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federal register

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Highlights

45756 **Social Security** HHS/SSA provides payment for medical evidence needed in making Title II disability determinations.

45758 **Occupational Safety and Health** Labor/OSHA lifts administrative stay on employee exposure and medical records access standard for the contract construction industry.

45854 **Labor Management Relations** FSLRB/FLRA/FSIDP issues final regulations on processing of cases. (Part II of this issue)

45881 FSLRB describes statutory authority and assigned responsibilities of the General Counsel of the FLRA. (Part II of this issue)

45761 **Employee Benefit Plans** PBGC adjusts interest rates and factors for valuation of benefits in non-multiemployer pension plans.

45750 **Consumer Safety** CPSC issues interpretation on safety standard for architectural glazing materials, used in bathtub and shower doors and enclosures.

45785 **Veterans** VA proposes to revise regulations on disclosure of loan guaranty information.

45814 **Government Employees—Travel** GSA/TPUS announces availability of new publication, "Federal Hotel/Motel Discount Directory".

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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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.

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45820 **Outer Continental Shelf** Interior/BLM requests specific information on sand and gravel in the Arctic offshore Alaska and on manganese nodules offshore the South Atlantic States.

45887 **Oil and Gas Leasing** Interior/BLM increases filing fees for noncompetitive oil and gas lease applications. (Part III of this issue)

45752 **Natural Gas** DOE/FERC denies request for rehearing and stay on agricultural exemptions from incremental pricing.

45888 **Mineral Resources** Commerce/NOAA publishes regulations for issuance of deep seabed hard mineral exploration licenses. (Part IV of this issue)

45785 **Phonorecords** Copyright Royalty Tribunal requests comments on possible proceeding on mechanical royalty adjustment mechanism.

45789 **Antidumping** Commerce/ITA issues preliminary results of administrative review on elemental sulphur from Canada and tentatively determines to revoke finding in part.

45792 **Imports** CITA increases import restraint level for certain man-made fiber apparel products from the Socialist Republic of Romania.

45792 **Textiles** CITA solicits comments on bilateral textile consultations with the Government of Sri Lanka on certain cotton trousers and wool sweaters.

45788 **Sugar** USDA announces increase of import fees on raw and refined sugar.

45789 **Privacy Act Document** DOD/Army

45849 **Sunshine Act Meetings**

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 531

Pay Under the General Schedule Merit Pay System

Correction

The Correction of August 28, 1981, on page 43371 correcting FR Doc. 81–23662 (46 FR 41019, 8–14–81) was partly wrong. Item 1 of the correction should have read as follows:

1. On page 41019, third column, § 531.406(a), first line, "Civil law employment" should read "Civilian employment".

Item 2 of the correction appeared correctly.

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 11

[Docket No. 81-17]

Securities Exchange Act Disclosure Rules; Correction

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Final rule; correction.

SUMMARY: The Office of the Comptroller of the Currency ("Office") is making certain technical corrections to amendments to its Securities Exchange Act Disclosure Rules ("Part 11 Regulations") which were published in the Federal Register of January 22, 1981 (46 FR 6865).

FOR FURTHER INFORMATION CONTACT: Ginger S. Barnum, Attorney, Securities & Corporate Practices Division, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW, Washington, D.C. 20219, (202) 447–1954.

SUPPLEMENTARY INFORMATION: This correction document makes four principal corrections to recent amendments to 12 CFR 11.5, the section of the Part 11 Regulations relating primarily to proxy solicitations and tender offers. First, 12 CFR 11.5(d), regarding the form of the proxy, is corrected to indicate the retention of certain previously codified provisions which were inadvertently omitted from the final regulations as published in the Federal Register of January 22, 1981. Former paragraphs (d) (4)–(6) are retained as paragraphs (d) (3)–(5), further necessitating a reference correction in paragraph (d)(1). For the convenience of users, 12 CFR 11.5(d), as corrected, has been reprinted in its entirety. Second, 12 CFR 11.5(e)(5) is corrected to refer to the Office's existing rule at 12 CFR 11.5(k)(1)(iii)(A), rather than the corresponding provisions of Rule 14a–8(a)(3)(i) under the Securities Exchange Act of 1934, concerning calculation of the date for submission of shareholder proposals intended to be included in annual meeting proxy materials. Third, 12 CFR 11.5(l)(14)(vi) is corrected so that it is consistent with the provisions concerning "stop-look-and-listen" communications in 12 CFR 11.5(n)(10). Fourth, existing material that, prior to the publication of the final regulations, had been designated paragraphs (n) and (o) of 12 CFR 11.5, was apparently omitted from the final regulations, which contained new provisions so designated. To resolve any resulting uncertainty, 12 CFR 11.5 is corrected to indicate the retention of former paragraphs (n) and (o) as paragraphs (p) and (q). Also, a number of technical corrections to various paragraphs of 12 CFR 11.5 are made.

Accordingly, the Office is correcting 12 CFR 11.5 as follows:

1. Paragraphs (d), (e)(5), (l)(14)(vi), (p) and (q) of 12 CFR 11.5 are corrected to read as follows:

§ 11.5 Proxies, proxy statements and statements where management does not solicit proxies.

* * * * *

(d) *Requirements as to proxy.* (1) The form of proxy (i) shall indicate in bold-face type whether or not the proxy is solicited on behalf of the bank's board of directors or, if provided other than by a majority of the board of directors, shall indicate in bold-face type the identity of the persons on whose behalf the solicitation is made, (ii) shall provide a specifically designated blank space for dating the proxy, and (iii) shall identify clearly and impartially each matter or group of related matters intended to be acted upon whether proposed by the bank or by security holders. No reference need be made, however, to matters as to which discretionary authority is conferred under paragraph (d)(3) of this section.

(2)(i) Means shall be provided in the form of proxy whereby the person solicited is afforded an opportunity to specify by boxes a choice between approval or disapproval of, or abstention with respect to, each matter or group of related matters referred to therein as intended to be acted upon, other than elections to office. A proxy may confer discretionary authority with respect to matters as to which a choice is not so specified by the security holder if the form of proxy states in bold-face type how the shares represented by the proxy are intended to be voted in each such case.

(ii) A form of proxy which provides for the election of directors shall set forth the names of persons nominated for election as directors. Such form of proxy shall clearly provide any of the following means for security holders to withhold authority to vote for each nominee:

(A) A box opposite the name of each nominee which may be marked to indicate that authority to vote for such nominee is withheld; or

(B) An instruction in bold-face type which indicates that the security holder may withhold authority to vote for any nominee by lining through or otherwise striking out the name of any nominee; or

(C) Designated blank spaces in which the shareholders may enter the names of nominees with respect to whom the shareholder chooses to withhold authority to vote; or

(D) Any other similar means, provided that clear instructions are furnished indicating how the shareholder may withhold authority to vote for any nominee.

(iii) Such form of proxy also may provide a means for the security holder to grant authority to vote for the nominees set forth, as a group, provided that there is a similar means for the

security holder to withhold authority to vote for such group of nominees. Any such form of proxy which is executed by the security holder in such manner as not to withhold authority to vote for the election of any nominee shall be deemed to grant such authority, provided that the form of proxy so states in bold-face type.

(iv) Instructions. (A) Paragraph (d)(2)(ii) does not apply in the case of a merger, consolidation or other plan if the election of directors is an integral of the plan.

(B) If applicable law gives legal effect to votes cast against a nominee, then in lieu of, or in addition to, providing a means for security holders to withhold authority to vote, the bank should provide a similar means for security holders to vote against each nominee.

(3) A proxy may confer discretionary authority to vote with respect to any of the following matters:

(i) Matters that the persons making the solicitation do not know, within a reasonable time before the solicitation, are to be presented at the meeting, if a specific statement to that effect is made in the proxy statement or form of proxy;

(ii) Approval of the minutes of the prior meeting if such approval does not amount to ratification of the action taken at that meeting;

(iii) The election of any person to any office for which a bona fide nominee is named in the proxy statement and such nominee is unable to serve or for good cause refuses to serve;

(iv) Any proposal omitted from the proxy statement and form of proxy pursuant to paragraph (k) of this section;

(v) Matters incident to the conduct of the meeting.

(4) No proxy shall confer authority (i) to vote for the election of any person to any office for which a bona fide nominee is not named in the proxy statement, or (ii) to vote at any annual meeting other than the next annual meeting (or any adjournment thereof) to be held after the date on which the proxy statement and form of proxy are first sent or given to security holders. A person shall not be deemed to be a bona fide nominee and he shall not be named as such unless he has consented to being named in the proxy statement and to serve if elected.

(5) The proxy statement or form of proxy shall provide, subject to reasonable specified conditions, that the shares represented by the proxy will be voted and that where the person solicited has specified by means of a ballot provided pursuant to paragraph (d)(2) of this section, a choice with respect to any matters to be acted upon, the shares will be voted in accordance with the specifications so made.

(e) *Presentation of information in statement.* * * *

(5) All proxy statements shall disclose, under an appropriate caption, the date by which proposals of security holders intended to be presented at the next annual meeting must be received by the bank for inclusion in the bank's proxy statement and form of proxy relating to that meeting, such date to be calculated in accordance with the provisions of 12 CFR 11.5(k)(1)(iii)(A). If the date of the next annual meeting is subsequently advanced by more than 30 days or delayed by more than 90 days from the date of the annual meeting to which the proxy statement relates, the bank shall, in a timely manner, inform security holders of such change, and the date by which proposals of security holders must be received, by any means reasonably calculated to so inform them.

* * * * *

(l) *Tender Offers.* * * *

(14) * * *

(vi) A communication from a subject bank to its security holders which communicates no more than the information permitted by paragraph (n)(10) of this section.

* * * * *

(p) *Change in majority of directors.* If, pursuant to any arrangement or understanding with the person or persons acquiring securities in a transaction subject to section 13(d) or 14(d) of the Act, any persons are to be elected or designated as directors of the bank, otherwise than at a meeting of security holders, and the persons so elected or designated will constitute a majority of the directors of the bank, then, not less than 10 days prior to the date any such person takes office as a director, or such shorter period prior to that date as the Comptroller of the Currency may authorize upon a showing of good cause therefor, the bank shall file with the Comptroller of the Currency and transmit to all holders of record of securities of the bank who would be entitled to vote at a meeting for election of directors, information substantially equivalent to the information which would be required by items 5 (a), (d), (e) and (f), 6 and 7 of Form F–5 to be transmitted if such person or persons were nominees for election as directors at a meeting of such security holders.

(q) *Solicitation prior to furnishing required proxy statement.* (1) Notwithstanding the provisions of paragraph (a) of this section, a solicitation (other than one subject to paragraph (i) of this section) may be made prior to furnishing security holders a written proxy statement containing the information specified in Form F–5 with respect to such solicitation if:

(i) The solicitation is made in opposition to a prior solicitation or an invitation for tenders or other publicized activity which, if successful, could reasonably have the effect of defeating the action proposed to be taken at the meeting;

(ii) No form of proxy is furnished to security holders prior to the time the written proxy statement required by paragraph (a) of this section is furnished to security holders: *Provided, however,* That this paragraph (q)(1)(ii) shall not apply where a proxy statement then meeting the requirements of Form F–5 has been furnished to security holders by or on behalf of the person making the solicitation;

(iii) The identity of the person or persons by or on whose behalf the solicitation is made and a description of their interests, direct or indirect, by security holdings or otherwise, are set forth in each communication sent or given to security holders in connection with the solicitation; and

(iv) A written proxy statement meeting the requirements of this section is sent or given to security holders at the earliest practicable date.

(2) Three copies of any soliciting material proposed to be sent or given to security holders prior to the furnishing of the written proxy statement required by paragraph (a) of this section shall be filed with the Comptroller of the Currency in preliminary form at least 5 business days prior to the date definitive copies of such material are first sent or given to security holders, or such shorter period as may be authorized.

2. 12 CFR 11.5 is further corrected as follows:

a. In 12 CFR 11.5(l)(1), "any class of equity security which is registered pursuant to Section 12 of the Act, or a national bank * * * is corrected to read "any class of equity security, which is registered pursuant to Section 12 of the Act, of a national bank * * *."

b. In 12 CFR 11.5(l)(1), the reference to "§ 11.4(g)(4)(i)" is corrected to "12 CFR 11.4(g)(4)."

c. In 12 CFR 11.5(l)(2)(iv), references to "12 CFR 11.4(g)(4)(i)" are corrected to "12 CFR 11.4(g)(4)."

d. In 12 CFR 11.5(l)(4)(ii)(B), the reference to subparagraph "(5)(ii)(A)" is corrected to subparagraph "(4)(ii)(A)."

e. In 12 CFR 11.5(l)(4)(iii), the reference to subparagraph "(5)" is corrected to subparagraph "(4)."

f. In 12 CFR 11.5(l)(5), the reference to subparagraphs "(6)(i) through (6)(iii)" is

corrected to subparagraphs "(5)(i) through (5)(iii)."

g. In 12 CFR 11.5(m)(2)(ii), the reference to subparagraph "(2)(iii)" is corrected to subparagraph "(1)(ii)."

h. In 12 CFR 11.5(m)(6)(iii)(D), the reference to subparagraph "(6)(ii)(c)" is corrected to subparagraph "(6)(iii)(C)."

i. In 12 CFR 11.5(n)(3), the reference to paragraphs "(l)(3)–(6)" is corrected to paragraphs "(l)(7)–(9)."

j. In 12 CFR 11.5(n)(6)(i), the reference to "Form F–14 (12 CFR 11.55)" is corrected to "Form F–12 (12 CFR 11.53)."

k. In 12 CFR 11.5(n)(6)(ii)(A), the reference to "Form F–14" is corrected to "Form F–12."

l. In 12 CFR 11.5(n)(6)(ii)(B), the reference to "Form F–14" is corrected to "Form F–12."

(m) In 12 CFR 11.5(n)(7), the reference to "Form F–14 (12 CFR 11.55)" is corrected to "Form F–12 (12 CFR 11.53)" and the reference to "Form F–14" is corrected to "Form F–12."

n. In 12 CFR 11.5(n)(7)(i), the reference to "Form F–14" is corrected to "Form F–12."

o. In 12 CFR 11.5(n)(8), the reference to "Form F–14" is corrected to "Form F–12."

p. In 12 CFR 11.5(n)(9)(i)(C), the reference to "this paragraph" is corrected to "paragraphs (n)(6)–(11)."

q. In 12 CFR 11.5(o)(6), the reference to "paragraph (a) of this section" is corrected to "subparagraph (5) of this paragraph."

Dated: September 9, 1981.

Charles E. Lord,

Acting Comptroller of the Currency.

[FR Doc. 81-26765 Filed 9-14-81; 8:45 am]

BILLING CODE 4810-33-M

FEDERAL TRADE COMMISSION

16 CFR Parts 3 and 4

Organization, Procedures, and Rules of Practice; Disqualification of Commissioners

AGENCY: Federal Trade Commission.

ACTION: Final rules.

SUMMARY: The Commission has amended its Rules of Practice and Procedure to specify procedures to be followed when a participant in a Commission proceeding believes a Commissioner ought to be disqualified from further participation in that proceeding. Conforming changes have been made to other sections of the Rules of Practice.

EFFECTIVE DATE: September 15, 1981.

FOR FURTHER INFORMATION CONTACT: Bruce G. Freedman (202) 523–3865, Office of General Counsel, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: On December 17, 1980, at 45 FR 82956, the Commission published for comment a proposed amendment to its Rules of Practice and Procedure to specify procedures to be followed when a participant in a Commission proceeding believes that a Commissioner ought to be disqualified from that proceeding. The proposed rule was to apply to both adjudicative and rulemaking proceedings.

The proposed rule, which would add a new § 4.16 to the rules of practice, responded to Recommendation 80–4, Decisional Officials' Participation in Rulemaking Proceedings, adopted by the Administrative Conference of the United States at its last plenary session. The proposed rule did not attempt to prescribe the substantive standards governing disqualification and, instead, codified existing procedures. In proposing the rule, the Commission observed that because such standards have evolved in the context of particular cases, and such evolution can be expected to continue, it believed it advisable not to attempt to fix such standards in its rules, but rather to incorporate by general reference the legal standards applicable to the given proceeding.

Two comments were filed. One, submitted by the Office of the Chairman of the Administrative Conference of the United States, urged the Commission to adopt the guidelines set forth in Recommendation 80–4 with respect to conflicts of interest, decorum, and expression of views. Nevertheless, existing practice already provides guidance with respect to decorum and important safeguards against the potential for financial or nonfinancial conflicts of interest touched upon in the recommendation.

Moreover, the question of prejudgment of fact in rulemaking has been addressed with respect to this agency in a recent case, see *Association of Nat'l Advertisers, Inc.* v. *FTC*, 627 F.2d 1151 (D.C. Cir. 1979), *cert. denied*, 447 U.S. 921 (1980). Because the significance of the difference between the formulation for prejudgment of fact embodied in Recommendation 80–4 and the Court of Appeals' test is not entirely clear and the D.C. Circuit decision is so recent, the Commission continues to believe it advisable to incorporate in its rule only a general reference to applicable legal standards. The Commission, however, regards Recommendation 80–4, and the accompanying report by Professor Strauss, see *Disqualifications of Decisional Officials in Rulemaking*, 80 *Colum. L. Rev.* 990 (1980), as useful steps toward clarification of standards for decisionmakers in rulemaking and will take them into account if further issues arise with respect to disqualification of Commissioners in rulemaking.

The other comment (Sullivan & Cromwell) similarly urges that the rule include substantive standards for disqualification in rulemaking and also contends that substantive standards should be included for adjudication. The comment suggests that the rule incorporate 28 U.S.C. 455, one of the provisions in the Judicial Code governing disqualification of federal judges. As noted, the Commission continues to believe that the rule should not embody substantive standards governing disqualification. Even if substantive standards were to be prescribed, standards applicable to federal judges would not take account of the special characteristics of rulemaking which call for standards different from those applied in adjudications conducted by courts and administrative agencies. See *ANA*, 627 F.2d at 1168–75; Strauss, 80 *Colum. L. Rev.* at 993–97, 1027 *et seq.*

Nor do we see any need to codify standards for disqualification in adjudicatory proceedings. The Ethics in Government Act and the Commission's Standards of Conduct already include provisions, similar to those included in 28 U.S.C. 455, to prevent conflicts of interest. We are not persuaded at this time that certain of the other standards are appropriate to administrative adjudication.

