 / Elimination of gateway restrictions and circuitous route limitations; comments by 10–31–80

61337 9-16-80 / Food transportation; operating authority for motor carrier owner-operators; reporting and filing requirements; comments by 10-31-80

61326 9-16-80 / Removal of restrictions from authorities of motor carriers of property; comments by 10-31-80

56849 8-26-80 / Traffic protective conditions in railroad consolidation proceedings; comments by 10-30-80

JUSTICE DEPARTMENT

Immigration and Naturalization Service—

57432 8-28-80 / Alien orphan children; filing of immigrant petitions to classify as immediate relatives; adoptive relationships requirements; comments by 10-27-80

58131 9-2-80 / Requirements for written notice of parole termination; reference to Form I-122; comments by 10-31-80

LABOR DEPARTMENT

Occupational Safety and Health Administration—

58881 9-5-80 / Access to employee exposure and medical records in agricultural employments; comments period extended to 10-31-80

[Originally published at 45 FR 35298, 5-23-80]

63476 9-24-80 / Lead exposure; reopening of rulemaking record; comments by 10-27-80

Pension and Welfare Benefit Program Office—

56843 8-26-80 / Reporting and disclosure for short plan years; comments by 10-28-80

[Corrected at 45 FR 62518, 9-19-80]

NUCLEAR REGULATORY COMMISSION

50613 7-30-80 / Nuclear facilities; correction and improvement of regulation and operation; action plan; comments by 10-28-80

POSTAL SERVICE

63885 9-26-80 / Special (nonprofit) bulk Third-Class mail rates, application procedures; comments by 10-27-80

SMALL BUSINESS ADMINISTRATION

59587 9-10-80 / Small business size standards; revision to method of establishing size standards and definitions of small business; comments by 10-27-80

[*See also* 45 FR 15442, 3-10-80]

STATE DEPARTMENT

Consular Affairs Bureau—

59175 9-8-80 / Validity, termination, and replacement of visa; comments by 10-31-80

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

57688 8-28-80 / Aircraft products and parts: Type certificates design and procedural standards; comments by 10-27-80

57684 8-28-80 / Flight crew members; elimination of duties and activities not required for safe operation of aircraft; comments by 10-27-80

57694 8-28-80 / Flight data recorder and cockpit voice recorder tapes; FAA access to; comments by 10-27-80

Federal Highway Administration—

57676 8-28-80 / Motor carriers, minimum levels of financial responsibility; comments by 10-27-80

[Corrected at 45 FR 59177, 9-8-80]

50728 7-31-80 / Wetlands, privately owned; evaluation and mitigation of environmental impacts; comments by 10-29-80

National Highway Traffic Safety Administration—

57466 8-28-80 / Motor vehicle safety standards; new pneumatic tires for passenger cars; comments by 10-27-80

Research and Special Programs Administration—

54097 8-14-80 / Hazardous materials; aluminum cylinders (DOT 3AL Seamless); specifications and usage requirements; comments by 11-1-80

TREASURY DEPARTMENT

Alcohol, Tobacco and Firearms Bureau—

57745 8-29-80 / Cases and bulk containers of distilled spirits, wine or beer; export markings; comments by 10-28-80

Internal Revenue Service—

57739 8-29-80 / Imputed interest rates; comments by 10-28-80

56840 8-26-80 / Set-asides made by private foundations; comments by 10-27-80

Deadlines for Comments On Proposed Rules for the Week of November 2 through November 8, 1980

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

68998 10-17-80 / Draft recommendations on intragovermental communications in informal rulemaking proceedings; comments by 11-5-80

68949 10-17-80 / Draft recommendation on separation of functions in agency proceedings; comments by 11-5-80

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

68951 10-17-80 / Oranges and grapefruit grown in lower Rio Grande Valley, Tex.; import regulations and proposed grade and size requirements; comments by 11-3-80

Farmers Home Administration—

58557 9-4-80 / Implementation of Interagency Agreement regarding employment of Comprehensive Employment and Training Act (CETA) eligible persons in jobs created by certain FmHA programs; comments by 11-3-80

Food Safety and Quality Service—

53002 8-8-80 / Net weight labeling of meat and poultry products; comments by 11-6-80

44317 7-1-80 / Prohibition of PCB containing equipment or machinery and liquid polychlorinated biphenyls (PCB's) in Federally inspected meat establishments, poultry product establishments, and egg product plants; comments by 11-4-80

[*See also* 45 FR 30980-30983, 5-9-80]

CIVIL AERONAUTICS BOARD

66474 10-7-80 / Service mail rates for nonsubsidized carriers; flight equipment depreciation; statement of general policy; comments by 11-6-80

COMMERCE DEPARTMENT

International Trade Administration—

58562 9-4-80 / Effects of foreign policy export controls; comments by 11-3-80

National Oceanic and Atmospheric Administration—

65264 10-2-80 / Fishermen's Contingency Fund provisions; comments by 11-3-80

DEFENSE DEPARTMENT

Army Department—

66476 10-7-80 / Visitors rules for the Arlington National Cemetery; comments by 11-6-80

EDUCATION DEPARTMENT

61950 9-17-80 / Asbestos detection and control; Asbestos detection and State Plan: State Educational Agencies; comments by 11-3-80

ENERGY DEPARTMENT

Economic Regulatory Administration—

58871 9-5-80 / Mandatory Petroleum Price Regulations; retroactive amendments to "V" factor of refiner cost allocation formulae; comments by 11-4-80