Finally, the comment urges deletion of the proposed requirement that motions to disqualify "be filed at the earliest practicable time." The comment observes that "[t]he requirement that a motion to disqualify be filed in a timely manner is considered important at the federal court trial level because of its potential for substantial delay if filed after the start of trial, since the judge's recusal is automatic upon the filing of such a motion (see 28 U.S.C. 144). The rationale for this timeliness requirement is not present in FTC proceedings." However, a timeliness requirement has been applied to motions filed under 28 U.S.C. 455, which, unlike 28 U.S.C. 144, does not provide for automatic disqualification. See *United States* v. *Daley*, 564 F.2d 645, 651 (2d Cir. 1977), *cert. denied*, 435 U.S. 933 (1978). Moreover, it is well established that this

timeliness requirement is "normally applicable to the federal judiciary and administrative agencies alike * * *." *Marcus* v. *Director, Office of Workers' Compensation Programs*, 548 F.2d 1044 (D.C. Cir. 1976); see also *Duffield* v. *Charleston Area Medical Center, Inc.*, 503 F.2d 512, 515 (4th Cir. 1974). The rule is designed to avoid disruption that can result from motions that are not filed at the earliest practicable time. The disruptiveness of an untimely motion is not cured because the motion only seeks to disqualify a Commissioner from further proceedings. Rather, such a motion may interfere with or delay the Commission's consideration of other aspects of the same proceeding. The Commission's consideration of the appeal from an initial decision can be delayed unnecessarily by a tardy disqualification motion. Similar disruption can result from untimely motions during pretrial and trial proceedings because the Commission may at any point be asked to review an ALJ's interlocutory ruling.

As a result of the additions to the Rules of Practice announced in 45 FR 36338 (May 29, 1980) and 46 FR 26284 (May 12, 1981), proposed § 4.16 has been redesignated as § 4.17.

The Commission has also determined to amend § 3.22(a) of the rules of practice to provide that motions to disqualify a Commissioner shall be addressed to the Commission and § 3.42(g) to add a requirement that motions to disqualify administrative law judges be timely filed, similar to the requirement set forth in new § 4.17 (b)(2).

Accordingly, the Commission amends 16 CFR Chapter I as follows:

PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

1. By revising § 3.22(a) to read as follows:

§ 3.22 Motions.

(a) *Presentation and Disposition.* During the time a proceeding is before an Administrative Law Judge, all motions therein, except those filed under §§ 3.42(g) or 4.17, shall be addressed to the Administrative Law Judge, and if within his authority shall be ruled upon by him. Any motion upon which the Administrative Law Judge has no authority to rule shall be certified by him to the Commission, with his recommendation where he deems it appropriate. Such recommendation may contain a proposed disposition of the motion or other relevant comments or observations. Where the Commission believes that a recommendation or an amplification thereupon would assist it in its deliberations, it may order the Administrative Law Judge to file a recommendation. All written motions shall be filed with the Secretary of the Commission and all motions addressed to the Commission shall be in writing.

* * * * *

2. By adding a new § 3.42(g)(3) to read as follows:

§ 3.42 Presiding officials.

* * * * *

(g) * * *

(3) Such motion shall be filed at the earliest practicable time after the participant learns, or could reasonably have learned, of the alleged grounds for disqualification.

* * * * *

PART 4—MISCELLANEOUS RULES

3. By adding a new § 4.17 to read as follows:

§ 4.17 Disqualification of Commissioners.

(a) *Applicability.*—This section applies to all motions seeking the disqualification of a Commissioner from any adjudicative or rulemaking proceeding.

(b) *Procedures.*—(1) Whenever any participant in a proceeding shall deem a Commissioner for any reason to be disqualified from participation in that proceeding, such participant may file with the Secretary a motion to the Commission to disqualify the Commissioner, such motion to be supported by affidavits and other information setting forth with particularity the alleged grounds for disqualification.

(2) Such motion shall be filed at the earliest practicable time after the participant learns, or could reasonably have learned, of the alleged grounds for disqualification.

(3)(i) Such motion shall be addressed in the first instance by the Commissioner whose disqualification is sought.

(ii) In the event such Commissioner declines to recuse himself or herself from further participation in the proceeding, the Commission shall determine the motion without the participation of such Commissioner.

(c) *Standards.*—Such motion shall be determined in accordance with legal standards applicable to the proceeding in which such motion is filed.

(15 U.S.C. 46(g))

By direction of the Commission dated August 26, 1981.

Carol M. Thomas,

Secretary.

[FR Doc. 81-26754 Filed 9-14-81; 8:45 am]

BILLING CODE 6750-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1201

Safety Standard for Architectural Glazing Materials; Statement of Policy and Interpretation

AGENCY: Consumer Product Safety Commission.

ACTION: Statement of policy and interpretation.

SUMMARY: The Commission's safety standard for architectural glazing materials applies to several products, including bathtub and shower doors and enclosures. The Commission is issuing an interpretation of the standard that clarifies that the terms "bathtub doors and enclosures" and "shower door and enclosure" do not include glazing materials in a window located over a bathtub or within a shower stall and in the exterior wall of a building. The interpretation is intended to resolve questions which have arisen among firms whose activities are subject to regulation by the standard.

DATE: The statement of policy and interpretation will become effective on October 15, 1981.

FOR FURTHER INFORMATION CONTACT: Wade Anderson, Directorate for Compliance and Administrative Law, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301) 492-6400.

SUPPLEMENTARY INFORMATION: In January 1977 the Consumer Product Safety Commission issued a safety standard to reduce unreasonable risks of injury associated with architectural glazing materials and certain products incorporating those materials (42 FR 1428; 16 CFR Part 1201). The standard prescribes tests to ensure that the glazing materials either do not break when impacted with a specified energy or break with such characteristics that they are less likely than other glazing materials to present an unreasonable risk of injury. The standard became effective on July 6, 1977.

The standard is applicable to glazing materials used in six specific products and to the products themselves. These products, each defined in the standard, are doors, storm doors, bathtub doors

and enclosures, shower doors and enclosures, sliding glass doors (patio-type), and glazed panels. On August 28, 1980 the Commission revoked the provisions applicable to glazed panels (45 FR 57383). Therefore, as of August 28, 1981, the standard applies only to five products and the glazing materials used in those products.

Bathtub and Shower Windows

The standard defines the term "bathtub doors and enclosures" to mean "assemblies of panels and/or doors that are installed on the lip of or immediately surrounding a bathtub" (§ 1201.2(a)(2)). The standard defines the term "shower door and enclosure" to mean "an assembly of one or more panels installed to form all or part of the wall and/or door of a shower stall" (§ 1201.2(a)(30)).

Since the effective date of the standard, firms whose activities are regulated by the standard have raised the question of whether these definitions include glazing materials in a window that is located over a bathtub or within a shower stall and in the exterior wall of a building. The definitions of bathtub and shower doors and enclosures contain no specific exemption for glazing materials in such windows. The text of § 1201.2(a)(2), if read literally, could include glazing material in an exterior wall window located above a bathtub because that window could be interpreted as being "immediately surrounding" the bathtub. Similarly, the text of § 1201.2(a)(30), if read literally, could include glazing material in an exterior wall window because that window could be interpreted as forming "all or part of the wall of a shower stall."

Petition From NGDA

In September, 1978 the National Glass Dealers Association (NGDA) petitioned the Commission to amend the architectural glazing standard (Petition CP 78-18). (*2*) [1] A portion of the petition requested amendments to the definitions of bathtub and shower doors and enclosures to exclude any glazing material in a window that is located over a bathtub or within a shower stall and in the exterior wall of a building.

In January of 1980, the Commission staff transmitted to the Commission a briefing package that evaluated the issues of the NGDA petition. That portion of the briefing package concerning exterior windows in shower enclosures and over bathtubs observed that when the Commission issued the standard, it did not express any intent to include such windows within the coverage of the standard. (*1*) The briefing package also stated that after reviewing injury information associated with glazing materials, the staff was unable to find any report of injury resulting from breakage of such a window by accidental human impact. (*4, 5*)

After considering the petition and information supplied by NGDA, and the briefing package prepared by the Commission staff, the Commission decided in March of 1980 to grant that portion of the petition relating to exterior windows in shower stalls and over bathtubs by proposing a statement of policy and interpretation rather than by amending the standard. The Commission decided that it had not intended to include windows in the exterior wall of a building in the definition of the term "bathtub doors and enclosures" or "shower door and enclosure" when it issued the Standard. (*6, 7*) For that reason, the Commission voted to propose a policy statement to clarify its intent that glazing materials in exterior windows are not included within either definition. Later in 1980, the Commission denied the remaining portions of the petition.

In the Federal Register of December 30, 1980 (45 FR 85777), the Commission published a proposed statement of policy and interpretation to clarify the definitions of the terms "bathtub doors and enclosures" and "shower door and enclosure" set forth in the standard. The proposed policy statement observed that while the language in the definitions of those terms may be broad enough to cover windows in exterior walls of shower enclosures and above bathtubs, the Commission did not intend to regulate such windows when it issued the standard. (*8*) The notice of December 30, 1980, invited written comments from all interested persons on the proposed statement of policy. The notice also described the remaining portions of the petition, and the Commission's reasons for denying them.

Response to Proposal

In response to the notice of December 30, 1980, the Commission received one written comment, submitted by NGDA. In this comment, NGDA expressed its support of the proposed statement of policy in view of the absence of any reports of injuries associated with the glazing materials which are the subject of the proposal. (*9*) The Commission staff has reviewed reports of injuries associated with glazing materials which have become available to the Commission since January of 1980, and has found no report of any injury associated with glazing materials used in exterior windows of showers stalls or above bathtubs.

After considering the single comment received in response to the proposal of December 30, 1980, and the most recent information submitted by the staff, the Commission has decided to issue the policy statement on a final basis, without modification.

As stated in the notice of December 30, 1980, the clarification contained in the policy statement does not amend the standard. For this reason, provisions of section 9(e) of the Consumer Product Safety Act (15 U.S.C. 2058(e)) do not apply. The Commission has solicited written comment on the proposed statement of policy only because it desired to obtain the views of any member of the public who might be affected by it.

Accordingly, pursuant to sections 7 and 9 of the Consumer Product Safety Act, 15 U.S.C. 2056, 2058, the Commission amends Title 16, Chapter II, Subchapter B, Part 1201 of the Code of Federal Regulations by adding a new Subpart C, as follows:

PART 1201—SAFETY STANDARD FOR ARCHITECTURAL GLAZING MATERIALS

Subpart A—The Standard

Subpart B [Reserved]

* * * * *

Subpart C—Statements of Policy and Interpretation

§ 1201.40 Interpretation concerning bathtub and shower doors and enclosures.

(a) Purpose and background. The purpose of this section is to clarify the scope of the terms "bathtub doors and enclosures" and "shower door and enclosure" as they are used in the Standard in Subpart A. The Standard lists the products that are subject to it (§ 1201.1(a)). This list includes "bathtub doors and enclosures," a term defined in the Standard to mean "assemblies of panels and/or doors that are installed on the lip of or immediately surrounding a bathtub" (§ 1201.2(a)(2)). The list also includes "shower doors and enclosures," a term defined to mean "(assemblies) of one or more panels installed to form all or part of the wall and/or door of a shower stall" (§ 1201.2(a)(30)). Since the Standard became effective on July 6, 1977, the question has arisen whether the definitions of these products include glazing materials in a window that is located over a bathtub or within a

[1] Numbers in parentheses identify reference documents listed in Bibliography at the end of this document.

shower stall and in the exterior wall of a building. The definitions of the terms "bathtub doors and enclosures" and "shower door and enclosure" contain no specific exemption for glazing materials in such windows. If read literally, the Standard could include glazing materials in an exterior wall window located above a bathtub because that window could be interpreted as being "immediately surrounding" the bathtub. Similarly, the Standard, if read literally, could include glazing materials in an exterior wall window because that window could be interpreted as forming "all or part of the wall * * * of a shower stall."

(b) Interpretation. When the Consumer Product Safety Commission issued the Standard, it did not intend the standard to apply to any item of glazing material in a window that is located over a bathtub or within a shower stall and in the exterior wall of a building. The Commission clarifies that the Standard does not apply to such items of glazing material or such windows. This interpretation applies only to the term "bathtub doors and enclosures" and "shower door and enclosure" and does not affect the applicability of the Standard to any other product.

Effective date: October 15, 1981.

Dated: September 9, 1981.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Bibliography

1. Staff briefing package on petition CP 78–18, prepared by Nick Marchica, OPM; 10 pages; January 29, 1980. The tabs to this package are listed separately.

2. TAB A, Petition from National Glass Dealers Association requesting amendment of Safety Standard for Architectural Glazing Materials; 47 pages; September 22, 1978.

3. TAB B, Memorandum from Allen F. Brauninger, C&E to Nick Marchica, OPM, expressing views of Directorate for Compliance and Enforcement on petition from NGDA, with attachments; 14 pages; January 14, 1980.

4. TAB C, memorandum from Paula Present, HIEA, to Nick Marchica, OPM, concerning NGDA petition; 1 page; September 21, 1979.

5. TAB D, memorandum from William Rowe, HIEA, to Nick Marchica, OPM, concerning injury information relevant to NGDA petition; 1 page; September 21, 1979.

6. Vote sheet on petition CP 78–18 from Alan Shakin, OGC, to the Commission; 3 pages; February 15, 1980.

7. Minutes of Commission vote on March 19, 1980, granting portion of petition CP 78–18; 1 page; March 24, 1980.

8. Federal Register notice proposing statement of policy to clarify definitions of "bathtub doors and enclosures" and "shower door and enclosure"; 3 pages; December 30, 1980.

9. Comment on proposal of December 30, 1980, from Jerald A. Jacobs and Richard F. Mann on behalf of National Glass Dealers Association; 2 pages; February 23, 1981.

[FR Doc. 81-26826 Filed 9-14-81; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket Nos. RM79–14, RM80–18, and RM80–75]

Agricultural Exemptions From Incremental Pricing

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order denying rehearing and denying stay.

SUMMARY: On July 31, 1981, the Federal Energy Regulatory Commission (Commission) issued an Order Delineating Effect of Judicial Action on Commission's Regulations regarding agricultural exemption from incremental pricing ("the July 31 Order"), 46 FR 41034, August 14, 1981. On August 5, 1981, the Fertilizer Institute, *et al.*, filed an application for rehearing and stay of the July 31 Order. The Commission hereby denies the application.

FOR FURTHER INFORMATION CONTACT:

Carol M. Lane, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357–8511.

Alice Fernandez, Office of Pipeline & Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357–9095.

SUPPLEMENTARY INFORMATION: The July 31 Order informed natural gas suppliers and end-users of a recent D.C. Circuit opinion vacating the Secretary of Agriculture's definition of "process fuel." The Order explained that this development removed the exemption from incremental pricing under the Natural Gas Policy Act currently being claimed by end-users who manufacture fertilizer, agricultural chemicals, or animal feed and food. The order noted that, as a result of this development, these end-users would have to file "Change of Circumstances" notices with the Commission and the supplier pursuant to the "prompt notice" requirements of 18 CFR 282.205(a) of the Commission's incremental pricing regulations.

The application for rehearing and stay of the July 31 Order urged the Commission to continue the exemption for the affected end-users. The instant order denies rehearing and stay on the basis that it was not the July 31 Order that subjected these end-users to incremental pricing, but rather the court's action; thus rehearing and stay of the July 31 Order would not continue any exemption. The instant order also addresses several other procedural and policy arguments raised by the petitioners.

Issued: September 4, 1981.

In the matter of agricultural exemptions from incremental pricing; order denying rehearing and denying stay.

On August 5, 1981, an application for rehearing and stay of the Commission's "Order Delineating Effect of Judicial Action on Commission's Regulations" [1] was filed jointly by The Fertilizer Institute, the National Council of Farmer Cooperatives, and the American Feed Manufacturers Association ("TFI"). On August 12, 1981, a joinder in TFI's application was filed by W. R. Grace and Company ("Grace"). This order denies the rehearing and stay requested by these petitioners.

Background

The Order Delineating Effect of Judicial Action on Commission Regulations ("the July 31 Order") has a complex factual and procedural background that is set forth in detail in that order. In sum, however, the July 31 Order informed natural gas suppliers and industrial end-users of a recent judicial decision, *Process Gas Consumers Group, et al.* v. *United States Department of Agriculture (PGCG)* (D.C. Circuit. Nos. 80–1558 and 80–1603), and explained how that decision affects the Commission's regulations under Title II of the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3301–3432).

The *PGCG* case concerned Title IV of the NGPA (curtailment). Under Title IV, the Secretary of Agriculture (Secretary) has the authority to certify certain uses of gas as "essential agricultural uses." Once so certified, the user is eligible for priority treatment during periods of gas curtailment. Section 401 defines "essential agricultural use" as follows:

[A]ny use of natural gas—

(A) for agricultural production, natural fiber production, natural fiber processing, food processing, food quality maintenance, irrigation pumping, crop drying, or

(B) *as a process fuel* or feedstock *in the production of fertilizer, agricultural*

[1] Issued July 31, 1981, Docket Nos. RM79–14, RM80–18 and RM80–75; 46 FR 41034, August 14, 1981.

chemicals, animal feed, or food. (emphasis added).

The Secretary's regulations implementing this definition are set forth at 7 CFR Part 2900. These regulations, until the *PGCG* decision, defined "process fuel," as "natural gas used to produce steam which in turn is directly applied in processing of products." As a result of this definition, boiler fuel users of natural gas who use steam directly to produce fertilizer, agricultural chemicals, animal feed, and food (hereinafter referred to collectively as "fertilizer manufacturers") became eligible for curtailment priority as "process" users. The *PGCG* case vacated and set aside this definition, an action which obviously affected Title IV curtailment priorities. But the court's mandate also had an effect on the Commission's implementation of Title II.

Under Title II of the NGPA, industrial boiler fuel users of natural gas are subject to incremental pricing unless an exemption is provided pursuant to section 206. Section 206 (b) provides an exemption for "agricultural uses" of gas and defines those uses in terms similar to those used in section 401 to define "essential agricultural uses." The Commission's regulations implementing the agricultural exemption from incremental pricing (18 CFR 282.202) were set forth in Order No. 49 [2] and defined "agricultural use" to include:

> [A]ny use of natural gas:
> (1) which is certified by the Secretary of Agriculture under 7 CFR 2900.3 as an "essential agricultural use" pursuant to section 401 of the NGPA * * *

When the Secretary subsequently certified the above-described uses of gas by fertilizer manufacturers as "essentially agricultural uses," most of these manufacturers filed affidavits claiming "agricultural use" exemptions from incremental pricing pursuant to § 282.202. The *PGCG* decision thus affected the incremental pricing status of these fertilizer manufacturers. It removed their use of gas from the Secretary's list of certified uses, and by so doing removed the basis for their "agricultural use" exemption from incremental pricing under §282.202. The July 31 Order informed affected users that this development would make it necessary for them to file a "Change of Circumstances" notice with the Commission and the appropriate supplier by August 31, 1981, pursuant to the "prompt notice" requirement of § 282.205(a) of the Commission's regulations. The order noted that such filings would take effect, pursuant to § 282.205(d), as of the billing period beginning September 1, 1981.

[2] Docket No. RM79-14, issued September 28, 1979, 44 FR 57726, October 5, 1979.

Discussion

The following issues are raised by the applications for rehearing and stay of the July 31 Order:

1. *Should the Commission continue the exempt status of fertilizer manufacturers under section 206(b) in view of its imminent consideration of a permanent exemption for these users under section 206(d)?*

TFI and Grace assert that the July 31 Order "threatens a serious but needless disruption" in the status of fertilizer manufacturers under Title II, and that the Commission should stay the Order and permit these users to continue to claim an exemption from incremental pricing. The applicants note in particular the Commission's statement in the Order (at p. 5, *mimeo*) that it intends to act promptly in Docket No. RM80-18 to decide whether to promulgate a section 206(d) exemption for these users since they no longer can claim a section 206 (b) exemption.[3] In light of this imminent consideration of another type of exemption, the applicants argue the Commission should stay the July 31 Order so as not to subject fertilizer manufacturers to incremental pricing in the meantime.

In response, the Commission notes that it was not the July 31 Order that subjected fertilizer manufacturers to incremental pricing. The Order merely described the *PGCG* decision and explained how it affected the Commission's already-existing incremental pricing regulations. Rather, it was the effect of the court's decision on those regulations that subjected fertilizer manufacturers to incremental pricing. Once a use of gas is removed from the Secretary's list of certified "essential agricultural uses," that use no longer falls within the definition of "agricultural use" in § 282.202(a). Thus there is no basis upon which to claim an exemption from incremental pricing under that section. With or without the July 31 Order, fertilizer manufacturers have lost the basis upon which their exemption was founded. The only way in which an exemption could be regained would be if the Commission were to take independent action to exempt these gas users. For example, an exemption could be regained if the Commission were to promulgate a rule under section 206(d) specifically exempting the category of fertilizer manufacturers from incremental pricing.[4]

Accordingly, a stay of the July 31 Order would not continue any exemption. It would only cause confusion as to how fertilizer manufacturers and their suppliers are to comply with the existing regulations. Some participants in proceedings in these dockets have stated that the claimed exemptions from incremental pricing by these manufacturers were invalid *ab initio*, since the underlying certification was vacated and set aside by the court.[5] Under this theory, incremental pricing surcharges should be applied retroactively to the date that the fertilizer manufacturers began claiming exemptions. However, these participants assert that, due to the complexity of the surcharge program, the surcharges should be assessed only as of August 1, 1981.

In order to eliminate potential confusion as to retroactivity, or inconsistency in application of the court's order from supplier to supplier, the Commission issued the July 31 Order. The Order made it clear that incremental pricing surcharges were to be assessed only as of the billing period beginning September 1, 1981. Selection of this date represented a reasonable interpretation of the Commission's already existing "Change of Circumstances" regulations, giving end-users sufficient time to make "Change of Circumstances" filings and suppliers sufficient time to adjust their billing records.

2. *Should the Commission alter the full stay in Docket No. RM80-75 that was issued on April 23, 1981?*

TFI and Grace assert that "it makes no sense to disrupt the current full stay" in Docket No. RM80-75, which stay preserved the incremental pricing exemption for fertilizer manufacturers. This assertion appears to be based upon a misunderstanding of both the rule in that docket and the scope of the stay orders.

In Docket No. RM80-75, the Commission issued an Interim Rule on October 6, 1980 (45 FR 67276, October 9, 1980). The rule amended § 282.202(a) to provide that only those uses of gas that were certified as "essential agricultural

[3] Section 206(d) of the NGPA provides that the Commission may exempt any incrementally priced facility or category thereof from the Title II program, but that any rule providing for such an exemption must be submitted to Congress for approval.

[4] The Commission notes that in fact such a proceeding has been initiated in Docket No. RM80-18. *See* Notice of Proposed Rulemaking, issued August 14, 1981, 46 FR 41748 (August 17, 1981).

[5] *See* "Motion of United Distribution Companies for Clarification, Dissolution of Stay and Termination of Rulemaking and Answer to Request for Immediate Action on Rulemaking," filed July 24, 1981, in Docket Nos. RM79-14, RM80-75 and RM80-18.

uses" by the Secretary on or before October 15, 1979, were automatically adopted as "agricultural uses" for incremental pricing. Uses certified after that date are to be evaluated individually by the Commission as to whether they meet the Title II definition of "agricultural use."

This rule, in effect, removed fertilizer manufacturers and certain other gas users from the definition of "agricultural use" in § 282.202(a), since their certifications had occurred after October 15, 1979. However, this rule was stayed on October 23, 1980 (45 FR 76681, November 20, 1980) insofar as it applied to users who had previously claimed exemptions from incremental pricing in reliance on the Secretary's certification. Later the rule was fully stayed to permit all users certified after October 15, 1979, to claim exemptions (46 FR 25599, May 8, 1981).

Contrary to the understanding of TFI and Grace, the full stay remains in effect and is not "disrupted" by the July 31 Order. Under this stay, any user of natural gas whose use was certified by the Secretary after October 15, 1979, may claim an "agricultural use" exemption from incremental pricing pursuant to the definition of "agricultural use" as it was set forth in § 282.202(a) before the Interim Rule was issued in Docket No. RM80-75.[6] But such a claim can no longer be made by fertilizer manufacturers since, as a result of the court's action in *PGCG*, they are no longer certified by the Secretary. Thus, they cannot fall within the definition of "agricultural use" as it stood prior to the rule in Docket No. RM80-75.

In sum, whether the stay in RM80-75 is in effect or not has no bearing upon the current position of fertilizer manufacturers now that they are no longer certified as "essential agricultural users."

3. *Is "agricultural use" currently defined under section 206(d) of the NGPA, not under section 206(b), thus making it impossible for any "agricultural use" exemption to be removed without Congressional approval?*

TFI and Grace assert that the "agricultural use" exemption claimed by fertilizer manufacturers is no longer based on section 206(b) of the NGPA. Instead, they assert, all "agricultural use" exemptions are now based solely on section 206(d) as the result of Order No. 83.[7] Although their argument is not clearly articulated, they are apparently asserting that they have a section 206(d) exemption pursuant to Order No. 83 that can only be removed if Congress approves its removal. Accordingly, an explanation of Order No. 83 may be helpful in responding to this argument.

The agricultural use exemption set forth in section 206(b) of the NGPA is not permanent. It exempts agricultural uses only for an interim period until the Commission promulgates an alternative fuel test for such uses. Specifically, section 206(b)(2) provides that:

> Not later than 18 months after the date of the enactment of this Act [not later than May 9, 1980], the Commission shall prescribe and make effective a rule providing for the exemption from the rule required under section 201 * * * [of] any facility with respect to any agricultural use of natural gas for which the Commission determines that an alternative fuel or feedstock is not—
> (A) Economically practicable; or
> (B) Reasonably available.

Shortly before this statutory deadline occurred, the Commission determined that for several reasons it would require additional time to study the factors upon which an alternative fuel test could be formulated. Accordingly, the Commission promulgated Order No. 83, a rule that continued the interim exemption from incremental pricing for agricultural uses of gas for an indefinite period, pursuant to section 206(d). The rule adopted in Order No. 83 reads as follows:

> All gas consumed in an agricultural use shall be exempt from incremental pricing under this part unless by rule or order the Commission determines that there is an alternative fuel or feedstock for the agricultural use that is economically practicable or reasonably available.[8]

TFI and Grace apparently misunderstand the effect of Order No. 83. The rule promulgated in that order did not eliminate the section 206(b)(1) exemption for agricultural uses. Rather, it extended the section 206(b)(1) exemption for these users by virtue of the Commission's exemptive authority under section 206(d). The rule was submitted to Congress as is required by section 206(d) and no Congressional action to disapprove this continued exemption for agricultural uses was taken.

In the Preamble to Order No. 83, the Commission explained that "Under the rule set forth below, all agricultural uses, as defined in section 206(b)(3) of the NGPA and § 282.202(a) of the Commission's regulations, will be exempt from being incrementally priced until further action is taken by the Commission." Thus, the Commission made it clear that the continued agricultural use exemption is dependent upon a use falling within the definition of "agricultural use" set forth in § 282.202(a) of the regulations. But there is no language in Order No. 83 to indicate that the scope of § 282.202(a) was forever prescribed by the uses falling within that definition as of the date Order No. 83 became effective. Indeed, if that had been the case, the Commission could not have later amended § 282.202(a), as it did in Order No. 114, to add a number of Standard Industrial Code (SIC) numbers to its list of exempt agricultural uses without getting Congressional approval.[9] In fact, when the Commission amended § 282.202 to add these uses, it did not send the rule to Congress, and neither TFI/Grace nor any other person objected.

In sum, Congress' approval of Order No. 83 did not represent a Congressional mandate that specific uses of gas be permanently categorized as "agricultural uses." It merely represented approval of a continued generic exemption from incremental pricing for "agricultural uses," as the Commission defines that term.

Accordingly, Order No. 83 has no bearing upon the fact that under the *PGCG* case fertilizer manufacturers do not fall within the Commission's § 282.202(a) definition of "agricultural use."

4. *Why should the Commission minimize the impact of incremental pricing by exempting gas used to manufacture "felt goods" and "particle board" but not by exempting fertilizer manufacturers?*

TFI and Grace note that the Commission "has taken steps to minimize the impact of incremental pricing" by exempting gas used to manufacture "felt goods" and "particle board," even though these uses have not been certified by the Secretary. Thus, they assert, "there is no policy reason to maximize the application of the incremental pricing program" by subjecting fertilizer manufacturers to surcharges.

In response, the Commission notes that it was the Congress, not the Commission, that established the policy framework for upon which all "agricultural use" exemptions from incremental pricing are based. Section

[6] For example, facilities that use gas to manufacture bottle caps and crowns, which use was certified by the Secretary after Octber 15, 1979, remain exempt from incremental pricing under the stay in Docket No. RM80-75.

[7] 45 FR 33601 (May 20, 1980).

[8] This rule now appears in § 282.203(a)(2) of the Commission's regulations.

[9] *See* Order No. 114, Docket No. RM80-48, issued December 5, 1980, 45 FR 82915, December 17, 1980.

206(b)(3) of the NGPA defines "agricultural use" as:

> [T]he use of natural gas to the extent such use is—
>
> (A) for agricultural production, natural fiber production, natural fiber processing, food processing, food quality maintenance, irrigation pumping, crop drying, or
>
> (B) as a process fuel or feedstock in the production of fertilizer, agricultural chemicals, animal feed, or food.

The Commission exempted the boiler fuel use of gas to manufacture felt goods and particle board because those uses constitute "natural fiber processing" as set forth in the above definition. The manufacture of fertilizer, on the other hand, falls within the above definition only when the gas is used "as a process fuel" (or feedstock). The court has now determined that, due to the deficiencies it found in the Secretary of Agriculture's role in this matter, and the way he defined "process fuel," boiler fuel use in fertilizer production is not "process fuel" use.[19]

Thus there is presently no basis for an "agricultural use" exemption for boiler fuel use of gas by fertilizer manufacturers. Accordingly, the argument made by TFI and Grace is not relevant. There is no analogy between boiler fuel gas used for natural fiber processing and boiler fuel gas used in fertilizer production. The statute clearly established a distinction between the two.

The Commission Orders:

The applications for rehearing and stay of the Order Delineating Effect of Judicial Action on Commission's Regulations, filed by the Fertilizer Institute, *et al.*, and by W.R. Grace Company, are hereby denied.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-26675 Filed 9-14-81; 8:45 am]

BILLING CODE 6450-85-M

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18 CFR Part 375

Publication of Procedures for Closing Commission Meetings

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Publication of procedures for closing Commission meetings.

SUMMARY: On July 31, 1981, by memorandum opinion, the United States District Court for the District of Columbia rendered a decision in the case of *Tenneco Inc.* v. *Federal Energy Regulatory Commission*, C.A. No. 80-3314. As part of this decision, the court ordered that the Commission publish its procedures, as submitted to the Court, for closing meetings under the provisions of section 552b of Title 5 of the United States Code (the Sunshine Act). Those procedures were submitted to the court by copy of the memorandum from the Commission's Deputy General Counsel to the Secretary of the Commission. The Commission's regulations, described in that memorandum are found under 18 CFR 375.204 through 375.206. In compliance with the order of the court, the text of that memorandum is reproduced below.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426 (202) 357-8400.

SUPPLEMENTARY INFORMATION: This responds to your request for our opinion regarding appropriate procedures to meet the Commission's obligations under the Sunshine Act (the Act), 5 U.S.C. 552b, particularly with respect to public announcement of closed meetings. This memorandum confirms oral communications between your office and our Division of Legal Counsel on January 23, 1981.

The General Counsel will provide you certifications for each matter proposed for consideration in a closed Commission meeting upon determining that the meeting to discuss the matter may properly be closed under one or more of the exemptions in subsection (c) of the Act. Each such certification will state the relevant exemptions under which the meeting may be closed. Through meeting schedules and submission deadlines established by Acting Chairman Sheldon, you will have the substantive materials concerning each matter and the certifications by the close of business eight days before the scheduled meeting date, except where agency business appears to require consideration of a matter in a closed meeting on shorter notice.

As you know, the Commission must vote on each matter proposed for consideration in a closed meeting. A separate Commission vote is also required if it is determined that any information about the meeting should be withheld pursuant to an appropriate exemption. 5 U.S.C. 552b(d)(1); 18 CFR 375.206(a). In order to meet our public announcement responsibilities under the Act (discussed below), these votes should take place at least seven days prior to the scheduled meeting date. As already mentioned, a meeting may be closed on less than seven days' notice if the Commission determines by a recorded vote that agency business requires that such meeting be called at an earlier date. 5 U.S.C. 552b(e)(1).

Within one day of any Commission vote to either close a meeting, or to withhold any information about the meeting, the Act requires that you make the following information publicly available: (1) A written copy of the Commission vote reflecting the vote of each member (2) a full written explanation of the Commission's action closing the meeting (the reasons, in most instances, will be set forth in the certifications by the General Counsel), and (3) a list of all persons expected to attend the meeting and their affiliation. 5 U.S.C. 552b(d)(3); 18 CFR 375.206(c). We construe "publicly available" to include posting on the Commission's Public Notice Board. We also recommend that the certification by the General Counsel be posted at the same time.

The Act also requires that you make a public announcement, at least one week prior to the meeting, of the time, place and subject matter of the meeting, whether it is to be open or closed to the public, and the name and telephone number of the official designated by the Agency to respond to requests for information about the meeting. If the Commission determines by recorded vote that agency business requires that such meeting be called at an earlier date, this public announcement is to be made at the earliest practicable time. 5 U.S.C. 552b(e)(1).

The public announcement requirements of the Act should be satisfied by one or more of the following: posting the requisite notices on the Commission's Public Notice Board, publishing them in official Commission publications, or sending them to the persons on a mailing list maintained for those who want to receive such material. 18 CFR 375.204(d)(1). We recommend posting in all cases at a minimum.

Additionally, the Act requires submission for publication in the Federal Register notice of the time, place and subject matter of the meeting, whether the meeting is open or closed, any changes in one of the proceedings, and the name and phone number of the official designated by the Commission to respond to requests for information about the meeting. 5 U.S.C. 552b(e)(3).

Notwithstanding the above, the time or place of the meeting may be changed even after public announcement is made

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[19] It is still open to the Commission to adopt a definition of "process fuel" under Title II of the NGPA. Whether such a definition would create an incremental pricing exemption for fertilizer manufacturers is a matter upon which the Commission expresses no opinion here.

if such change is publicly announced at the earliest practicable time. The subject matter of a meeting, or the determination to open or close a meeting, may be changed following public announcement only if (1) the Commission determines by a recorded vote that agency business so requires and that no earlier announcement of the change was possible, and (2) the change as well as the vote to change is made publicly available at the earliest practicable time. 5 U.S.C. 552b(e)(2).

After a closed meeting has been held, the Act requires that you retain a copy of the certification by the General Counsel, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting, and the persons present. 5 U.S.C. 552b(f)(1); 18 CFR 375.206(d). Additionally under the Act, you must maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting or portion of a meeting closed to the public. In the case of a meeting or portion of a meeting closed to the public pursuant to exemptions (8), (9)(A), or (10) of subsection (c), either a transcript or recording, or a set of minutes is required. Any such minutes must fully and clearly describe all matters discussed and must provide a full and accurate summary of any actions taken, and the reasons thereof, including a description of each of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each member on the question). All agenda documents considered in connection with any Commission action must be identified in such minutes. 5 U.S.C. 552b(f)(1); 18 CFR 375.206(e).

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-26942 Filed 9-14-81; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

[Regulations No. 4]

Federal Old-Age, Survivors, and Disability Insurance Benefits; Payment for Medical Evidence of Record

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: These final rules provide that any non-Federal hospital, clinic, laboratory, or other provider of medical services, or physician who is not employed by the Federal government, and who supplies medical evidence that we ask for and need for making determinations of disability shall be entitled to payment for the reasonable cost of providing the evidence. These rules do not meet the criteria for major rules, as defined in Executive Order 12291.

DATES: Effective date: December 1, 1980.

FOR FURTHER INFORMATION CONTACT: William J. Ziegler, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone 301-594-7415.