53368 8-11-80 / Power plant and Industrial Fuel Use Act of 1978; cogeneration exemption; comments by 11-7-80

Federal Energy Regulatory Commission—

65170 10–1–80 / Authority delegation to Director, Office of Pipeline and Producer Regulation, to grant exemptions to incremental pricing regulations; comments by 11–3–80

ENVIRONMENTAL PROTECTION AGENCY

65628 10–3–80 / Air quality implementation plan, Maryland; revision; comments by 11–3–80

65631 10–3–80 / Air quality; ozone; California and Nevada attainment status designations; comments by 11–3–80

59177 9–8–80 / Approval and promulgation of implementation plans; Nevada; comments by 11–7–80

64219 9–29–80 / Benzene emissions from maleic anhydnide plants; National emissions standards for hazardous air pollutants; comments by 11–6–80

66484 10–7–80 / Carbaryl; proposed tolerance; comments by 11–6–80

61966 9–17–80 / Friable asbestos-containing materials in schools; comments by 11–3–80

63888 9–26–80 / Hazardous waste management; North Carolina's application for Phase I interim authorization; comments by 11–4–80

62506 9–9–80 / Kentucky air quality implementation plans; federal assistance limitation; comments by 11–3–80

52628 8–7–80 / Pesticide programs; registration denial or cancellation and change of use classification; issuance and hearing procedures; comments by 11–5–80

[Corrected at 45 FR 57461, 8–28–80]

62170 9–18–80 / Policy and guidance on implementation of Clean Air Act requirement for meeting "basic transportation needs"; comments by 11–3–80

47168 7–14–80 / Proposed restrictions on use of PCB's at agricultural pesticide and fertilizer facilities; comments by 11–5–80

[*See also* 45 FR 30989, 5–9–80]

66816 10–8–80 / Standards applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities; comments by 11–7–80

FEDERAL COMMUNICATIONS COMMISSION

47445 7–15–80 / Cable television systems and postponement of divestiture requirement relative to prohibited cross ownership in existence on or before July 1, 1970; reply comments by 11–5–80

58629 9–4–80 / FM Broadcast Stations in Aguada, Arecibo, Cidras, Lajas, Manati, Mayaquez, Quebradillas and Utuado, P.R.; Proposed Changes in Table of Assignments; reply comments by 11–6–80

58611 9–4–80 / FM Broadcast Station in Hampton, Ark.; Proposed Changes in Table of Assignments; reply comments by 11–6–80

63302 9–24–80 / FM Broadcast Station in Hudson, Mich.; proposed changes in table of assignments; comments by 11–7–80

58621 9–4–80 / FM Broadcast Station in Irmo, S.C.; Proposed Changes in Table of Assignments; reply comments by 11–6–80

58618 9–4–80 / FM Broadcast Station in North Mankato, Minn.; Proposed Changes in Table of Assignments; reply comments by 11–6–80

58612 9–4–80 / FM Broadcast Station in Oildale, Calif.; Proposed Changes in Table of Assignments; reply comments by 11–6–80

58619 9–4–80 / FM Broadcast Station in Olivia, Minn.; Proposed Changes in Table of Assignments; reply comments by 11–6–80

62517 9–19–80 / FM Broadcast Station in Roy and Clearfield, Utah; Proposed Changes in Table of Assignments; comments by 11–7–80

58616 9–4–80 / FM Broadcast Station in Smith Center, Kans.; Proposed Changes in Table of Assignments; reply comments by 11–6–80

58613 9–4–80 / FM Broadcast Station in South Lake Tahoe, Calif.; Proposed Changes in Table of Assignments; reply comments by 11–6–80

58622 9–4–80 / FM Broadcast Station in Tremonton, Utah; Proposed Changes in Table of Assignments; reply comments by 11–6–80

58610 9–4–80 / FM Broadcast Stations in Tucson and Nogales, Arizona; Proposed Changes in Table of Assignments; reply comments by 11–6–80

58150 9–2–80 / 9 kHz channel separation for AM broadcasting; comments by 11–3–80

47444 7–15–80 / Revision of applications for renewal of license of commercial and noncommercial AM, FM and television licensees; reply comments by 11–3–80

58608 9–4–80 / TV Broadcast Station in Fort Walton Beach, Florida; Proposed Changes in Table of Assignments; reply comments by 11–6–80

55244 8–19–80 / TV Broadcast Stations in Jacksonville, Lumberton, Roanoke Rapids and Rockingham, N.C.; Farmville and Kenbridge, Va.; Table of Assignments; comments by 11–3–80

58627 9–4–80 / TV Broadcast Stations in Sanger, Clovis, Visalia, and Fresno, Calif.; Proposed Changes in Table of Assignments; reply comments by 11–6–80

55246 8–19–80 / Use of digital voice modulation in the Power Radio Service; reply comments by 11–7–80

FEDERAL DEPOSIT INSURANCE CORPORATION

58876 9–5–80 / Employee responsibilities and conduct; comments by 11–4–80

FEDERAL MARITIME COMMISSION

66485 10–7–80 / Enlargement of time for filing and commenting on certain agreements; comments by 11–3–80

[*See also* 45 FR 58923, 9–5–80]

58385 9–3–80 / Temporary tariff filing regulations applicable to carriers and conferences of such carriers in the foreign commerce of the United States; consideration of petitions by several conferences; comments by 11–3–80

FEDERAL RESERVE SYSTEM

66348 10–6–80 / Electronic fund transfers; exemptions; comments by 11–5–80

FEDERAL TRADE COMMISSION

68399 10–15–80 / Possible rescission of the Guides against deceptive advertising of guarantees; comments period extended to 11–6–80

[*See also* 45 FR 51838, 8–5–80]

66810 10–8–80 / Sale of used motor vehicles; disclosure and other regulation; comments by 11–7–80

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

52821 8–8–80 / Blood and blood components; error and accident reports; comments by 11–6–80

58880 9–5–80 / Exemptions from food labeling requirements for food labeling experiments; comments by 11–4–80

53023 8–8–80 / Food labeling; net weight labeling requirements; comments by 11–6–80

44325 7–1–80 / Polychlorinated biphenyls (PCB's) in sealed electrical transformers and capacitors used or stored in or around food, feed, and food- and feed-packaging materials manufacturing and storage facilities; comments by 11–4–80

[*See also* 45 FR 30984, 5–9–80]

Health Care Financing Administration—

58123 9–2–80 / Medicare; extension of time periods for end stage renal disease facilities to achieve conditional and unconditional status; comments by 11–3–80

Public Health Service—

59132 9–5–80 / Grants to health systems agencies, discretionary funding; comments by 11–4–80

Social Security Administration—

58563 9–4–80 / Supplemental security income for the aged, blind, and disabled; eligibility, amount of benefits, residence, and citizenship provision; comments by 11–3–80

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Federal Housing Commissioner—Office of the Assistant Secretary for Housing—

58374 9–3–80 / Polyethylene (PE), Acrylonitrile—butadiene—Styrene (ABS), Poly (Vinyl Chloride) (PVC) and Polybutylene (PB) plastic piping for cold water; comments by 11–3–80

59147 9–8–80 / Mortgage insurance and interest reduction payment for rental projects; comments by 11–7–80

59145 9–8–80 / Rent supplement payments; redefinition of "income"; comments by 11–7–80

Office of the Secretary—

59149 9–8–80 / Low-income housing; additional assistance program for projects with HUD-insured or HUD-held mortgages; comments by 11–7–80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

58168 9–2–80 / *Phacelia formosulae;* proposed endangered species status; comments by 11–3–80

58166 9–2–80 / Proposed endangered status for 'Ewa Plains 'akoko (Euphorbia skottsbergii var. kalaeloana); comments by 11–3–80

Surface Mining and Reclamation Office—

65626 10–3–80 / Abandoned mine lands reclamation program; comments by 11–3–80

58377 9–3–80 / Surface coal mining and reclamation operations on Federal lands under permanent program State-Federal Cooperative Agreements; Montana; comments by 11–3–80

64971 10–1–80 / Surafce coal mining and reclamation operations on Federal lands under the Permanent Program; Wyoming cooperative agreement; comments by 11–7–80

[Originally published at 45 FR 45927, 7–8–80]

LABOR DEPARTMENT

Occupational Safety and Health Administration—

66475 10–7–80 / Proposed supplement to Conn. State Plan for public employees only; comments by 11–6–80

NUCLEAR REGULATORY COMMISSION

65466 10–2–80 / Domestic licensing of production and utilization facilities; interim requirements related to hydrogren control and certain degraded core considerations; comments by 11–3–80

SMALL BUSINESS ADMINISTRATION

66807 10–8–80 / Pollution control guarantee program; interest rate at which small concerns repay SBA; comments by 11–7–80

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

59256 9–8–80 / Non-federal navigation facilities; microwave landing system; comments by 11–7–80

Federal Highway Administration—

51720 8–4–80 / Design and construction criteria for bikeway construction; comments by 11–3–80

Office of the Secretary—

62170 9–18–80 / Policy and guidance on implementation of Clean Air Act requirement for meeting "basic transportation needs"; comments by 11–3–80

TREASURY DEPARTMENT

Internal Revenue Service—

64603 9–30–80 / Qualified disclaimers of property conferred by gift or inheritance; comments by 11–4–80

VETERANS ADMINISTRATION

66185 10–8–80 / Exclusions from countable income under Improved Pension Program; comments by 11–7–80

WAGE AND PRICE STABILITY COUNCIL

65502 10–3–80 / Anti-inflationary price standards; procedural rules and data requests; comments by 11–3–80

65995 10–6–80 / Anti-inflationary pay and price standards; questions and answers on the pay standard; comments by 11–3–80

Next Week's Meetings

AGRICULTURE DEPARTMENT

Forest Service—

58636 9–4–80 / Modoc National Forest Grazing Advisory Board, Tulelake, Calif. (open), 10–26–80

Science and Education Administration—

63023 9–23–80 / Animal Health Science Research Advisory Board, Washington, D.C. (open), 10–28 and 10–29–80

ARTS AND HUMANITIES, NATIONAL FOUNDATION

66929 10–8–80 / Design Arts Panel, New York, N.Y. (partially open), 10–27 and 10–28–80

66534 10–7–80 / Humanities Panel Advisory Committee, Washington, D.C. (closed), 10–30 and 10–31–80

[Originally published at 45 FR 63985, 9–26–80]

66929 10–8–80 / Music Panel (Professional Training), Washington, D.C. (partially open), 10–27 and 10–28–80