SUPPLEMENTARY INFORMATION: Section 309 of Pub. L. 96-265 amends section 223(d)(5) of the Social Security Act to permit us to pay for certain medical evidence which we need to make title II disability determinations. As a result of this change in the law, we will now pay the reasonable cost for existing medical evidence which we ask for and need. However, we will pay only a non-Federal hospital, clinic, laboratory, or other provider of medical service, or a physician who is not employed by the Federal government. This law authorizes us to pay only for evidence which we ask for after November 30, 1980. The date of the request will be the first date that we ask for a medical report and not the date of a later request.

Until December 1, 1980 the claimant was primarily responsible for paying for existing medical evidence submitted to us for making a title II disability determination. The title II law did not allow us to routinely purchase existing medical evidence.

On the other hand, we have always paid for existing medical evidence which we needed for making disability and blindness determinations under the title XVI Supplemental Security Income Program. Under the title XVI program, a claimant must always have limited income and resources in order to get payments based upon disability or blindness.

To reflect this change in the law, we are amending § 404.1514.

Although the law provides that we pay for existing medical evidence which we require and request, we may in some unusual situations pay for evidence of record which we did not require or which we did not request. From our past experience in paying for medical evidence under the title XVI Supplemental Security Income Program, we have found that medical evidence of record which we need is sometimes given to us before we request it. As in the title XVI program we may pay for such evidence in the title II program (under the authority we have in section 205(a) of the Act to efficiently carry out the purposes of that title) if we believe the evidence helps us to insure the correctness of our payments.

We will generally consider as existing medical evidence any medical report prepared on the basis of a prior medical examination, test, or laboratory study. We will pay a reasonable fee to cover any expenses for processing our request for the evidence, including expenses for preparing, copying, and mailing the report. We will not pay for the cost of the actual medical examination, test, or laboratory study unless we schedule it. Therefore, we are also amending § 404.1517 to make it clear that we will not pay for any medical examination arranged by a claimant or his or her representative without our advance approval. This is the same rule which we are already following under the title XVI Supplemental Security Income Program.

The Social Security Administration found that publication of a Notice of Proposed Rulemaking (NPRM) was "unnecessary" under the Administrative Procedure Act (5 U.S.C. 553(b)(B)). Therefore, interim regulations were published in the **Federal Register** on October 30, 1980 (45 FR 71791). These interim regulations only updated existing regulations to reflect the Social Security Disability Amendments of 1980 (Section 309 of Pub. L. 96-265). However, to insure that the public had an opportunity to give us their views about these regulations, we asked interested persons to send us their comments before proceeding with these final amendments. Following are our responses to the comments which we received.

Comment: One legal service attorney commented that we should pay for nonduplicative medical evidence requested by claimants or their representatives. According to this attorney, the claimant has a better relationship with the physician and can more readily obtain the necessary medical evidence. Also, the commenter stated that the claimant and the representative are frequently better able to prepare individualized questionnaires about the claimant's impairment and its limiting effects.

Response: Payment for existing medical evidence requested by claimants or their representatives would be contrary to section 223(d)(5) of the Social Security Act as amended by section 309 of Pub. L. 96-265. That section provides that we will pay only the reasonable cost for medical

evidence required and requested by the Secretary. In § 404.1514 we do say that the claimant is responsible for submitting medical evidence to support his or her disability claim. Usually, however, we will ask only that the person cooperate with us in obtaining the evidence. We will pay for medical evidence of record we ask the claimant to get. Of course, the claimant may voluntarily provide all the medical evidence he or she wishes, or thinks is pertinent to the claim, but the law does not require us to pay for it. However, in the preamble to the regulations, we explain that we may pay for evidence we did not ask for if this evidence helps us to insure the correctness of our payments. While we cover this point in some detail in our operating instructions, we do not plan to include it in the regulations.

Comment: One person from a non-profit health care corporation suggested that the regulations be expanded to also include evidence required to determine an applicant's eligibility for Medicare (title XVIII) benefits under the end-stage renal disease program, especially for providers other than kidney dialysis centers and kidney transplant medical centers. This person also said that the phrase "shall be entitled to payment for the reasonable cost" should be defined more specifically. This person further suggested publication periodically in the **Federal Register** of a proposed schedule of reimbursement per photocopy page taking into account material and labor costs, or adoption of the customary fee scale of the private insurance industry.

Response: Section 223(d)(5) of the Social Security Act as amended by section 309 of Pub. L. 96-265, provides that we will pay for medical evidence required and requested by the Secretary under paragraph (5) of section 223(d). Section 223(d) defines disability for purposes of establishing entitlement to monthly title II disability benefits or a period of disability. Since medical determinations to establish entitlement under the end-stage renal disease program are made under section 226A of the Social Security Act, not under section 223(d), we cannot pay for medical evidence needed solely for that program. We will pay for this evidence if it is also needed for a determination under section 223(d). Therefore, we are not adopting this suggestion.

Neither are we adopting the second comment. "Reasonable cost" is the rate of payment established by each State or State agency. Our practice is to permit the States to set rates of payment for medical and other services necessary to make determinations of disability. We considered adopting a national, uniform reimbursement schedule but rejected this approach because payments based on local rates are more realistic and the States are in a better position to determine local rates based upon up-to-date information available to them. These rates, however, may not exceed the highest rate paid by Federal or other agencies in the State for the same or similar services. Since "reasonable cost" is, in effect, determined by the State, we require no substantiation from the provider. Consequently, there is no reason for periodically publishing a proposed schedule of reimbursement in the **Federal Register.**

Comment: A physician commented that the "reasonable fee" for providing evidence in disability determinations is insufficient for the physician to properly furnish the information required and that it should be at least what the physician charges for a consultation report. The physician also said that the fee for this kind of information forwarded to insurance carriers for an independent medical examination is much higher than the regular consultation fee allowed by Medicare.

Response: The law permits us to pay for certain existing medical evidence which we need to make title II disability determinations. In the preamble to the regulations, we explain that we will generally consider as existing evidence any medical report prepared on the basis of a prior medical examination, test, or laboratory study. We will pay a reasonable fee to cover any expenses for processing our request for evidence, including expenses for preparing, copying, and mailing the report. We will not pay for the cost of the actual medical examination, test, or laboratory study unless we schedule it.

"Reasonable fee" is the rate of payment established by each State or State agency. Our practice is to permit the States to set rates of payment for medical and other services necessary to make determinations of disability. These rates, however, may not exceed the highest rate paid by Federal or other agencies in the State for the same or similar services.

The interim rules published in the **Federal Register** on October 30, 1980, are hereby adopted, without any further changes, as final rules, as set forth below.

We certify that these regulations will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

(Secs. 205, 223 and 1102 of the Social Security Act, as amended; 53 Stat. 1368, as amended; 70 Stat. 815, as amended; 49 Stat. 647, as amended; 42 U.S.C. 405, 423, and 1302)

(Catalog of Federal Domestic Assistance Program No. 13.802, Disability Insurance)

Dated: August 7, 1981.

John A. Svahn,

Commissioner of Social Security.

Approved: August 27, 1981.

Dick Schweiker,

Secretary of Health and Human Services.

PART 404—DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION

For the reasons set out in the preamble, Part 404, Subpart P, Chapter 111 of Title 20, Code of Federal Regulations, is amended as set forth below.

20 CFR Part 404, Subpart P is amended as follows:

1. The authority citation for Subpart P reads as follows:

Authority: Issued under Secs. 202, 205, 216, 221, 222, 223, 225, and 1102 of the Social Security Act, as amended; 49 Stat. 623, as amended, 53 Stat. 1368, as amended, 68 Stat. 1080, as amended, 68 Stat. 1081, as amended, 68 Stat. 1082, as amended, 70 Stat. 815, as amended, 70 Stat. 817, as amended, 49 Stat. 647, as amended; 42 U.S.C. 402, 405, 416, 421, 422, 423, 425, and 1302.

2. In Part 404, § 404.1514 and paragraph (a) of § 404.1517 are revised to read as follows:

§ 404.1514 When we will purchase existing evidence.

We need specific medical evidence to determine whether you are disabled or blind. You are responsible for providing that evidence. However, we will pay physicians not employed by the Federal government and other non-Federal providers of medical services for the reasonable cost of providing us with existing medical evidence that we need and ask for after November 30, 1980.

§ 404.1517 Consultative examination at our expense.

(a) *Notice of the examination.* If your medical sources cannot give us sufficient medical evidence about your impairment for us to determine whether you are disabled or blind, we may ask you to have one or more physical or mental examinations or tests. We will pay for these examinations. However, we will not pay for any medical examination arranged by you or your representative without our advance approval. If we arrange for the examination or test, we will give you reasonable notice of the date, time, and place the examination or test will be

given, and the name of the person who will do it. We will also give the examiner any necessary background information about your condition when your own physician will not be doing the examination or test.

* * * * *

[FR Doc. 81-26768 Filed 9-14-81; 8:45 am]
BILLING CODE 4110-07-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Access to Employee Exposure and Medical Records; Construction Industry; Lifting of Administration Stay

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final Rule; Lifting of administrative stay.

SUMMARY: After a review of the record and of recommendations made by the Construction Advisory Committee, OSHA has decided to lift the administration stay of the Access to Employee Exposure and Medical Records standard, 29 CFR 1910.20, which has been in effect for the contract construction industry since April 28, 1981. The notice explains the basis for this decision and indicates that OSHA intends to consider whether the standard should be modified for the construction industry as part of its overall review of the standard.

EFFECTIVE DATE: September 15, 1981.

FOR FURTHER INFORMATION CONTACT: James F. Foster, Occupational Safety and Health Administration, Office of Public Affairs, Rm. N3641, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone 202-523-8148.

SUPPLEMENTARY INFORMATION: In the April 28, 1981, Federal Register (46 FR 23740) OSHA stayed § 1910.20 of 29 CFR (Access to Employee Exposure and Medical Records) with respect to the construction industry, except that employers in the industry were required to (1) continue to preserve exposure and medical records and make them available to OSHA, and (2) make employee medical records available to employees. In the same notice, OSHA solicited comments on whether the stay should be continued pending the standard's consideration by the Construction Advisory Committee (CAC) and the outcome of any subsequent rulemaking on the standard.

More specifically, the notice asked commenters to respond to four questions related to the stay issue: (1) What has been the experience in the construction industry with the standard since October 1 when the standard went into effect for this industry? (2) What are the unique aspects of the construction industry which would render the existing access standard inappropriate? (3) What have been the benefits and costs, if any, of the standard's being in effect? and (4) Are there alternatives to total effectiveness or total stay of the employee access provisions?

The deadline for comments was June 12, 1981. This deadline was extended to June 26, 1981 (46 FR 31010) to allow interested parties to comment on any specific matters raised at the CAC meetings of June 10-12, 1981. A total of 47 comments were received. In addition, the proceedings before the CAC have also been considered.

Following the close of the construction stay record, OSHA decided to review the entire records access standard in general, and not just for the construction industry (see 46 FR 40492; August 7, 1981). The purpose of this review is to determine whether, and to what extent, to modify the standard by means of additional rulemaking. Since OSHA is considering modification of the standard, a motion has been filed in the U.S. Court of Appeals for the District of Columbia Circuit seeking a six-month delay in the briefing schedule in the union and industry challenges to the standard. *Industrial Union Department, AFL-CIO* v. *Marshall*, No. 80-1550 and consolidated cases. This motion was granted by the Court. During this period, OSHA intends to scrutinize all aspects of the standard, including current enforcement experience; the issues raised by the litigation; pending petitions for modification from several trade associations; and other comments on the standard that have been received from numerous interested persons.

The appropriateness of the records access standard to the contract construction industry remains one of the important issues which OSHA has been considering regarding the standard. In their comments, construction contractors generally maintain that the stay of the records access standard should remain in effect since the standard is not suited to the unique nature of the contract construction industry. Conversely, contract construction employee organizations argue that the stay should be lifted because their employees have a need for exposure and medical records comparable to other employees and because the standard is suitable to the construction industry. Responses to the specific questions are discussed below.

1. Experience of the construction industry under the records access standard.

Many commenters stated that the brief time period during which the standard has been in effect (10/1/80-4/28/81) does not allow for adequate assessment of the effect of the standard on the construction industry. The National Constructors Association (NCA) (Ex. 2-42) commented that there have been very few employee records access requests. However, the International Brotherhood of Painters and Allied Trades (IBPAT) (Ex. 2-31) stated that the standard encourages and made possible the joint labor-management development of low cost means of medical and exposure monitoring and recordkeeping which goes beyond the actual requirements of the standard. They also observed that since few construction employees maintained records in the past, the greatest benefits will be in the future as more records are generated.

2. Do the unique aspects of the construction industry make the records access standard inappropriate?

The recommendations of the CAC, discussed below, indicate the Committee's belief that, with relatively minor clarification and modifications, the standard is appropriate to the construction industry.

Nearly all commenting employers and employer groups, however, contended that the standard is inappropriate for construction due to the nature of construction employment. In particular, this claim is based on (1) high annual employee turnover; (2) reliance on area monitoring, the records of which do not reveal the identities of individual employees exposed; and (3) general reliance on off-site physicians who do not provide any information to the employer except that information necessary for insurance purposes.

Worker organizations (e.g., IBPAT, Ex. 2-31) maintain the transience and mobility of construction workers make the access standard particularly appropriate for the construction industry, since construction workers do not have the benefit of many of the industrial hygiene controls found at permanent fixed work sites and there is currently no other mechanism for providing a continuous medical history for construction workers. If employees can gain access to their medical and exposure records, they can help to create some continuity in their medical

care. In addition, they point out that modern computerized recordkeeping methods make the storage and access of medical and exposure records feasible and inexpensive.

3. What have been the benefits and costs of the standard's being in effect.

Employer groups generally contend that the occupational health benefits of the standard have been inconsequential since few employees to date have sought access to records and the records which are available do not contain complete information for occupational health purposes or cannot be related to individual employee exposure.

In contrast to these views, employee groups argue that construction workers are increasingly exposed to toxic substances, and the standard helps them find out what they are exposed to and act accordingly. The IBPAT credits the regulation with enabling the joint labor/management development of a low cost comprehensive program of exposure and medical monitoring and recordkeeping. In Canada, where no general right of access exists, they have been unable to achieve a similar program.

The IBPAT estimated that records storage and access would cost between $16 and $22.50 per worker per year. The Industrial Health and Hygiene Group, a private firm which develops and markets protocols for compliance with the standard in the construction industry, estimated the costs to be between $6 and $19 per employee per year (Ex. 2–20). However, a study contracted by the NCA concluded that the costs of the standard would be approximately $100 per employee per year. IBPAT argues that the costs of staying the standard totally would be greater than total implementation, due to litigation and other costs associated with seeking access to records which the standard now affords them.

4. Are there alternatives to total effectiveness or total stay of the employee access provisions of the standard?

An alternative to the records acess standard suggested by many employer organizations was to use in-place records systems such as workers' compensation records and insurance company case files for occupational health research. Health research, however, is not the primary purpose of the standard. Further, the standard does not in any event require the creation of new records not already in existence and kept by the employer. Employee groups maintain that access to complete exposure and medical data is necessary to ascertain the causes and effects of occupational health problems, and that any alternative to this would be unacceptable. They contend that the limited obligations and narrower definitions of the current stay make the standard largely unenforceable and deprive them of access to important information, e.g., material safety data sheets and medical records maintained by contract physicians.

Other specific alternatives and modifications to the standard are discussed with respect to the CAC recommendations.

The Construction Advisory Committee Recommendations

At the June CAC meeting, the Committee (1) recommended that OSHA lift the stay, and (2) reviewed the standard and offered 13 suggestions and recommendations. These recommendations, which appear to be generally supported by both industry and labor, do not challenge the fundamental applicability of the standard to the construction industry. Almost all of them raise questions which can be simply handled as a matter of interpretation, and are discussed below.

(1) *Clarification of "contract" physician.* The scope of the standard includes records generated by a physician under contract to an employer. The CAC desired the term "contract" clarified to exclude the records of physicians with whom they do not have an ongoing relationship and whose records are not available to the employer.

Coverage of records generated or maintained by a physician pursuant to an agreement with the employer is crucial since the rulemaking record indicated that many medical services are performed through contractual arrangements rather than done in-house by persons employed by the employer. The contractual arrangements typically exist in written form specifying the medical services to be provided and the corresponding fees. Under the records access standard, OSHA specifically requires that, where necessary, contractual arrangements be modified to assure that the access and preservation provisions of the rule are complied with (45 FR 35259).

The CAC noted that written contracts for medical services do not typically exist in the construction industry. Instead, arrangements for the medical treatment of an injured worker or a worker exposed to toxic substances are usually made by phone with a private physician, and the records of that treatment are not available to the employer except to the extent necessary for insurance purposes. In such a case the employer is responsible for making a reasonable effort to make the records access standard known to the physician and to ensure that the physician complies. If a reasonable effort has been made to assure physician compliance, the employer will not be cited for failure to comply with the standard.

(2) *Material Safety Data Sheets.* Paragraph (c)(5)(iii) of the standard defines exposure records to include Material Safety Data Sheets (MSDS's). The CAC noted that MSDS's which typically identify a substance, describe its properties and toxic effects, and provide precautionary information about it, are often inadequate, inaccurate and difficult to obtain.

OSHA agrees; however, where these sheets are available they usually represent the best hazard information readily available. Therefore they should be retained and made available to employees. However, MSDS's are not subject to the 30-year retention period as long as some record of chemical identity is kept for the period. (29 CFR 1910.20(d)(1)(ii)(B)).

(3) *Paragraph (c)(8) definition of "exposure."* The standard provides employees "exposed" to toxic substances with rights of access, and "exposure or exposed" is defined in paragraph (c)(8). Some construction employers have expressed concern that since only "exposed" employees have access rights, this implies the need to measure or monitor exposures. The CAC properly interpreted the standard as not independently requiring the monitoring or measurement of employee exposures. As long as it is likely that an employee was exposed to toxic substances or harmful physical agents, the employee's right to request relevant records is not dependent on an exact determination of what the level or nature of the exposure was.

(4) *Background contaminant levels.* Under the standard, an employee is not considered "exposed" to a toxic substance if the levels are at or below ambient (non-occupational) levels. Consequently, records of such levels are not considered to be "exposure records." The CAC correctly interpreted the standard as not requiring air sampling results to be kept or made available if they show contaminant levels to be at or below ambient (non-occupational) levels.

(5) *Authorization of release of future records.* The CAC indicated that paragraph (c)(10)(ii), which is a limitation on what constitutes "specific written consent" under the standard, is difficult to understand. They concurred,

however, with OSHA's intent, which requires express authorization by an employee before an employer must release medical information created after the date of authorization.