CIVIL RIGHTS COMMISSION

66827 10–8–80 / Arizona Advisory Committee, Phoenix, Ariz. (open), 11–1–80

65002 10–1–80 / Connecticut Advisory Committee, Cromwell, Conn. (open), 10–30–80

66827 10–8–80 / Illinois Advisory Committee, Chicago, Ill. (open), 10–27–80

65003 10–1–80 / Vermont Advisory Committee, Montpelier, Vt. (open), 10–29–80

COMMERCE DEPARTMENT

Census Bureau—

64610 9–30–80 / Asian and Pacific Americans Population for the 1980 Census Advisory Committee, Suitland, Md. (open), 10–30–80

64610 9–30–80 / Spanish Origin Population for the 1980 Census Advisory Committee, Suitland, Md. (open), 10–27–80

International Trade Administration—

67118 10–9–80 / Electronic Instrumentation Technical Advisory Committee; Arlington, Va. (partially open), 10–28–80

67118 10–9–80 / Exporters' Textile Advisory Committee, Washington, D.C. (open), 10–29–80

68702 10–16–80 / Numerically Control Machine Tool Technical Advisory Committee, Washington, D.C. (partially open), 10–30–80

67713 10–14–80 / Telecommunications Equipment Technical Advisory Committee, Washington, D.C. (partially open), 10–29–80

National Oceanic and Atmospheric Administration—

63543 9–25–80 / Commercial Ocean Thermal Energy Conversion Environmental Impact Statement, Washington, D.C. (open), 10–30–80

50848 7–31–80 / Mid-Atlantic Fishery Management Council, Surf Clam/Ocean Quahog Resources Subpanel, Dover, Del. (open), 10–31–80

65272 10–2–80 / National Climate Program Advisory Committee, Washington, D.C. (open), 10–27 and 10–28–80

66490 10–7–80 / South Atlantic Fishery Management Council, Charleston, S.C. (open), 10–28 through 10–30–80

66490 10–7–80 / South Atlantic Fishery Management Council's Advisory Subpanel, Charleston, S.C. (open), 10–27–80

Office of the Secretary—

67406 10–10–80 / Commerce Technical Advisory Board, Melrose Park and Chicago, Ill. (open), 10–28 and 10–29–80

DEFENSE DEPARTMENT

Air Force Department—

63328 9–24–80 / Scientific Advisory Board, Los Angeles Air Force Station, Calif. (closed), 10–30 and 10–31–80

67716 10–14–80 / USAF Scientific Advisory Board, Fort Worth, Tex. (closed), 10–29–80

Army Department—

66495 10–7–80 / Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Medical Entomology, Washington, D.C. (open), 10–27 and 10–28–80

Office of the Secretary—

65019 10–1–80 / Defense Intelligence Agency Advisory Committee, Rosslyn, Va. (closed), 10–27 and 10–28–80

62177 9–18–80 / DOD Advisory Group on Electron Devices, Arlington, Va. (closed), 10–28–80

64230 9–29–80 / Defense Science Board Task Force on Anti-Tactical Missiles Advisory Committee, Morrestown, N.J. (closed), 10–30 and 10–31–80

56381 8–25–80 / Wage Committee, Washington, D.C. (closed), 10–28–80

ENERGY DEPARTMENT

66190 10–6–80 / National Petroleum Council, Production Engineering Task Group of the Committee on Arctic Oil and Gas Resources, Houston, Tex. (open), 10–28–80

65392 10–2–80 / Opportunity to present oral comments on findings and conclusions of the National Energy Transportation Study, Seattle, Wash., 10–27 and 10–31–80

Economic Regulatory Administration—

59615 9–10–80 / Emergency Preparedness Committee of the National Petroleum Council, Wash., D.C. (open), 10–31–80

Energy Research Office—

67130 10–9–80 / Geothermal Panel of the Energy Research Advisory Board, Palo Alto, Calif. (open), 10–28–80

66842 10–8–80 / Solar Photovoltaic Energy Advisory Committee of the Energy Research Advisory Board, Pasedena, Calif. (open), 10–27 and 10–28–80

ENVIRONMENTAL PROTECTION AGENCY

62544 9–19–80 / Guideline on Air Quality Models, revisions, Chicago, Ill. (open), 10–30 and 10–31–81

67395 10–10–80 / Pesticides; State FIFRA Issues Research and Evaluation Group, Registration and Classification Working Committee, San Francisco, Calif. (open), 10–28 and 10–29–80

67395 10–10–80 / Pesticides; State FIFRA Issues Research and Evaluation Group, Enforcement Working Committee, San Francisco, Calif. (open), 10–30 and 10–31–80

67458 10–10–80 / Science Advisory Board, Clean Air Scientific Advisory Committee, Carbon Monoxide Subcommittee, Washington, D.C. (open), 10–27–80

67458 10–10–80 / Science Advisory Board, Executive Committee, Washington, D.C. (open), 10–29 and 10–30–80

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

63137 9–23–80 / Meeting, Washington, D.C. (open), 10–30–80

FEDERAL RESERVE SYSTEM

66206 10–6–80 / Consumer Advisory Council, Washington, D.C. (open), 10–30 and 10–31–80

FOREIGN CLAIMS SETTLEMENT COMMISSION

65765 10–3–80 / American citizens claims involving Germany, China, and Vietnam, Washington, D.C. (open), 10–29–80

GENERAL SERVICES ADMINISTRATION

Federal Register Office—

67155 10–9–80 / Southern Building Code Conference International (SBCCI) Annual Research and Education Conference, Memphis, Tenn. (open), 10–26 through 10–30–80