(6) *The 30 year retention period.* Paragraph (d) requires that most exposure and analysis records be kept for 30 years and that medical records be kept for the duration of employment plus 30 years. The CAC agreed that 30 year retention of records is necessary due to the latency periods of occupational deseases. However, they expressed concern about the storage and use of the records for that length of time.

This concern relates to the next recommendation to establish a central records depository. The preservation requirements of the standard will be one of the issues undergoing review by OSHA over the next several months.

(7) *Central records depository.* Responding to concerns about the difficulty for a construction employer in storing records for long periods of time, the CAC recommended the establishment of a central depository for medical and exposure records in the construction industry. A central depository would facilitate employer compliance with the standard by centralizing the recordkeeping function. It would also make it possible to keep track of employee exposure and medical histories over time as employees move from employer to employer.

OSHA encourages any labor/industry effort to provide for centralized storage of records. This should continue to be a topic of discussion at future CAC meetings. However, it does not appear to lend itself to rulemaking since it is unlikely that the government would be directly involved in the establishment or operation of such a depository.

(8) *The paragraph (e)(1)(i) 15-day limit for fulfilling a records access request.* The standard requires employers to provide access to employees and their designated representatives in a reasonable time not exceeding 15 days. The CAC recommended that the 15-day limit be modified as follows: 15-days for records up to 5 years old and 30 days for older records.

OSHA has addressed the 15-day limit in its recent Federal Register publication (46 FR 40490). As we stated, as long as the employer is making a diligent, good faith effort to provide requested records as soon as possible, and is keeping the employee or employee representative informed of any reasons for delay, OSHA will not cite for violations of the 15-day rule. Moreover, in the construction situation, which is characterized by high employee turnover and on-the-job mobility, it would be appropriate for the employer to require of the requesting employee specific information on where and when the employee was working to facilitate an efficient search of the relevant records.

(9) *"Immediate" access by OSHA.* Paragraph (e)(3)(i) states that "each employer shall upon request, assure the immediate access of (OSHA) to (employee records)." The CAC recommended that the word "immediate" in paragraph (e)(3)(i) should be defined to clarify the extent of an employer's obligation to provide OSHA with access to records.

The use of "immediate" in conjunction with OSHA access is intended as a contrast to the 15-day rule with respect to employee and designated representative access. The intent was to require employers to comply with OSHA requests for employee records as quickly as possible, subject to their constitutional and statutory due process rights.

(10) *Employee privacy.* The CAC expressed concern for worker privacy when OSHA has access to personal medical records and health insurance records.

OSHA shares the privacy concerns of the CAC and has therefore adopted 29 CFR Part 1913 (Rules of Agency Practice and Procedure Concerning OSHA Access to Employee Medical Records) which includes stringent privacy protection safeguards to preclude unwarranted violation of personal privacy.

(11) *Paragraph (e)(3)(ii) posting requirement.* The CAC noted that the posting of an OSHA access order, as required by the standard, may not adequately alert employees of OSHA's unconsented access to medical records.

OSHA specifies in 29 CFR Part 1913 that additional methods of alerting employees of an access order are permitted. For example, the employer or designated representative may provide actual notice to each affected employee if they believe such notice is necessary.

(12) *Notification of "employees" in paragraph (g)(1).* The standard requires employers to inform employees of their rights under the standard upon entering employment and at least annually thereafter. The CAC questioned whether an employer is required to notify former employees of their records access rights. The CAC recommended that OSHA modify the paragraph, if necessary, to specify that only current employees are required to be notified.

OSHA already interprets the "upon an employee's first entering into employment" language of paragraph (g)(1) as limiting its application to current employees only. Thus, while former employees have the right to request access under the standard, OSHA's intention was to limit the notification requirement to employees who are actually working for the employer at the time of the notification.

(13) *Cost-benefit analysis.* The CAC subgroup posed the question of whether or not the records access standard would be subject to cost-benefit analysis. The cotton dust Supreme Court decision, *American Textile Manufacturers Institute* v. *Donovan*, —— U.S.L.W. —— (June, 1981), precludes a cost-benefit analysis for the records access standard.

Decision To Dissolve Stay and Follow CAC Recommendations

After a careful review of the record and the CAC recommendations, OSHA has decided to dissolve the stay, allowing the entire records access standard, 29 CFR 1910.20, to go into effect for contract construction immediately. At the same time, consistent with OSHA's responses to the CAC recommendations, OSHA's enforcement policy will continue to be sensitive to those unique aspects of the construction industry which warrant some tailoring of the compliance obligations to make the standard more suitable to it.

The April stay was predicated in large part on the need to have the CAC review the standard and consider changes appropriate to the construction industry. Now that they have done so with considerable care and detail, OSHA intends to follow their recommendations as closely as possible. As outlined above, nearly all the CAC recommendations require only clarification of OSHA's intent, which generally coincides with the Committee's views on how the standard should be interpreted. Therefore, the continuation of the stay while OSHA considers possible modification of the standard is not warranted. OSHA is particularly mindful of the fact that the CAC itself recommended that the stay be lifted, as well as of the union submissions, supported by Cal/OSHA (Ex. 2-43), which present extensive arguments on why the standard is particularly necessary to protect the safety and health of construction workers and how the stay is harmful to them. OSHA is likewise mindful of the fact that the NCA, while arguing for continuation of the stay, nevertheless "generally supports the [CAC] recommendation" concerning specific provisions, most of which have been

accommodated. (Ex. 2–42, p. 7). Thus, while the record was generally divided between industry comments supporting continuation of the stay and union comments opposing it, OSHA concludes that the heavy burden to demonstrate infeasibility or irreparable harm which proponents of a stay must bear was not met in this instance, and the standard must accordingly be allowed to go into effect.

This decision to lift the stay does not mean that OSHA has resolved the basic issue of whether the standard should be modified in general or for the construction industry in particular. On the contrary, this question will continue to be a subject for review during the next six months, and the comments in this record will continue to form a major basis for the review process. Rather than consider the construction issue independently from the general reconsideration of the standard, OSHA has determined that it is more rational to examine all aspects of the standard and its impact or suitability for different industries in a single review process. Any modification affecting the construction industry, however, will be submitted to the CAC for their consideration and recommendations prior to proposal. In the meantime, in the absence of compelling justification, the standard is equally in effect for all industries.

(Sec. 6 (84 Stat. 1593; 29 U.S.C. 655); 5 U.S.C. 553; Secretary of Labor's Order No. 8–76 (41 FR 25059))

Signed at Washington, D.C. this 9th day of September, 1981.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 81–26710 Filed 9–11–81; 12:10 pm]

BILLING CODE 4510–26–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Non-Multiemployer Plans; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the regulation on Valuation of Plan Benefits in Non-Multiemployer Plans contains the interest rates and factors for the period beginning October 1, 1981. The interest rates and factors are to be used to value benefits provided under terminating non-multiemployer pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974, (the "Act").

The valuation of plan benefits is necessary because under section 4041 of the Act, the Pension Benefit Guaranty Corporation ("PBGC") and the plan administrator must determine whether a terminating pension plan has sufficient assets to pay all guaranteed benefits provided under the plan. If the assets are insufficient, the PBGC will pay the guaranteed benefits under the plan termination insurance program established under Title IV.

The interest rates and factors set forth in Appendix B to Part 2619 are adjusted periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after October 1, 1981, and enables the PBGC and plan administrators to value the benefits provided under those plans. These rates and factors will remain in effect until PBGC publishes an amendment revising them.

EFFECTIVE DATE: October 1, 1981.

FOR FURTHER INFORMATION CONTACT: Ms. Nina R. Hawes, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006, 202–254–3010.

SUPPLEMENTARY INFORMATION: On January 28, 1981, the Pension Benefit Guaranty Corporation (the "PBGC") issued a final regulation (46 FR 9492 *et seq.*) establishing the methods for valuing plan benefits of terminating non-multiemployer plans covered under Title IV of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.* (1976), *as amended by* the Multiemployer Pension Plan Amendments Act of 1980, Pub. L. No. 96–364, 94 Stat. 1208 (the "Act"). That regulation, 29 CFR Part 2610, was recodified as 29 CFR Part 2619 on June 24, 1981, effective June 29, 1981 (46 FR 32574). That regulation contains a number of formulas for valuing different types of benefits. In addition, Appendix B to the regulation sets forth the various interest rates and factors that are to be used in the formulas. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

When first published, Appendix B contained interest rates and factors to be used to value benefits in plans that terminated on or after September 2, 1974, but before October 1, 1975. Subsequently, the PBGC adopted additional rates and factors for valuing benefits in plans that terminated on or after October 1, 1975, but before August 1, 1981. (29 CFR 2610 (1980), 45 FR 64907, 45 FR 75658, 45 FR 75209, 45 FR 82172, 46 FR 3510, 46 FR 16685, 46 FR 18312, 46 FR 26765, 46 FR 31257).

On July 15, 1981, the PBGC last published rates for plans that terminate on or after August 1, 1981 (46 FR 36693). At this time, changes in the financial and annuity markets have necessitated an increase in the rates used by the PBGC to value benefits. Accordingly, this amendment changes the rates in Appendix B to add a set of interest rates and factors for plans that terminate on or after October 1, 1981. These rates and factors will remain in effect until such time as PBGC publishes another amendment which changes the rates.

As a rule, the rates will be in effect for at least one month. If the rates are to be changed, PBGC will publish an amendment in the Federal Register, normally by the 15th of the month prior to the month for which the new rates will be effective. If no change is to be made, no amendment will be published, and the current rates will remain in effect until further notice.

Because the Multiemployer Pension Plan Amendments Act of 1980 established a new insurance program for multiemployer plans, we note that the rates and factors contained in Appendix B to Part 2619 are applicable to non-multiemployer plans only.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This determination is based on the need to determine and issue new interest rates and factors promptly, so that the rates can reflect, as accurately as possible, current market conditions. The PBGC has found that the public interest is best served by issuing the rates and factors on a prospective basis so that plans may be able to calculate the value of plan benefits before submitting a notice of intent to terminate. Also, plans will be able to predict employer liability more accurately prior to plan termination. Moreover, because of the need to provide immediate guidance for the valuation of benefits under plans that will terminate on or after October 1, 1981, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment to the final regulation effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, February 17, 1981, (46 FR 13193) because it will

not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, innovation or competition.

PART 2619—VALUATION OF PLAN BENEFITS IN NONMULTIEMPLOYER PLANS

In consideration of the foregoing, Part 2619 of Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended by revising Rate Set 27 and adding Rate Set 28 of Appendix B to read as follows:

Appendix B—Interest Rates and Quantities Used to Value Immediate and Deferred Annuities

In the table that follows, the immediate annuity rate is used to value immediate annuities, to compute the quantity "G_y" for deferred annuities and to value both portions of a refund annuity. An interest rate of 5 percent shall be used to value death benefits other than the decreasing term insurance portion of a refund annuity. For deferred annuities, k_1, k_2, k_3, n_1, and n_2 are defined in § 2619.45.

Rate set	For plans with a valuation date		Immediate Annuity Rate	Deferred annuities				
	On or after	Before		k_1	k_2	k_3	n_1	n_2
*	*	*	*	*	*	*	*	
27	8-1-81	10-1-81	10.25	1.0950	1.0825	1.0400	7	8
28	10-1-81		10.50	1.0975	1.0850	1.0400	7	8

(Secs. 4002(b)(3), 4041(b), 4044, 4062(b)(1)(A), Pub. L. 93-406, 88 Stat. 1004, 1020, 1025-27, 1029, (1974) as amended by Secs. 403(1), 403(d) and 402(a)(7), Pub. L. 96-364, 94 Stat 1302, 1301, 1299, (1980) (29 U.S.C. 1302, 1341, 1344, 1362)).

Robert E. Nagle,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 81-26763 Filed 9-14-81; 8:45 am]

BILLING CODE 7708-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-3-FRL 1919-7]

Commonwealth of Pennsylvania; State and Local Air Monitoring Stations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is announcing the approval of a revision to the Commonwealth of Pennsylvania's State Implementation Plan (SIP) for Allegheny County to meet Federal Monitoring Regulations, 40 CFR Part 58, Subpart C Paragraph 58.20, Air Quality Surveillance plan content.

This revision approves the criteria for the installation and the ambient monitoring of the National Ambient Air Quality Standards in Allegheny County, Pennsylvania. Once this revision is approved, Allegheny County will have the authority to install, operate and maintain the air quality surveillance plan in accordance with 40 CFR Part 58 requirements.

DATE: This action is effective November 16, 1981.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Media and Energy Branch, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106, Attn.: Patricia Sheridan

Allegheny County Health Department, Bureau of Air Pollution Control, 301 39th Street, Pittsburgh, PA 15201, Attn. Mr. Ronald Chleboski, Deputy Director

Bureau of Air Quality Control, Pennsylvania Department of Environmental Resources, Third and Locust Streets, Harrisburg, PA 17120, Attn.: Mr. James K. Hambright, Director

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W. (Waterside Mall), Washington, D.C. 20460

The Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C. 20408

All comments on this revision submitted on or before October 15, 1981, will be considered and should be directed to:

Glenn Hanson, Chief, Pennsylvania Section (3AH11), Air Media and Energy Branch, Air and Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, 6th and Walnut Streets, Philadelphia, PA 19106, Attn.: AH500BPA

FOR FURTHER INFORMATION CONTACT: Patricia Sheridan at (215) 597-8176.

SUPPLEMENTARY INFORMATION:

Background

In a May 10, 1979 Federal Register notice, (44 FR 27571), EPA required that by January 1, 1980, States shall adopt a revision to their SIP which meets the requirements of 40 CFR Part 58, Subpart C, Paragraph 58.20.

On December 24, 1980, the Secretary of the Department of Environmental Resources submitted for the Allegheny County Health Department a revision to the Commonwealth of Pennsylvania SIP concerning compliance with the Federal Monitoring Regulations. EPA has reviewed the revision and finds that it meets the requirements of Part 58.

Conclusion

The Clean Air Act requires a SIP to include evidence of involvement, and consultation with the public, local government, legislature, and all other interested parties. The County has satisfied this requirement in accordance with the requirements of 40 CFR 51.4 through the issuance of public mailings, public hearings, and representation of the public, industry, and local governments on various committees and board's involved in the SIP process.

Based on the foregoing, the Administrator approves the above-described revision to the Commonwealth of Pennsylvania State Implementation Plan without prior proposal. The public should be advised that this action will be effective 60 days from the date of this Federal Register notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because this action only approves State actions and imposes no new requirements.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. Section 605(b) I certify that the SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities.

This action only approves State actions. It imposes no new requirements.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action 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.

Authority: 42 U.S.C. §§ 7401–642.

Dated: September 8, 1980.

John W. Hernandez,

Acting Administrator of the Environmental Protection Agency.

Note.—Incorporation by reference of the State Implementation Plan for the Commonwealth of Pennsylvania was approved by the Director of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Title 40, Code of Federal Regulations is amended by adding paragraph (c)(38) to § 52.2020 as follows:

Subpart NN—Pennsylvania

52.2020 Identification of plan.

* * * * *

(c) The plan revision listed below was submitted on the date(s) specified * * *

(38) A revision submitted by the Commonwealth of Pennsylvania on December 24, 1980 which is intended to establish an Ambient Air Quality Monitoring Network for Allegheny County.