National Archives and Records Service—

61367 9–16–80 / Preservation Advisory Committee, Washington, D.C. (open), 10–27–80

HEALTH AND HUMAN SERVICES DEPARTMENT

Alcohol, Drug Abuse and Mental Health Administration—

62550 9–19–80 / Alcohol Abuse Prevention Review Committee, Rockville, Md., (partially open) 10–27–80, (closed) 10–28–80

62550 9–19–80 / Basic Behavioral Processes Research Review Committee, Rockville, Md., (partially open) 10–27–80, (closed) 10–28–80

62551 9–19–80 / Basic Psycho-pharmacology and Neuropsychology Research Review Committee, Silver Spring, Md., (partially open) 10–30–80, (closed) 10–31–80

62551 9–19–80 / Board of Scientific Counselors, NIMH, Bethesda, Md., (partially open) 10–30–80, (closed) 10–31 and 11–1–80

62551 9–19–80 / Mental Health Research Education Review Committee, Washington, D.C., (partially open) 10–30–80, (closed) 10–31–80

62551 9–19–80 / Minority Group Mental Health Review Committee, Chevy Chase, Md., (partially open) 10–30–80, (closed) 10–31–80

62550 9–19–80 / Psychopathology and Clinical Biology Research Review Committee, Bethesda, Md., (partially open) 10–27–80, (closed) 10–28 and 10–29–80

62551 9–19–80 / Social Work Education Review Committee, Rockville, Md. (partially open), 10–31–80

Center for Disease Control—

64709 9–30–80 / Mine Health Research Advisory Committee, Morgantown, W. Va. (partially open), 10–30 and 10–31–80

Food and Drug Administration—

62559 9–19–80 / Immunology and Miciobiology Device Section, Silver Spring, Md. (partially open), 10–27 and 10–28–80

59205 9–8–80 / Mammalian Genetics Study Section, Bethesda, Md. (partially open), 10–30 through 11–1–80

62557 9–19–80 / Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel; Ear, Nose, and Throat Device Section, Washington, D.C. (open), 10–27 and 10–28–80

Health Resources Administration—

55821 8–21–80 / National Advisory Council in Nurse Training, Hyattsville, Md. (partially open), 10–29 through 10–31–80

63552 9–25–80 / Migrant Health, National Advisory Council, Tampa, Fla. (open), 10–27 through 10–30–80

Human Development Services Office—

65046 10–1–80 / White House Conference on Aging, Technical Committee on Spiritual Well-Being, Washington, D.C. (open), 10–30–80

68760 10–16–80 / White House Conference on Aging Technical Committee, Ft. Mitchell, Ky. (open), 10–30–80

National Institutes of Health—

59205 9-8-80 / Allergy and Immunology study section, Bethesda, Md. (partially open), 10-31 through 11-1-80

58206 9-2-80 / Animal Resources Review Committee, Atlanta, Ga. (partially open), 10-27-80

59205 9-8-80 / Applied Physiology and Orthopedics Study Section, Bethesda, Md. (partially open), 10-30 through 11-1-80

59205 9-8-80 / Biochemical Endocrinology Study Section, Chevy Chase, Md. (partially open), 10-27 through 10-29-80

59205 9-8-80 / Biochemistry Study Section, Rosslyn, Va. (partially open), 10-29 through 11-1-80

59205 9-8-80 / Biophysics and Biophysical Study Section, Chemistry B, Bethesda, Md. (partially open), 10-30 and 11-1-80

59204 9-8-80 / Board of Scientific Counselors, National Institute on Aging, Baltimore, Md. (partially open), 10-30 and 10-31-80

59205 9-8-80 / Cardiovascular and Pulmonary Study Section, Washington, D.C. (partially open), 10-29 through 10-31-80

59205 9-8-80 / Cardiovascular and Renal Study Section, Bethesda, Md. (partially open), 10-29 through 10-31-80

59205 9-8-80 / Cell Biology Study Section, Bethesda, Md. (partially open), 10-29 through 10-31-80

64270 9-29-80 / Communicative Disorder Review Committee, Bethesda, Md. (partially open), 10-30 and 10-31-80

59205 9-8-80 / Communicative Sciences Study Section, Bethesda, Md. (partially open), 10-29 through 10-31-80

59205 9-8-80 / General Medicine A Study Section, Bethesda, Md. (partially open), 10-27 and 10-28-80

59205 9-8-80 / General Medicine B Study Section, Washington, D.C. (partially open), 10-29 through 11-1-80

59205 9-8-80 / Human Embryology and Development, Bethesda, Md. (partially open), 10-29 through 10-31-80

59205 9-8-80 / Medicinal Chemistry A Study Section, Washington, D.C. (partially open), 10-29 through 10-31-80

59205 9-8-80 / Neurology A Study Section, Washington, D.C. (partially open), 10-30 through 11-1-80

59205 9-8-80 / Neurology B Study Section, Washington, D.C. (partially open), 10-29 through 11-1-80

59205 9-8-80 / Nutrition Study Section, Bethesda, Md. (partially open), 10-29 through 10-31-80

59205 9-8-80 / Oral Biology and Medicine Study Section, Silver Spring, Md. (partially open), 10-28 through 10-31-80

59205 9-8-80 / Pathology Study Section, Bethesda, Md. (partially open), 10-29 through 10-31-80

59205 9-8-80 / Pharmacology Study Section, Bethesda, Md. (partially open), 10-28 through 10-30-80

65319 10-2-80 / Research Manpower Review Committee, Bethesda, Md. (partially open), 10-27 through 10-31-80

58206 9-2-80 / Transplantation Biology and Immunology Committee, Bethesda, Md. (partially open), 10-31-80

59205 9-8-80 / Visual Sciences A Study Section, Alexandria, Va. (partially open), 10-29 through 10-31-80

Public Health Service—

62548 9-19-80 / Health Care Technology Study Section, Hyattsville, Md. (partially open), 10-27-80, (closed) 10-28 and 10-29-80

INTERIOR DEPARTMENT

Heritage Conservation and Recreation Service—

66213 10-6-80 / Adequacy of Draft Environmental Impact Statement and California River Application, Sacramento, Calif., 10-27-80 and Los Angeles, Calif., 10-31-80

68468 10-15-80 / Pinelands National Reserve, Draft Environmental Impact Statement, Marlton, N.J. (open), 10-29-80

Land Management Bureau—

61032 9-15-80 / Nevada Elko District, Multiple Use Advisory Council, Elko, Nev. (open), 10-29-80

63150 9-23-80 / Redding District Multiple Use Advisory Council, Redding, Colo., (open), 10-30-80

63940 9-26-80 / Salem District Advisory Council, Salem, Oreg. (open), 10-29-80

63150 9-23-80 / Vernal District Advisory Council, Vernal, Utah (open), 10-28 and 10-29-80

National Park Service—

67780 10-14-80 / Boston National Historical Park, Boston, Mass. (open), 10-30-80

INTERNATIONAL CONVENTION ADVISORY COMMISSION

67171 10-9-80 / Domestic procedures for implementation, applications for international trade in species protected, and miscellaneous business Washington, D.C. (open), 10-29-80

LABOR DEPARTMENT

Occupational Safety and Health Administration—

67480 10-10-80 / Federal Advisory Council on Occupational Safety and Health, Washington, D.C. (open), 10-28-80

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

67803 10-14-80 / National Advisory Council, Aeronautics Advisory Committee, Cleveland, Ohio (open), 10-29 and 10-30-80

NATIONAL COMMISSION ON SOCIAL SECURITY

68486 10-15-80 / Meeting, Washington, D.C. (open), 10-31 and 11-1-80

NATIONAL SCIENCE FOUNDATION

67489 10-10-80 / Atmospheric Sciences Advisory Committee, Washington, D.C. (partially open), 10-29 through 10-31-80

64772 9-30-80 / DOE/NSF Nuclear Science Advisory Committee, Computational Capabilities for Nuclear Theory Subcommittee, Germantown, Md. (open), 11-5-80

63400 9-24-80 / Materials Research Advisory Committee, Condensed Matter Sciences Subcommittee, Washington, D.C. (partially open), 10-27 and 10-28-80

63398 9-24-80 / Materials Research Laboratories, Ad Hoc Oversight Subcommittee, Washington, D.C. (closed), 10-29 and 10-30-80

63399 9-24-80 / Materials Research Laboratories Advisory Subcommittee, Washington, D.C. (partially open), 10-30 and 10-31-80

67490 10-10-80 / Minority Programs in Science Education Advisory Committee, Washington, D.C. (open), 10-30 and 10-31-80

61052 9-15-80 / Physiology, Cellular and Molecular Biology Advisory Committee, Biological Instrumentation Subcommittee, Washington, D.C. (closed), 10-30 and 10-31-80

61052 9-15-80 / Physiology, Cellular and Molecular Biology Advisory Committee, Genetic Biology Subcommittee, Washington, D.C. (closed), 10-30 through 11-1-80

61053 9-15-80 / Physiology, Cellular and Molecular Biology Advisory Committee, Metabolic Biology Subcommittee, Washington, D.C. (closed), 10-30 and 10-31-80

63401 9-24-80 / Social and Economic Science Advisory Committee, Subcommittee on Geography and Regional Science, Washington, D.C. (closed), 10-27-80

63401 9-24-80 / Social and Economic Science Advisory Committee, Subcommittee on Political Science, Washington, D.C. (closed), 10-27 and 10-28-80

64771 9-30-80 / Social and Economics Science Advisory Committee, Sociology Subcommittee, Washington, D.C. (closed), 10-30 and 10-31-80

NUCLEAR REGULATORY COMMISSION

68817 10–16–80 / Reactor Safeguards Advisory Committee, Babcock and Wilcox Water Reactors Subcommittee, Washington, D.C. (partially open), 10–31–80

PENSION POLICY PRESIDENT'S COMMISSION

61058 9–15–80 / Interim report, Washington, D.C. (open), 10–25 and 10–26–80

SMALL BUSINESS ADMINISTRATION

63202 9–23–80 / Region II Advisory Council, Newark, N.J. (open), 10–26–80

63203 9–23–80 / Region V Advisory Council, Indianapolis, Ind. (open), 10–28–80

66939 10–8–80 / Region V Advisory Council, Dearborn, Mich. (open), 10–31–80

66281 10–6–80 / Region VII Advisory Council, Kansas City, Mo. (open), 10–28–80

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

66282 10–6–80 / Radio Technical Commission for Aeronautics (RTCA), Special Committee 142—Air Traffic Control Radar Beacon System/Discrete Address Beacon System (ATCRBS/DABS) Airborne Equipment, Washington, D.C. (open), 10–29 through 10–31–80