[FR Doc. 81-26782 Filed 9-14-81; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6132]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended effective the dates listed within this rule because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard W. Krimm, National Flood Insurance Program, (202) 287–0184 or EDS Toll Free Line 800–638–6620 for the Continental U.S. (except Maryland); 800–638–6831 for Alaska, Hawaii, Puerto Rico, and the Virgin Islands; and 800–492–6605 for Maryland, 500 C Street Southwest, Donohoe Building, Room 506, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date flood insurance is no longer available in the community.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub.L. 93–234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elasped since identification of the community as having flood prone areas, as shown on the Federal Emergency Management Agency's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provision of 5 USC 605(b), the Associate Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in non-compliance of the Federal standards required for community participation.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of Eligible Communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of Flood Insurance in community	Special flood hazard area identified	Date certain Federal assistance no longer available in special flood hazard area
Alabama:					
Lee	Auburn, city of	010144D	Nov. 21, 1974, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	June 7, 1974, Oct. 3, 1974, Sept. 10, 1976 and Nov. 10, 1978.	September 16, 1981.
Do	Opelika, city of	010145C	June 20, 1975, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	July 26, 1974 and Jan. 16, 1976.	Do.
Russell	Phenix City, city of	010184B	May 24, 1976, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Nov. 26, 1976 and Feb. 8, 1980.	Do.
Do	Unincorporated areas	010287B	Feb. 25, 1976, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Jan. 17, 1975 and Feb. 3, 1978.	Do.
Arizona:					
Yavapai	Cottonwood, town of	040096B	May 5, 1975, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	June 7, 1974 and May 19, 1975.	Do.
Navajo	Winslow, city of	040072B	Nov. 2, 1974, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	July 19, 1974 and Dec. 19, 1975.	Do.
Delaware:					
Kent	Camden, town of	100003B	Mar. 18, 1975, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	May 24, 1974 and Dec. 12, 1975.	Do.
Sussex	Frankford, town of	100037B	July 17, 1975, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Sept. 13, 1974 and Dec. 12, 1975.	Do.
Florida:					
Polk	Haines, city of	120266B	May 28, 1975, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	June 7, 1974 and Sept. 5, 1975.	Do.
Putnam	Unincorporated areas	120272A	Nov. 15, 1973, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Jan. 10, 1975	Do.
Seminole	Winter Springs, city of	120295B	Aug. 29, 1974, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Jan. 10, 1975 and Jan. 2, 1976.	Do.
Illinois: Pike	Pearl, village of	170556B	Sept. 1, 1976, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Dec. 28, 1973 and Mar. 26, 1976.	Do.
Indiana: Johnson & Bartholomew.	Edinburg, town of	180113B	Feb. 13, 1975, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Feb. 1, 1974 and Oct. 10, 1975.	Do.
Maryland: Hartford	Belair, town of	240042B	Jan. 17, 1974, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	July 19, 1974 and Dec. 19, 1975.	Do.
Massachusetts:					
Worcester	Hardwick, town of	250307B	Apr. 18, 1975, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	June 28, 1974 and Oct. 29, 1976.	Do.
Plymouth	Middleborough, town of	250275B	May 28, 1975, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Nov. 1, 1974 and Mar. 4, 1977.	Do.
Michigan					
Oakland	Avon, township of	260471A	July 22, 1975, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Apr. 25, 1975	Do.
Do	Lake Orion, village of	260588A	Mar. 22, 1976, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Oct. 10, 1975	Do.
Wayne and Oakland.	Northville, city of	260236A	Mar. 29, 1976, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Sept. 3, 1976	Do.
Oakland	Northville, township of	260669B	Dec. 23, 1977, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Sept. 24, 1976	Do.
Wayne	Riverview, city of	260240C	Oct. 8, 1976, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	May 3, 1974, Feb. 28, 1975 and Feb. 13, 1976.	Do.
Minnesota: Hennepin	Bloomington, city of	275230B	Sept. 6, 1972, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Sept. 12, 1972 and Mar. 12, 1976.	Do.
Missouri: Butler	Fisk, city of	290045B	Aug. 8, 1975, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Mar. 28, 1974 and Oct. 31, 1975.	Do.
Montana: Wheatland	Unincorporated areas	300172B	Mar. 28, 1978, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Nov. 6, 1979	Do.
Nebraska: Dakota	Dakota City, city of	310053B	Dec. 17, 1974, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Dec. 7, 1973 and Jan. 16, 1976.	Do.
New Jersey:					
Monmouth	Allentown, borough of	340284B	May 28, 1974, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Jan. 28, 1973 and Feb. 6, 1976.	Do.
Do	Eatontown, borough of	340293B	July 1, 1975, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	June 21, 1974 and June 6, 1976.	Do.
New York:					
Orleans	Lyndonville, village of	361459B	Jan. 16, 1976, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, Sept. 16, 1981, suspended.	Dec. 20, 1974 and Mar. 16, 1981.	Do.
Seneca	Waterloo, town of	360759B	Nov. 20, 1975, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	July 19, 1974 and July 1, 1977.	Do.
Pennsylvania:					
McKean	Bradford, township of	422245B	July 2, 1975, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	May 10, 1974 and Oct. 15, 1976.	Do.
Do	Bradford, city of	420665B	Apr. 15, 1974, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Apr. 5, 1974 and May 7, 1976	Do.
Greene	Clarksville, borough of	420476B	Dec. 3, 1981, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Nov. 15, 1974 and Oct. 31, 1975.	Do.
Blair	Freedom, township of	421388A	July 31, 1975, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Jan. 31, 1974	Do.
York	Hopewell, township of	422222A	Apr. 21, 1975, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Dec. 27, 1974	Do.
Greene	Jefferson, township of	421672B	Dec. 2, 1975, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Dec. 20,1974 and June 11, 1976.	Do.
Blair	Juniata, township of	421390A	Feb. 3, 1976, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Dec. 27, 1974	Do.
Delaware	Marcus Hook, borough of	420419B	June 10, 1975, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Dec. 28, 1973 and May 7, 1976.	Do.
Wyoming	Meshoppen, borough of	420914B	July 25, 1973, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Nov. 9, 1974 and July 22, 1977.	Do.
Lancaster	Mount Joy, township of	421776B	Sept. 20, 1974, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Dec. 27, 1974 and Oct. 17, 1975.	Do.
Montgomery	New Hanover, township of	421914B	Aug. 1, 1974, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Nov. 1, 1974 and July 9, 1976	Do.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of Flood Insurance in community	Special flood hazard area identified	Date certain Federal assistance no longer available in special flood hazard area
Blair	North Woodbury, township of	421392A	Feb. 6, 1978, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Jan. 24, 1975	Do.
Allegheny	Plum, borough of	420065B	July 2, 1975, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	June 28, 1974 and May 21, 1976.	Do.
Northampton	Portland, borough of	420729B	June 3, 1974, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Apr. 12, 1974 and May 21, 1976.	Do.
York	Shrewsbury, township of	422230A	Apr. 1, 1976, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Jan. 3, 1975	Do.
Erie	Summit, township of	422418A	Oct. 15, 1975, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended.	Apr. 11, 1975	Do.
Do	Union, township of	421370A	Feb. 18, 1976, emergency; Sept. 18, 1981, regular; Sept. 16, 1981, suspended.	Dec. 13, 1974	Do.
Texas:					
Brazoria	Danbury, city of	480069B	Apr. 2, 1975, emergency; Sept. 18, 1981, regular; Sept. 16, 1981, suspended.	May 24, 1974 and June 11, 1976.	Do.
Harrison	Marshall, city of	480139B	July 17, 1974, emergency; Sept. 18, 1981, regular; Sept. 16, 1981, suspended.	Feb 22, 1974 and June 14, 1977.	Do.
Vermont: Franklin	Georgia, town of	500217A	May 7, 1976, emergency; Sept. 18, 1981, regular; Sept. 16, 1981, suspended.	Feb. 7, 1975	Do.
Washington:	Lower Elwha Indian Reservation	530316B	Feb. 22, 1977, emergency; Sept. 18, 1981, regular; Sept. 16, 1981, suspended.	June 12, 1979	Do.
Wisconsin: Lacrosse	Onalaska, city of	550221B	July 3, 1975, emergency; Sept. 18, 1981, regular; Sept. 16, 1981, suspended.	Dec. 28, 1973 and May 28, 1976.	Do.
Alabama: Mobile	Unincorporated areas	015008D	Dec. 11, 1970, emergency; Dec. 11, 1970, regular; Sept. 30, 1981, suspended.	Apr. 1, 1981	Sept. 30, 1981.
Connecticut:					
New London	Bozrah, town of	090094B	Apr. 23, 1974, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	May 31, 1974 and Oct. 15, 1976.	Do.
Litchfield	Morris, town of	090176A	Feb. 24,1975, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	Jan. 31, 1975	Do.
Florida: Polk	Winter Haven, city of	120271B	Apr. 23, 1975, emergency; Sept. 30, 1981, regular Sept. 30, 1981, suspended.	Aug. 16, 1974 and Oct. 31, 1975.	Do.
Georgia: Liberty	Midway, city of	130351A	July 22, 1975, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	Apr. 4, 1975	Do.
Illinois: McHenry	Unincorporated areas	170732B	Jan. 15, 1974, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	Jan. 3, 1975 and May 20, 1977.	Do.
Kentucky:					
Scott	do	210207B	Aug. 14, 1975, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	Jan. 30, 1975 and May 20, 1977.	Do.
Greenup	Worthington, city of	210092B	Feb. 22, 1977, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	Mar. 18, 1977	Do.
Louisiana: Lafayette	Duson, town of	220104B	Nov. 11, 1975, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	Apr. 5, 1974 and Feb. 27, 1976.	Do.
New Jersey:					
Hunterdon	High Bridge, borough of	340508B	Nov. 18, 1974, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	June 21, 1974 and May 28, 1976.	Do.
Monmouth	Matawan, borough of	340311A	June 23, 1975, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	Mar. 1, 1974	Do.
New York:					
Chemung	Big Flats, town of	360148C	Mar. 23, 1973, emergency; Sept. 30, 1981, regular; Sept. 30, 1981. suspended.	Sept. 14, 1973, Apr. 12, 1974 and Oct. 3, 1975.	Do.
Tompkins	Ithaca, city of	360850B	Apr. 2, 1974 emergency; Sept. 30, 1981, regular; Sept. 30, 1981 suspended.	June 28, 1974 and July 16, 1976.	Do.
Oswego	Minetto, town of	361261A	Oct. 24, 1975, emergency; Sept. 30, 1981, regular; Sept. 30, 1981 suspended.	Nov. 22, 1974	Do.
Do	Oswego, town of	360657B	Dec. 16, 1976, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended	May 10, 1974 and May 14, 1976	Do.
Rockland	Stony Point, town of	360693C	May 8, 1975, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	May 10, 1974, Sept. 26, 1975 and June 15, 1979.	Do.
Do	West Haverstraw, village of	360696B	June 10, 1975 emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	May 31, 1974 and June 4, 1976.	Do
Oklahoma:					
Garvin	Maysville, town of	400402A	Feb. 27, 1978, emergency; Sept. 30, 1981 regular; Sept. 30, 1981, suspended.	Dec. 17, 1975	Do.
Oklahoma	Valley Brook, town of	400445A	Apr. 7, 1975, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	Jan. 24, 1975	Do.
Pennsylvania:					
Lackawanna	Abington, township of	422453A	Jan. 14, 1976, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	Dec. 27, 1974	Do.
Lebanon	Bethel, township of	420967B	Jan. 23, 1974, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	July 26, 1974 and May 28, 1976.	Do.
Chester	Caln, township of	422247B	Aug. 14, 1975, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	Aug. 30, 1974 and Feb. 2, 1976.	Do.
Lackawanna	Carbondale, township of	421750A	Feb. 4, 1976, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	Jan. 31, 1975	Do.
Adams	Cumberland, township of	421249B	Nov. 4, 1974, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	Feb. 7, 1975 and May 30, 1980.	Do.
Juniata	Delaware, township of	421739A	Aug. 18, 1975, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	Feb. 7, 1975	Do.
Lackawanna	Fell, township of	421753A	Aug. 7, 1975, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	Jan. 3, 1975	Do.
York	Heidelburg, township of	422221C	Feb. 18, 1976, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	Jan. 10, 1975, Aug 27, 1976 and Apr. 4, 1980.	Do.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of Flood Insurance in community	Special flood hazard area identified	Date certain Federal assistance no longer available in special flood hazard area
Mercer	Hermitage, municipality of	421562B	Aug. 21, 1975, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	Sept. 20, 1974 and July 9, 1976.	Do.
York	Jackson, township of	422223A	Mar. 10, 1976, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	Apr. 4, 1975	Do.
Lebanon	Jackson, township of	421805B	Jan. 21, 1975, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	Oct. 28, 1977	Do.
Lehigh	North Whitehall, township of	421813B	July 26, 1974, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	Oct. 18, 1974 and May 28, 1976.	Do.
York	Peach Bottom, township of	422229A	Jan. 16, 1975, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	Nov. 28, 1974	Do.
Lancaster	Providence, township of	421780B	Dec. 13, 1974, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	May 31, 1974 and June 4, 1976.	Do.
Montgomery	Schwenksville, borough of	421905C	Nov. 19, 1976 emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	Oct. 25, 1974, May 21, 1976, and Nov. 19, 1976.	Do.
Northampton	Upper Mt. Bethel, township of	421933A	Sept. 15, 1975, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	Nov. 8, 1974	Do.
Erie	Venango, township of	421371A	Sept. 10, 1975, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	Dec. 13, 1974	Do.
Tennessee: Shelby	Collierville, city of	470263A	Sept. 29, 1975 emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	Feb. 14, 1975	Do.
Texas:					
Howard	Big Spring, city of	480360B	Feb. 7, 1975, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	June 28, 1974 and Dec. 17, 1976.	Do.
Terry	Brownfield, city of	480620B	Mar. 21, 1975, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	June 28, 1974 and Aug. 22, 1975.	Do.
Coryell	Unincorporated areas	480766B	Oct. 26, 1979, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	Dec. 6, 1977	Do.
Coryell	Gatesville, city of	480156B	Dec. 18, 1974, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	Apr. 5, 1974 and Jan. 2, 1976	Do.
Bell	Rogers, city of	480708A	May 17, 1976, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	June 27, 1975	Do.
Vermont: Windham	Dover, town of	500127B	July 21, 1976, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	Jan. 30, 1981	Do.
Washington: Benton	West Richland, town of	530014B	June 20, 1974, emergency; Sept. 30, 1981, regular; Sept. 30, 1981, suspended.	Mar. 22, 1974 and Jan. 16, 1976.	Do.

(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; Excutive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: September 8, 1981.

John E. Dickey,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 81-26714 Filed 9-14-81: 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 64

[Docket No. FEMA 6136]

List of Communities Eligible for Sale of Insurance Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard W. Krimm, National Flood Insurance Program, (202) 287–0184 or EDS Toll Free Line 800–638–6620 for Continental U.S. (except Maryland); 800–638–6831 for Alaska, Hawaii, Puerto Rico, and the Virgin Islands; and 800–492–6605 for Maryland, 500 C Street Southwest, Donohoe Building, Room 506, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is

subject to procedures set out in OMB Circular A–95.

Pursuant to the provisions of 5 USC 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certified that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of Eligible Communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Georgia: Ware	Waycross, city of	130188B	Aug. 3, 1981; suspension withdrawn	May 24, 1974 and Apr. 9, 1976.
Illinois:				
Cook	Lynwood, village of	170119C	do	Apr. 12, 1974, May 7, 1976 and Apr. 21, 1978.
Kane	Geneva, city of	170325B	do	Aug. 9, 1974 and Jan. 23, 1976.
Indiana:				
Adams	Unincorporated areas	180424C	do	Aug. 26, 1977 and May 12, 1978.
Case	Unincorporated areas	180022B	do	Jan. 10, 1975 and June 2, 1978.
Howard	Kokomo, city of	180093B	do	Dec. 17, 1973 and Jan. 3, 1976.
Iowa:				
Story	Nevada, city of	190258B	do	June 28,1974 and Jan. 16, 1976.
Pottawattamie	Oakland, city of	190237B	do	Jan. 9, 1974 and Apr. 23, 1976.
Montgomery	Red Oak, city of	190210B	do	June 28, 1974 and Jan. 16, 1976.
Kentucky: Greenup	South Shore, city of	210091B	do	Feb. 1, 1974 and Nov. 21, 1975.
Louisiana:				
Vermillion	Abbeville, city of	220264B	do	Mar. 15, 1974 and July 2, 1976.
St. Landry Parish	Opelousa, city of	220173B	do	June 14, 1974 and Oct. 17, 1975
Michigan:				
Lapeer	Almont, village of	260311B	do	May 10, 1974 and Nov. 26, 1975.
Macomb	Sterling Heights, city of	260129E	do	June 29, 1973, Apr. 12, 1974, Sept. 10, 1976, Feb. 10, 1978 and Sept. 7, 1979.
Missouri:				
New Madrid	Matthews, city of	290254B	do	May 17, 1974 and Dec. 12, 1975.
Do	North Lilburn, village of	290257A	do	Feb. 6, 1976 and Apr. 15, 1977.
Nebraska: Madison	Madison, city of	310240B	do	Sept. 6, 1974 and Dec. 19, 1975.
New Jersey:				
Monmouth	Atlantic Highlands, borough of	340286B	do	Dec. 21, 1975 and Feb. 20, 1976.
Hunterdon	Califon, borough of	340232B	do	Sept. 13, 1974 and Feb. 27, 1976.
New York:				
Onondaga	Camillus, village of	360571A	do	July 30, 1976.
Monroe	Churchville, village of	360999C	do	June 28, 1974, June 11, 1976 and May 9, 1980.
Steuben	Corning, town of	360773B	do	Sept. 14, 1973 and Oct. 8, 1976.
Onondaga	East Syracuse, village of	360574B	do	Apr. 12, 1974 and Oct. 24, 1975.
Broome	Fenton, town of	360046B	do	May 3, 1974 and Feb. 7, 1975.
Chenango	Greene, town of	361087B	do	Dec. 27, 1974 and Jan. 9 1976.
Do	Greene, village of	360159C	do	Feb. 20, 1976, May 21, 1976 and Jan. 19, 1979.
Monroe	Hilton, village of	360420B	do	Mar. 8, 1974 and Oct. 24, 1975.
Genesee	Leroy, village of	360281B	do	Mar. 8, 1974.
Rockland	Piermont, village of	360687B	do	Mar. 15, 1974 and Sept. 17, 1976.
Do	Seneca Falls, town of	360756B	do	Apr. 12, 1974 and Jan. 9, 1976.
Rensselaer	Stephentown, town of	361170A	do	Dec. 20, 1974.
Cayuga	Sterling, town of	3610126B	do	July 26, 1974 and July 9, 1976.
Seneca	Waterloo, village of	360760B	do	July 19, 1974 and July 19,1977.
Wyoming	Wyoming, village of	360952B	do	May 17, 1974 and June 25, 1976.
North Carolina:				
Edgecombe	Unincorporated areas	370087B	do	Nov. 29, 1974 and Mar. 24, 1978.
Catawba	Hickory, city of	370054B	do	Sept. 13, 1974 and Jan. 23, 1976.
South Carolina: Cherokee	Gaffney, city of	450046C	do	June 28, 1974, Apr. 23, 1976 and June 3, 1977.
Tennessee: Sumner	Gallatin, city of	470185B	do	Aug. 16, 1974 and July 16, 1976.
Texas:				
Cameron	Harlingen, city of	485477B	do	July 13, 1972, July 1 1974 and Oct. 17, 1975.
Bell	Killeen, city of	480031B	do	Nov. 1, 1974 and July 4, 1978.
Washington: King	Tukwila, city of	530091B	do	May 24, 1974 and Sept. 13, 1977
Wisconsin:				
Brown	Pulaski, village of	550024B	do	May 24, 1974 and May 28, 1976.
Monroe	Sparta, city of	550290B	do	Jan. 9, 1974 and June 25, 1976.
Marathon	Unincorporated areas	550245B	do	Feb. 1, 1979.
Oconto	Oconto, city of	550297B	do	Dec. 28, 1973 and Aug. 8, 1975.
Minnesota: McLeod	Unincorporated areas	270616B	do	June 3, 1977.
Arkansas: Cleburne	Unincorporated areas	050424A	Aug. 5, 1981, emergency	June 7, 1977.
North Carolina: Craven	River Bend,[1] town of	37–432 New	do	
Pennsylvania:				
Venango	Allegheny, township of	422529	do	Jan. 17, 1975.
Dauphin	Wayne, township of	421599A	do	Jan. 17, 1975 and Mar. 14, 1980.
Vermont: Orleans	Glover, town of	500251A	Aug. 6, 1981, emergency	Dec. 20, 1974 and July 12, 1977.
Texas: Pecos	Iraan, city of	480973	Aug. 12, 1981	July 30, 1976.
Iowa: Lee	Unincorporated areas	190182B	Sept. 11, 1978, emergency; June 15, 1981, regular; June 15, 1981, suspended; Aug. 12, 1981, reinstated.	June 21, 1977.
New Jersey: Bergen	East Rutherford, borough of	340026B	June 24, 1975, emergency; Dec. 16, 1980, regular; Dec. 16, 1980, suspended; Aug. 14, 1981, reinstated.	Apr. 12, 1974 and Aug. 13, 1976.
Arizona: Pinal	Kearny, town of	040085B	Aug. 17, 1981, suspension withdrawn	Nov. 30, 1973 and May 21, 1976.
Florida:				
Pasco	Dade City, city of	120231B	do	Jan. 4, 1974 and Aug. 6, 1976.
Do	Port Richey, city of	120234A	do	Jan. 16, 1974.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Do	New Port Richey, city of	120232C	do	Jan. 16, 1974, June 18, 1976 and Mar. 18, 1977.
St. Lucie	Unincorporated areas	120285A	do	Jan. 24, 1975.
Bay	Springfield, city of	120014B	do	July 19, 1974 and Feb. 27, 1976.
Illinois: Kane	Carpentersville, village of	170322B	do	Mar. 22, 1974 and Jan. 9, 1976.
Indiana: St. Joseph	Mishawaka, city of	180227B	do	Dec. 28, 1973 and May 28, 1976.
Iowa: Polk	Des Moines, city of	190227B	do	Feb. 4, 1981.
Kansas: Sedgwick	Haysville, city of	200324C	do	June 28, 1974, Nov. 7, 1975 and Mar 14, 1978.
Massachusetts: Hampshire	Ware, town of	250172B	do	June 28, 1974 and Dec. 17, 1976.
Michigan: Wayne	Trenton, city of	260244B	do	May 10, 1974 and Mar. 7, 1975.
Mississippi: Hinds	Clinton, city of	280071C	do	June 14, 1974, Nov. 12, 1976 and July 11, 1980.
Missouri:				
New Madrid	Lilbourn, city of	290252B	do	May 17, 1974 and Nov. 7, 1975.
Do	Marston, city of	290253B	do	May 24, 1974 and Nov. 14, 1975.
Nebraska:				
Dodge	Unincorporated areas	310068B	do	Aug. 16, 1977.
Adams	Hastings, city of	310001B	do	May 10, 1974 and Jan. 9, 1976.
New Jersey: Passaic	Little Falls, township of	340401B	do	Dec. 28, 1973 and June 18, 1976.
New York:				
Broome	Chenango, town of	360040C	do	Mar. 8, 1974, Feb. 7, 1975 and Dec. 26, 1975.
Westchester	North Tarrytown, village of	361515A	do	Dec. 13, 1974.
Ohio:				
Cuyahoga	Euclid, city of	390107B	do	Apr. 5, 1974 and June 18, 1976.
Do	South Euclid, city of	390131B	do	Mar. 22, 1974 and Oct. 3, 1975.
Do	Warrensville Heights, city of	390135B	do	Mar. 15, 1974 and Oct. 10, 1975.
Pennsylvania:				
Montgomery	Upper Frederick, township of	421916A	do	Dec. 20, 1974.
Adams	Straban, township of	421259A	do	Jan. 3, 1975.
Rhode Island: Newport	Little Compton, town of	440035B	do	July 19, 1974 and Dec. 24, 1976.
Texas:				
Navarro	Corsicana, city of	480498A	do	Dec. 27, 1974.
Kleburg	Kingsville, city of	480424C	do	Feb. 26, 1971, July 1, 1974 and Dec. 10, 1976.
Utah: Davis	Farmington, city of	490044B	do	June 28, 1974 and Oct. 31, 1975.
Washington: Klickitat	Goldendale, city of	530101B	do	May 24, 1975 and Jan. 16, 1976.
West Virginia: Wayne and Cabell	Huntington, city of	540018B	do	May 6, 1977.
Wisconsin:				
Washington	Jackson, village of	550530C	do	Dec. 28, 1973, May 21, 1976 and Mar. 30, 1979.
Monroe	Tomah, city of	550291B	do	May 31, 1974 and June 18, 1976.
Vermont: Orleans	Newport, city of	500086B	Aug. 19, 1981, emergency; Aug. 19, 1981, regular.	Dec. 12, 1977 and June 18, 1980.
Michigan: Kent	Sparta, village of	260336	Aug. 24, 1981 emergency	Oct. 15, 1976.
Ohio: Pickaway	Darbyville, village of	390712A	Aug. 25, 1981, emergency	Feb. 7, 1975 and Oct. 6, 1978.
Michigan:				
Allegan	Lee, township of	260722 New	Aug. 26, 1981, emergency	
Oceana	Benona, township of	260481	Aug. 26, 1981 emergency	Oct. 15, 1976.
Montana: Meagher	White Sulphur Springs, city of	300047A	Aug. 27, 1981, emergency	May 24, 1974 and Jan. 16, 1976.