National Highway Traffic Safety Administration—

43921 6–30–80 / Fatal Accident Reporting System [FARS], Orlando, Florida (open), 10–28 through 10–30–80

59245 9–8–80 / Fatal Accident Reporting System Annual Workshop, Orlando, Fla. (open), 10–28 through 10–30–80

43921 6–30–80 / National Highway Safety Advisory Committee, Washington, D.C. (open), 10–27 through 10–29–80

59245 9–8–80 / National Highway Safety Advisory Committee, Washington, D.C. (open), 10–27 through 10–30–80

67186 10–9–80 / National Highway Safety Advisory Committee, Washington, D.C. (open), 10–27 through 10–30–80

59245 9–8–80 / Problem-Behavior Workshop: Pedestrian, Bicyclists and Public Transportation, Washington, D.C. (open), 10–27 and 10–28–80

Office of the Secretary—

65392 10–2–80 / Opportunity to present oral comments on findings and conclusions of the National Energy Transportation Study, Seattle, Wash., 10–27 and 10–31–80

TREASURY DEPARTMENT

Office of the Secretary—

65104 10–1–80 / Debt Management Advisory Committees, Washington, D.C. (closed), 10–28 and 10–29–80

VETERANS ADMINISTRATION

66939 10–8–80 / Career Development Committee, Washington, D.C. (partially open), 10–27 and 10–28–80

56222 8–22–80 / Cooperative Studies Evaluation Committee, Washington, D.C. (partially open), 10–27 and 10–28–80

61845 9–17–80 / Medical Research Service Merit Review Board (partially open), Washington, D.C., 10–30 and 10–31–80

61846 9–17–80 / Voluntary Service National Advisory Committee, Arlington, Va., 10–27 through 10–29–80

59470 9–9–80 / Wage Committee, Washington, D.C. (closed), 10–30–80

WAGE AND PRICE STABILITY COUNCIL

66188 10–6–80 / Price Advisory Committee, Washington, D.C., 10–29–80

[*See Also* 45 FR 62520, 9–19–80]

Next Week's Public Hearings

AGRICULTURE DEPARTMENT

Forest Service—

56850 8–26–80 / Mount Henry, Taylor-Hilgard, and West Pioneer Wilderness Study Areas; Beaverhead, Gallatin, and Kootenai National Forests, Beaverhead, Gallatin, Madison, and Lincoln Counties, Mont.; Libby and Bozeman, Mont., 10–28 and 10–30–80

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

68698 10–16–80 / Atlantic Surf Clam and Ocean Quahog Fisheries; closure of an area of the fishery conservation zone (FCZ) offshore and south of Chincoteague, Va., to surf clam fishing; Dover, Delaware, 10–31–80

DEFENSE DEPARTMENT

60467 9–12–80 / Naval Discharge Review Board, Dallas, Tex., St. Louis, Mo., 10–27 through 11–7–80

[*See also* 45 FR 41691, 6–20–80 and 45 FR 68704, 10–16–80]

60467 9–12–80 / Naval Discharge Review Board, Dallas Tex., St. Louis, Mo., 10–27 through 11–7–80

[*See also* 45 FR 41691, 6–20–80]

68704 10–16–80 / Navy Discharge Review Board, San Diego, Calif., 10–31–80

ENERGY DEPARTMENT

Conservation and Solar Energy Office—

66960 10–8–80 / Residential Conservation Service Program, Washington, D.C., 10–30–80

Economic Regulatory Commission—

62478 9–19–80 / East Coast Residual Fuel Oil Entitlements, extension of domestic crude oil allocation program, Washington, D.C., 10–27–80

Federal Energy Regulatory Commission—

67276 10–9–80 / Consideration of agricultural uses exemption interim rule, Washington, D.C., 10–28–80

67279 10–9–80 / Incremental pricing; consideration of rulemaking, Washington, D.C., 10–28–80

Office of the Secretary—

66970 10–8–80 / Energy Auditor Training and Certification Grants, Washington, D.C., 10–30 and 10–31–80

ENVIRONMENTAL PROTECTION AGENCY

63888 9–26–80 / Hazardous Waste Management; North Carolina's application for Phase I interim authorization, Raleigh, N.C., 10–29–80

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office—

64971 10–1–80 / Wyoming Cooperative Agreement; coal mining and reclamation, Cheyenne, Wyo., 10–30–80

INTERNATIONAL TRADE COMMISSION

65088 10–1–80 / Conference on television receiving sets from Japan, Washington, D.C., 10–31–80

TREASURY DEPARTMENT

Internal Revenue Service—

63296 9–24–80 / Tax-free sales of articles to be used for, or resold for, further manufacture, Washington, D.C., 10–28–80

List of Public Laws

Last Listing October 21, 1980

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

S. 2622 / Pub. L. 96–464 Coastal Zone Management Improvement Act of 1980 (Oct. 17, 1980; 94 Stat. 2060) Price $1.25.

H.R. 6790 / Pub. L. 96–465 Foreign Service Act of 1980. (Oct. 17, 1980; 94 Stat. 2071) Price $3.75.

H.R. 5288 / Pub. L. 96–466 Veterans' Rehabilitation and Education Amendments of 1980. (Oct. 17, 1980; 94 Stat. 2171) Price $3

H.R. 3122 / Pub. L. 96–467 Relating to the tariff treatment of certain articles. (Oct. 17, 1980; 94 Stat. 2220) Price $1.25.

H.R. 6593 / Pub. L. 96-468 Swine Health Protection Act. (Oct. 17, 1980; 94 Stat. 2229) Price $1.