[1] This community will be using the Craven County, North Caroline Flood Hazard Boundary Map (FHBM) until such time as one is printed for the Town of River Bend, NC. Craven County's community number is *370072* and ID Date *11-17-78*.

(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 the Associate Director, State and Local Programs and Support)

Issued: September 8, 1981.

John E. Dickey,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 81-26716 Filed 9-14-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA 6135]

Communities With No Special Hazard Areas for National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administration, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities would not be inundated by the 100-year flood. Therefore, the Administrator is converting the communities listed below to the Regular Program of the National Flood Insurance Program (NFIP) without a map.

EFFECTIVE DATE: Date listed in fourth column of List of Communities with no Special Flood Hazards.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287–0270, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: In these communities, there is no reason not to make full limits of coverage available. The entire community is now classified as zone C. In a zone C, insurance coverage is available on a voluntary basis at low actuarial nonsubsidized rates. For example, under the Emergency Program in which your community has been participating the rate for a one-story 1–4 family dwelling is $.25 per $100 per coverage. Under the Regular Program, to which your community has been converted, the equivalent rate is $.01 per $100 coverage. Contents insurance is also available under the Regular Program at low actuarial rates. For example, when all contents are located on the first floor of a residential structure, the premium rate is $.05 per $100 of coverage.

In addition to the less expensive rates, the maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program. For example, a single family residential dwelling now can be insured up to a maximum of $185,000 coverage for the structure and $60,000 coverage for contents.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community.

The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the Federal Register.

Pursuant to the provisions of 5 USC 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifes that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

The entry reads as follows:

§ 65.8 List of Communities with no special flood hazard areas.

State	County	Community name	Date of conversion to regular program
California	Tulare	City of Exeter	August 24, 1981.
Colorado	Weld	Town of Kennesburg	August 24, 1981.
Kansas	Butler	City of Rose Hill	August 24, 1981.
Minnesota	Hennepin	City of Richfield	August 24, 1981.
Minnesota	Anoka	City of Spring Lake Park.	August 24, 1981.
Ohio	Butler	Village of Seven Mile	August 24, 1981.
Ohio	Montgomery.	Village of Union	August 24, 1981.
Pennsylvania.	Tioga	Borough of Mansfield.	August 24, 1981.
Texas	Cottle	City of Paducah	August 24, 1981.

(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)

Issued: August 12, 1981.

Donald L. Collins,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 81-26713 Filed 9-14-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA 6137]

List of Communities With Special Hazard Areas Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule identifies communities with areas of special flood, mudslide, or erosion hazards as authorized by the National Flood Insurance Program. The identification of such areas is to provide guidance to communities on the reduction of property losses by the adoption of appropriate flood plain management or other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

EFFECTIVE DATES: The effective date shown at the top right of the table or 30 days after the date of this Federal Register publication, whichever is later.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287–0270 or EDS Toll Free Line 800–638–6620 for Continental U.S. (except Maryland); 800–638–6831 for Alaska, Hawaii, Puerto Rico, and the Virgin Islands; and 800–492–6605 for Maryland; 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not apply in respect to conventional mortgage loans by federally regulated, insured, supervised, or approved lending institutions.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six month to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin 30 days after the date of publication in the Federal Register or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the Federal Register or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 64 or Title 44 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001–4128).

Section 65.3 is amended by adding in alphabetical sequence a new entry to the table:

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information or regarding the completed stages of engineering tasks in delineating the special flood hazard areas of the specified community. This rule imposes no new requirements or regulations on participating communities.

BILLING CODE 6718-03-M

§ 65.3 List of communities with special hazard areas (FHBMs in effect).

EFFECTIVE DATE September 4, 1981

1 STATE	2 IDENT. NUMBER	3 COMMUNITY NAME & COUNTY NAME	4 PANELS PRINTED (# AND SUFFIX)	5 INLAND/ COASTAL	6 HAZARD	7 60.3 CODE	8 PROGRAM STATUS	9 STATUS OF FHBM	9 STATUS OF FIRM	10 PREVIOUS MAP DATES FHBM	10 PREVIOUS MAP DATES FIRM	11 REVISION CODE(S)	12 RESCISSION	13 FLOODWAYS PANELS PRINTED	14 LOCATION OF MAP REPOSITORY
WI	550602	Rusk County (Uninc. Area)	Index 0001A thru 0011A	I	FL	B	4	2	1	N/A	N/A	N/A	N/A	N/A	Elgin Erickson Zoning Administrator 311 Miner Avenue E. Ladysmith, WI 54848 Phone: 715-532-7743
WI	550579	Oneida County (Uninc. Area)	Index 0001A thru 0018A	I	FL	B	1	2	1	N/A	N/A	N/A	N/A	N/A	Mr. Tony Lorbetske, Chairman County Board Oneida County Courthouse Rhinelander, WI 54501 Phone: 715-369-4651
IL	171004	Village of Jerome (Sangamon Co.)	0001A	I	FL	B	1	2	1	N/A	N/A	N/A	N/A	N/A	Mr. Vernon Shontz, Jr. Village President 2901 Leonard Street Springfield, IL 62704 Phone: 217-782-3500
IN	180479	Martin County (Uninc. Area)	Index 0001A thru 0007A	I	FL	B	4	2	1	N/A	N/A	N/A	N/A	N/A	William Abel, Chairman County Board of Commissioners Martin County Courthouse Shoals, IN 47581 Phone: 812-247-3651
OH	390876	City of Beavercreek (Greene Co.)	Index 0001A 0002A	I	FL	B	1	2	1	N/A	N/A	N/A	N/A	N/A	Hon. Fred Berta, Mayor 1599 N. Central Drive Dayton, OH 45432 Phone: 513-426-5100
													EFFECTIVE DATE: September 8, 1981		
MO	290833	Ste. Genevieve County Unincorporated Areas	0001 – 0008A	I	FL	B	4	2	1	N/A	N/A	N/A	N/A	N/A	Raymond B. Donze County Judge County Courthouse 135 South Main St. Ste. Genevieve, MO 63670 (314) 883-5589

EFFECTIVE DATE September 11, 1981

1 STATE	2 IDENT. NUMBER	3 COMMUNITY NAME & COUNTY NAME	4 PANELS PRINTED (# AND SUFFIX)	5 INLAND/ COASTAL	6 HAZARD	7 60.3 CODE	8 PROGRAM STATUS	9 STATUS OF FHBM	9 STATUS OF FIRM	10 PREVIOUS MAP DATES FHBM	10 PREVIOUS MAP DATES FIRM	11 REVISION CODE(S)	12 RESCISSION	13 FLOODWAYS PANELS PRINTED	14 LOCATION OF MAP REPOSITORY
OH	390185	Gallia County (Uninc. Area)	Index 0001B thru 0008 B	I	FL	B	1	3	1	12/27/74 5/27/77	N/A	9 10 16	N/A	N/A	Paul D. Niday, President County Commissioners Courthouse Gallipolis, OH 45631 614 - 446-4612
PA	421054	Township of Burlington (Bradford County)	Index 0001B	I	FL	B	4	3	1	9/13/74 5/7/76	N/A	9 10	N/A	N/A	Stuart Wrisley, Chairman Twp. Board of Supervisors RD #2 Ulster, PA 18850 717-265-3250
PA	421487A	Township of Penn (Chester County)	Index 01 02	I	FL	B	1	3	1	11/8/74	N/A	12	N/A	N/A	John P. Gray, Chairman Twp. Board of Supervisors RD #2, Box 83 West Grove, PA 19390 215 - 869-9259
VA	510199	Floyd County (Unincorporated Area)	Index 0001A thru 0007A	I	FL	B	1	3	1	4/25/75	N/A	9 10 16	N/A	N/A	Henry McDaniel County Administrator P.O. Box 88 County Courthouse Floyd, VA 24091 703 - 745-2610
WV	540188	Taylor County (Unincorporated Area)	Index 0001A 0002A 0003A 0004A	I	FL	B	1	3	1	12/13/74	N/A	9 10 16	N/A	N/A	Donald Sheaffer President County Commissioners Taylor County Courthouse Grafton, WV 26354 304 - 265-1401
EFFECTIVE DATE: September 15, 1981															
MO	290792	Clark County Unincorporated Areas -	0001- 0007A	I	FL	B	4	2	1	N/A	N/A	N/A	N/A	N/A	Ralph Plenge, Sr. Clark County Judge Co. Courthouse Kahoka, MO 63445 (816) 727-3283

EFFECTIVE DATE September 18, 1981

1 STATE	2 IDENT. NUMBER	3 COMMUNITY NAME & COUNTY NAME	4 PANELS PRINTED (# AND SUFFIX)	5 INLAND/ COASTAL	6 HAZARD	7 60.3 CODE	8 PROGRAM STATUS	9 STATUS OF FHBM	9 STATUS OF FIRM	10 PREVIOUS MAP DATES FHBM	10 PREVIOUS MAP DATES FIRM	11 REVISION CODE(S)	12 RESCISSION	13 FLOODWAYS PANELS PRINTED	14 LOCATION OF MAP REPOSITORY
VA	510252	Patrick County (Uninc. Area)	Index 0001B thru 0007B	I	FL	B	1	3	1	1/24/75 12/26/75	N/A	9 10 16	N/A	N/A	Edward Turner Jr. County Administrator Hooker Building P.O. Box 466 Stuart, VA 24171 703 - 694-6094
WV	540035	Gilmer County (Uninc. Area)	Index 0001A thru 0006A	I	FL	B	1	3	1	1/3/75	N/A	9 10 16	N/A	N/A	O.V. Gene Ellyson President County Commissioner Gilmer County Courthouse Glenville, WV 26351 304 - 462-7641
WI	550580	Juneau County (Uninc. Area)	Index 0001A thru 0011A	I	FL	B	4	2	1	N/A	N/A	N/A	N/A	N/A	C.F. Faylor Chairman County Board Route 1 Necedah, WI 59646 608 - 565-2296
EFFECTIVE DATE: September 22, 1981															
OR	410190	City of Monmouth Polk County	0001B	I	FL	B	1	3	1	5/24/74 4/9/76	N/A	8 9	N/A	N/A	Mayor 151 West Main Street Monmouth, OR 97361 (503) 838-0722
MO	290644	Lewis County Unincorporated Areas	0001-0009A	I	FL	B	4	2	1	N/A	N/A	N/A	N/A	N/A	Chester Hinton, Co. Judge County Seat Monticello, MO 83457 (314) 767-5205
EFFECTIVE DATE: September 25, 1981															
WV	540198	Upshur County (Uninc. Area)	Index 0001A thru 0007A	I	FL	B	1	3	1	1/17/75	N/A	9 10 16	N/A	N/A	Dalton E. Cutright President Co. Commissioners Upshur Co. Courthouse Buckhannon, West Virginia 26201 304 - 472-1068

EFFECTIVE DATE September 25, 1981

1 STATE	2 IDENT. NUMBER	3 COMMUNITY NAME & COUNTY NAME	4 PANELS PRINTED (# AND SUFFIX)	5 INLAND/ COASTAL	6 HAZARD	7 60.3 CODE	8 PROGRAM STATUS	9 STATUS OF		10 PREVIOUS MAP DATES		11 REVISION CODE(S)	12 RESCISSION	13 FLOODWAYS PANELS PRINTED	14 LOCATION OF MAP REPOSITORY
								FHBM	FIRM	FHBM	FIRM				
OH	390741	Village of Irondale Jefferson County	0001A	I	FL	B	1	3	1	7/11/75	N/A	9 10 16	N/A	N/A	Harry Diehl, Mayor Village Hall P. O. Box Irondale, OH 43932 216 532-2900
													EFFECTIVE DATE: September 29, 1981		
OR	410076	City of Dayville, Grant County	0001A	I	FL	B	1	3	1	1-24-75	N/A	9 10	N/A	N/A	Mayor Mark Reasoner P. O. Box 316 Dayville, OR 97825
AR	050345	Marion, City of Crittenden County	0001A	I	FL	B	1	3	1	4/18/75	N/A	9 10	N/A	N/A	Mayor, E. W. Bigger, JR. P.O. Box 7 Marion, AR 72364
UT	490012	Cache County Unincorporated Areas	0001A- 0003A 0005A 0006A 0008A 0009A 0011A 0012A	I	FL	B	1	2	1	N/A	N/A	N/A	N/A	N/A	Robert Chambers Cache County Commissioner County Courthouse Logan, Utah 84321

BILLING CODE 6718-03-C

Community Map Actions

(Codes: Where no entry is necessary use N/A)

Column Code:
1. Two letter state designator.
2. FIA Community 6-digit identity number.
3. Community name; County(ies) name.
4. Four digit number and suffix of each FIRM or FHBM panel printed.
5. INL/Coast:
I=Inland
C=Coastal
6. Hazard:
FL=Flood
MS=Mudslide
ER=Erosion
NF=Non Flood Prone
MF=Minimally Flood Prone
7. 60.3 Code:
A=Special Hazard not defined, no elevation data (No FHBM)
B=Special Hazard Designated, no elevation data (FHBM)
C=FIRM, No Floodway or Coastal High Hazard
*D=FIRM, Regulatory Floodway Designated
*E=FIRM, Coastal High Hazard
*Dual entry is available.
8. Program Status:
1=Emergency
2=Regular
3=Not participating, no map
4=Not participating, with map
5=Withdrew
6=Suspended
9. FHBM Status:
1=Never Mapped
2=Original
3=Revised
4=Rescinded
5=Superceded by firm
9. Firm Status:
1=Never Mapped
2=Original
3=Revised
4=Rescinded
5=All zone C—No published firm
6=All zone A and C—No elevations determined
10. Dates of all previous maps.
11. Revision Codes:
1. 1916 BFE (Base Flood Elevation) Decrease
2. 1916 BFE Increase
3. 1916 SFHA (Special Flood Hazard Area) Change
4. Change of Zone Designation; revised FIRM
5. Curvilinear
6. 1914 Incorporation
7. 1914 Discorporation
8. 1914 Annexation
9. SFHA Reduction
10. Non-1916 SFHA Increase Without Numbered Zones
11. Non-1916 SHFA Increase with Numbered Zones
12. Drafting Correction; Printing Errors
13. Suffix Change ONLY
14. Change to Uniform Zone Designations (7/1/74)
15. Revisions Withdrawn
16. Refunds Possible
17. Letter of Map Amendment (1916)
18. Letter of Map Amendment (1916 without Federal Register publication)
19. Federal Register Omission
20. Attention. A previous map (or maps) has been rescinded or withdrawn for this community. This may have affected the sequence of suffixes.
21. Miscellaneous
13. List of Numbered Floodway Panels Printed.
14. Address of Community Map Repository.