S. 2043 / Pub. L. 96-469 Animal Cancer Research Act. (Oct. 17, 1980; 94 Stat. 2235) Price $1.

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the **Federal Register** during the previous week.

RULES GOING INTO EFFECT

68890, 68899 10-16-80 / HHS/PHS—Grants for predoctoral, graduate, and faculty developmental educational programs in family medicine (2 documents); effective 10-16-80

69196 10-17-80 / USDA/FNS—New York City's Food Stamp Replacement "Authorization to Participate" Card Issuance Procedure and Rapid Access Reconciliation System; establishment of procedures; effective 10-17-80

DEADLINES FOR COMMENTS ON PROPOSED RULES

68902 10-16-80 / HHS/PHS—Grants for Establishment of Departments of Family Medicine; comments by 12-15-80

APPLICATIONS DEADLINES

68421 10-15-80 / DOE—Energy Financial Assistance Solicitations Availability; proposals by 11-14-80

67771 10-14-80 / HHS/HRA—Health Careers Opportunity Program; apply by 12-11-80

67770 10-14-80 / HHS/HRA—Public Health Special Project Grants; apply by 1-9-81

69046 10-17-80 / HUD/CPD—FY 1981 technical assistance for assessing potential district heating and cooling system projects; apply by 1-5-81

67643 10-14-80 / USDA/APHIS—Applications for special permits and schedule of fees for the third importation of cattle through the Harry S Truman Animal Import Center; apply by 1-6-81

68952 10-17-80 / USDA/FmHA—Relocation and real property acquisition; uniform policy; comments by 12-16-80

MEETINGS

68421 10-15-80 / DOE—Energy Financial Assistance Solicitations Availability, preproposal conference, Washington, D.C., 10-21-80

68464 10-15-80 / HHS/HSA—Maternal and Child Health Research Grants Review Committee, Rockville, Md. (open and closed), 11-12 through 11-14-80

68467 10-15-80 / HHS/NIH—Biomedical Review Committee and the Subcommittee for the Review of Medical Library Resource Improvement Grant Application, Bethesda, Md. (open and closed), 11-17 and 11-18-80

68464 10-15-80 / HHS/NIH—Bladder and Prostatic Cancer Review Committee, Atlanta, Ga. (open and closed), 11-6-80

68465 10-15-80 / HHS/NIH—Cancer Clinical Investigation Review Committee, Bethesda, Md. (open and closed), 11-11 and 11-12-80

68465 10-15-80 / HHS/NIH—Clinical Trials Review Committee, Bethesda, Md. (open), 11-7-80

68466 10-15-80 / HHS/NIH—General Clinical Research Centers Committee, Bethesda, Md. (open and closed), 12-1 and 12-2-80

68466 10-15-80 / HHS/NIH—General Research Support Review Committee, Bethesda, Md. (open and closed), 11-13 and 11-14-80

68468 10-15-80 / HHS/NIH—National Heart, Lung, and Blood Advisory Council, Bethesda, Md. (open and closed), 11-24 and 11-25-80

68464 10-15-80 / HHS/NIH—Scientific Counselors, NICHD, Bethesda, Md. (closed), 11-24-80

68467 10-15-80 / HHS/NIH—Vision Research Program Committee, Bethesda, Md. (open and closed), 11-13-80

68487 10-15-80 / NSF—Advisory Committee for Earth Sciences, Geology, Geophysics, Geochemistry and Petrology Subcommittee, Washington, D.C. (closed), 11-6 and 11-7-80

68487 10-15-80 / NSF—Advisory Committee for Social and Economic Science, Subcommittee for Law and Social Sciences, Washington, D.C. (closed), 11-13 and 11-14-80

68487 10-15-80 / NSF—Advisory Committee for Ocean Sciences, Subcommittee for Ocean Sciences Research, Washington, D.C. (closed), 11-10 and 11-11-80

68487 10-15-80 / NSF—Advisory Committee for Materials Research, Subcommittee on Condensed Matter Sciences, additional session added, Washington, D.C. (closed), 10-27 and 10-28-80

68486 10-15-80 / NSF—Advisory Committee for Chemistry, Washington, D.C. (open and closed), 11-6 and 11-7-80

68813 10-16-80 / NSF—Engineering and Applied Science Advisory Committee, Washington, D.C. (open), 11-3-80

68812 10-16-80 / NSF—Humanities Panel, Washington, D.C. (closed), 11-3, 11-6 and 11-7-80

OTHER ITEMS OF INTEREST

68419 10-15-80 / Commerce—Renewal of Sea Grant Review Panel

68703 10-16-80 / CSA—Funding of the Center for Rural Affairs, Walthill, Nebraska, to carry out a two-year project of information dissemination, training, and monitoring of on-farm small-scale appropriate technologies based on work of previously CSA-funded Small Farm Energy Project

68899 10-16-80 / HHS/HRA—Grants for Predoctoral, Graduate, and Faculty Development Educational Programs in family medicine; guidelines; effective 10-16-80

68465 10-15-80 / HHS/NIH—Filing of annual committee reports with Library of Congress

68392 10-15-80 / HHS/PHS—Correction to grant-in-aid regulations published at 45 FR 12240, 2-25-80

[*See also* 45 FR 20096, 3-27-80]

68973 10-17-80 / HUD/CPD—Community development block grants; clarifications and changes to urban development action grant rules; congressional waiver request

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