(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 the Associate Director, State and Local Programs and Support)

Issued: September 8, 1981.

John E. Dickey,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 81-26715 Filed 9-14-81; 8:45 am]

BILLING CODE 6718-03-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Fourth Revised Service Order No. 1495]

Burlington Northern Inc. and Fort Worth and Denver Railway Co. Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Fourth Revised Service Order No. 1495.

SUMMARY: Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Public Law 96–254, this order authorizes the Burlington Northern and Fort Worth and Denver to provide interim service over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE DATE: 12:01 a.m., September 11, 1981, and continuing in effect until 11:59 p.m., September 30, 1981, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275–7840.

SUPPLEMENTARY INFORMATION:

Decided: September 9, 1981.

In the matter of Burlington Northern Inc. and Fort Worth and Denver Railway Company authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee); decision.

Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Public Law 96–254, (RITEA), the Commission is authorizing Burlington Northern, Inc. (BN) and Fort Worth and Denver Railway Company (FWD) to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor, (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for that operation.

In view of the urgent need for continued service over RI's lines pending the implementation of long-range solutions, this order permits BN and FWD to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

Appendix A of the previous order is revised by the addition of Item 2.C., which extends the authority of the FWD to Groom and Adrian, Texas, as requested.

It is the opinion of the Commission that an emergency exists requiring that the BN and FWD, as indicated in the attached appendix, be authorized to conduct operations using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1495 Fourth Revised Service Order No. 1495.

(a) Burlington Northern Inc. and Fort Worth and Denver Railway Company authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor, (William M. Gibbons, trustee): Burlington Northern Inc. (BN) and Fort Worth and Denver Railway Company (FWD) are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific

Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI.

(b) The Trustee shall permit the BN and FWD to enter upon the property of the RI to conduct service as authorized in paragraph (a).

(c) The Trustee will be compensated on terms established between the Trustee and the BN and FWD; or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Public Law 96-254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced on the expected commencement date of those operations.

(e) BN and FWD, as authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of operations over the RI lines authorized in paragraph (a), BN and FWD shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties, or failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to the authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

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

(j) *Rate applicable.* Inasmuch as the operations described in Appendix A by BN and FWD over tracks previously operated by the RI are deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

1. The operator under this temporary authority will not be required to protect transit rate obligations incurred by the RI or the directed carrier, Kansas City Terminal Railway Company, on transit balances currently held in storage.

(k) In transporting traffic over these lines, the interim operators described in Appendix A shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) To the maximum extent practicable, the carriers providing service under this order shall use the employees who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., September 11, 1981.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., September 30, 1981, unless otherwise modified, amended, or vacated by order of this Commission.

(49 U.S.C. 10304, 10305, and Section 122, Public Law 96-254)

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association.

Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John H. O'Brien. Joel E. Burns not participating.

Agatha L. Mergenovich,
Secretary.

Appendix A.—RI Lines Authorized to be Operated by Interim Operator

1. *Burlington Northern Inc. (BN):*

A. Burlington, Iowa (milepost 0 to milepost 2.06).

B. Fairfield, Iowa (milepost 275.2 to milepost 274.7).

C. Henry, Illinois (milepost 126) to Peoria, Illinois (milepost 164.35) including the Keller Branch (milepost 1.55 to 8.62).

D. Phillipsburg, Kansas (milepost 282) to Stratton, Colorado (milepost 473).

E. At Okeene, Oklahoma.

2. *Fort Worth and Denver Railway Company (FWD):*

A. From Amarillo to Bushland, Texas, including terminal trackage at Amarillo, and approximately three (3) miles northerly along the old Liberal Line.

B. North Fort Worth, Texas (milepost 603.0 to 611.4).

C.[1] From Groom to Adrian, Texas (milepost 718.9 to 809.5).

[FR Doc. 81-26758 Filed 9-14-81; 8:45 am]
BILLING CODE 7035-01-M

[1] Added.

Proposed Rules

Federal Register
Vol. 46, No. 178
Tuesday, September 15, 1981

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210, 220, and 226

National School Lunch, School Breakfast, and Child Care Food Programs; Meal Pattern Requirements; Corrections

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed Rule; correction.

SUMMARY: This document corrects a table indicating the changes in subsidy levels that appeared on page 44453 in the Federal Register of Friday, September 4, 1981 (46 FR 44453). This action is necessary to correct an error.

DATES: Comments must be postmarked on or before October 5, 1981.

FOR FURTHER INFORMATION CONTACT: Virginia Wilkening, Section Head, Room 556, Technical Assistance Branch, Nutrition and Technical Services Division, Food and Nutrition Service, USDA, Washington, D.C. 20250, (202) 447–9067.

The following correction is made in FR Doc. 81–25955 appearing on 44453 in the issue of September 4, 1981.

1. In the preamble, on page 44453, column 2, paragraph a, in the portion of the table which reads:

	Comparison of per meal subsidy levels		
	Previous law (cents)	Current law (cents)	Differences (cents)
Supplements:			
Paid	5.50	2.75	−2.75 (50)
Reduced price	22.25	15.00	−7.25 (33)
Free	30.50	30.00	−.25 (26)
The last line should read:	30.50	30.00	−.50 (2)

Signed in Washington, D.C. on: September 11, 1981.

Darrel Gray,

Acting Administrator.

[FR Doc. 81-26979 Filed 9-14-81; 9:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 1139

[Docket No. AO-374-A6]

Milk in the Lake Mead Marketing Area; Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends certain changes in the Lake Mead Federal milk marketing order. The changes relate to butterfat differentials for adjusting prices to the actual butterfat content of the milk being priced and to the classification of milk used in the production of ice cream and other frozen desserts. The decision is based on industry proposals considered at a public hearing held in September 1980. The proposed changes are necessary to reflect current marketing conditions and to assure orderly marketing in the area.

DATE: Comments are due on or before October 5, 1981.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–7183.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior document in this proceeding: Notice of Hearing: Issued August 27, 1980, published September 3, 1980 (45 FR 58366).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to a proposed amendment to the tentative marketing agreement and order regulating the handling of milk in the Lake Mead marketing area. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, by October 5, 1981. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made availabe for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27 (b)).

The proposed amendments set forth below are based on the record of a public hearing conducted at Las Vegas, Nevada, on September 23–24, 1980. Notice of such hearing was issued August 27, 1980 (45 FR 58366).

The material issues on the record of the hearing relate to:

1. Producer status of a dairy farmer delivering to a pool supply plant.
2. Classification of ice cream and other related products.
3. Adoption of a single butterfat differential.
4. Payment obligations that must be met by the operator of a partially regulated distributing plant.

1. *Producer status of a dairy farmer delivering to a pool supply plant.* The requirement that at least 52 days' milk production of a dairy farmer be received at a pool supply plant during January and February if the farmer wishes to deliver milk to the same pool plant in

the following March–July period and have it pooled under the order should be deleted.

The deletion of this requirement was proposed by the Lake Mead Cooperative Association (LMCA), which represents a substantial majority of the producers on the market. For a number of years, proponent operated the only supply plant that was regulated under the order. However, the cooperative closed the plant in 1980 and since that time has supplied pool distributing plants by delivering the milk of its member-producers directly from farms to the distributing plants. There is no other supply plant on the market.

Proponent's spokesman contended that the 52-day delivery requirement is no longer needed since the cooperative discontinued using its Minersville, Utah plant facilities as a supply plant for the Lake Mead market. He stated that although the cooperative continues to own the plant, under current marketing conditions it is not likely that in the future the plant will be needed to supply any of the pool distributing plants. Finally, he noted that this delivery requirement was suspended in 1978 to assure the continued association with the market of a number of the cooperative's member producers who were delivering milk to the cooperative's supply plant but who had not met the 52-day delivery requirement because the milk was being delivered at the time directly to pool distributing plants on a regular basis.

A proprietary handler who operates a pool distributing plant opposed the proposal. The handler objected to the proposal on the the grounds that the basis for the 1975 decision to adopt the delivery requirement in question continues to be valid under current marketing conditions.

The 52-day delivery requirement became effective under the order on September 1, 1975. The practical effect of this provision is that during the months of March–July it excludes from the pool any dairy farmer whose milk production is received at or diverted from a supply plant with automatic pool status unless at least 52 days' milk production of such dairy farmer was associated with the supply plant during the preceding months of January and February. This provision was intended to prevent the attachment of reserve milk supplies from other markets to the Lake Mead market through a pool supply plant that has automatic pool plant status during the months of March–July. Under automatic pooling, a supply plant does not need to ship a certain percentage of its receipts to pool distributing plants. Thus, a supply plant could pool substantial quantities of milk during the automatic pooling period.

The record evidence establishes that current marketing conditions in the market are substantially different than existed at the time when the Secretary adopted the 52-day delivery requirement. As indicated earlier, there is no longer a supply plant associated with the market, and there is no indication that a supply plant will again be a part of the marketing system for this area.

Also, and perhaps more importantly, past experience with this delivery requirement has indicated that while its intent was valid its application to actual operating situations in the market was less than satisfactory. As indicated, it was necessary to suspend the requirement because it would have resulted in excluding from the pool a number of producers who had a bona-fide association with the market. If the provision were to be retained, it would be necessary to modify it in some manner to overcome this type of problem so that it would be appropriate for the market should there eventually be another supply plant on the market. Modification of this provision was not explored at the hearing. Thus the record provides no guidance on what changes might be made other than to remove it from the order.

Accordingly, it is reasonable that the provision be deleted. As a conforming change, the reference in § 1139.44(a)(7)(vii) to the receipts at a pool supply plant from dairy farmers who do not meet the 52-day requirement also should be deleted.

2. *Classification of ice cream and certain other related products.* A Class II classification should apply to milkshake and ice cream mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes. Such products are now classified under the order as Class III products. This would increase the minimum order price for producer milk in such uses by 15 cents per hundredweight.

LMCA proposed this change in the classification of ice cream and certain other related products. Proponent stated that the adoption of this change will bring the classification of such products under the order in line with the other 29 (formally 39) orders which uniformly classify the above-mentioned frozen products as Class II products. In this connection, proponent's spokesman asserted there is need to have uniform classification provisions and other provisions among orders to accommodate inter-market movements of milk and milk products and to standardize accounting procedures of the Lake Mead order.

In further support of the proposal, the cooperative's spokesman testified that it initially supported a Class III classification for ice cream and related products at the time the order was promulgated based on the Department's initial tentative decision (37 FR 18984) at the time recommending a uniform milk classification plan for 39 markets. However, after the Lake Mead order was promulgated, the witness noted, a revised recommended decision for the 39 markets was issued by the Department, which provided for a Class II classification for ice cream and related products. This classification was later implemented under the 39 orders. The witness stated that it was always the intent of the cooperative that the Lake Mead order provide the same classification for ice cream and related products as was finally adopted in the 39-market classification decision.

Another reason cited by proponent in support of its proposal was that milk for use in ice cream production in this market by the operator of a pool distributing plant is supplied by producers on a regular and sustaining basis much the same as milk used for making cottage cheese. Proponent stressed that local producers represent the regular source of milk for the only regulated handler in the market that manufactures ice cream. In this connection, proponent's spokesman testified that this handler wants a dependable year-round milk supply from local producers for the production of ice cream in the same manner that handlers seek Grade A milk for the production of cottage cheese, a Class II product. The witness pointed out that the same reasoning for including cottage cheese in an intermediate price class is generally applicable to ice cream and related products. Finally, he contended that the adoption of the proposal will reflect some of the additional value which producer milk used in ice cream has to a regulated handler.

The only regulated handler under the order which manufactures ice cream opposed the proponent's proposal. A spokesman for the handler testified that if the proposal were adopted it would increase the handler's cost of producer milk used to produce ice cream about $550 per month. He claimed that this additional cost would jeopardize the competitive position of the regulated handler with unregulated processors that distribute ice cream in the Lake Mead market. The witness, however, did not provide any data or other evidence to support this claim.

The record clearly establishes that the above-mentioned regulated handler relies regularly on producer milk for ice cream and related products. As proponent pointed out in its testimony, the demand for producer milk used in such products is related closely to the current consumer demand for these products. Thus, the handler processing frozen desserts depends on regular supplies of producer milk being made available at his plant in the quantities and at the times needed for these uses. This is in contrast to the more storable "hard products" (butter, hard cheese and nonfat dry milk) that also are included in Class III. Traditionally, such hard products are residual uses of reserve milk supplies associated with the fluid milk market which is not the case with frozen desserts. Instead, the marketing situation is essentially the same for ice cream and other related products as it is for other "soft" dairy products presently included in Class II, such as cottage cheese. Milk used in cottage cheese is sought by handlers on a regular basis and in the quantities and at the times needed. Such milk is priced under the order at 15 cents per hundredweight over the Minnesota-Wisconsin manufacturing price. The record establishes that the handler processing ice cream generally cannot obtain alternative supplies of milk or product ingredients for frozen desserts on a regular basis at less than this cost. The higher classification of frozen desserts thus will compensate producers for some of the additional value which their milk used in these products has to the regulated handler.

The argument of the opposing handler that this classification change will jeopardize his competitive position for ice cream sales in the market is not convincing. The record evidence establishes that the opposing handler's principal competition is from California handlers. However, the higher cost of producer milk used in ice cream production to the opposing handler that would result from the proposed classification change would be offset, generally, by raw product costs and additional transportation costs incurred by his California competitors in supplying the local market.

3. *Adoption of a single butterfat differential.* A single butterfat differential should be used to adjust prices to the actual butterfat content of the milk being priced. This differential should be the Chicago Grade A bulk butter price as reported by the Department for the month multiplied by 0.115.

Presently, the order provides for three separate butterfat differentials. For Class I milk, the differential (for each one-tenth percent of butterfat above or below 3.5 percent) is the Chicago butter price for the preceding month multiplied by 0.12, and for Class II and Class III milk it is the Chicago butter price for the current month multiplied by 0.115. The butterfat differential used in adjusting the uniform price is the average of the butterfat differentials for each class weighted by the proportion of butterfat in producer milk allocated to each class.

LMCA proposed that a single butterfat differential apply to all classes of milk. Under the proposal, which in essence would reduce the Class I butterfat differential from 12 percent of the butter price for the preceding month to 11.5 percent of the butter price for the current month, the butterfat differential for Class I milk would be the same as the present butterfat differential for Class II and Class III milk. This proposal was supported in its post-hearing brief by the only other producer association associated with the market, Western General Dairies, Inc.

In proposing a lower Class I butterfat differential, proponent contended that the values now assigned to butterfat and skim milk in Class I products do not reflect the current market values of these components of milk. Proponent's witness testified that the proposal also is designed to make butterfat utilized in all classes by regulated handlers more competitive with butterfat or vegetable oil in products distributed in the marketing area from unregulated sources, but in no event less than its alternative use in butter. Also, the witness stated that the proposal conforms the Lake Mead order to that of most other orders which use a single butterfat differential and simplifies the accounting process for regulated handlers.

The only proprietary handler in the market who operates a pool distributing plant opposed the proposal. The handler's witness testified that reducing the Class I butterfat differential in the manner proposed will increase the handler's cost of Class I low-fat products about one cent per gallon. According to the witness, such sales represent about 25–30 percent of the handler's total Class I sales. At the hearing and in its brief, the opposing handler asserted that similar arguments to decrease the value of Class I butterfat were advanced at the promulgation hearing and were rejected by the Department. On the basis of that hearing record, he added, the Department adopted the order's present Class I butterfat differential which he believes continues to be appropriate under current marketing conditions.

A change in the relative values of the components of milk in Class I uses has been occurring for some time. This has been related to the continuous decline, both nationally and locally, in the proportion of butterfat in Class I sales. An indication of this trend is the average test of fluid milk products sold in the Federal order marketing areas. In 1975 the average butterfat test in 55 Federal order markets for such sales was 2.75 percent. This percentage declined from year to year, and in 1980 the comparable average butterfat test was 2.56 percent.[1] On a percentage basis, the average butterfat content in these fluid milk products declined 9 percent from 1975 to 1980. It is anticipated that this decline will continue because of consumer's preference for low-fat products.

Under the Lake Mead order, the average butterfat test of Class I sales has been declining at a rate similar to that experienced nationally. Most recently, the average test of Class I sales by handlers regulated by the order dropped from 3.06 percent in 1974 to 2.83 percent in 1979, a decline of 8 percent.[2]

The increasing demand for fluid milk products with lower butterfat content can be expected to result in a continuing decline in the average butterfat test of Class I sales under the order. Adopting the same butterfat differential for Class I milk as for other classes, as herein provided, will give recognition to the reduced demand and the related lower market value of butterfat in the fluid milk products in Class I. By reflecting a lower value for butterfat in the returns to producers, there will be less incentive to produce high-test milk which consumers do not want.

As indicated previously, the single butterfat differential would be based on the butter price for the current month, which is now used for computing the differentials for Class II and Class III. Presently, the Class I butterfat differential is based on the butter price for the preceding month. This change should have little impact on the level of the butterfat differential since there is little variation from month to month in the Chicago butter price. In view of this, it appears unnecessary to compute

[1] Official notice is taken of the February 1980 and May 1981 issues of the Summary of Federal Milk Order Statistics, issued by the Dairy Division, AMS, USDA.

[2] Official notice is taken of the Annual Summary for 1975, Federal Milk Order Market Statistics, Statistical Bulletin No. 554, issued by the Dairy Division, AMS, USDA.

butterfat differentials applicable for the same month both on the current and preceding month's average monthly butter quotations, as is now the case.

Since the same butterfat differential would apply to all classes of milk, it is necessary under the order to provide only for a producer butterfat differential. Under this procedure, there is no need to provide for a separate butterfat differential for adjusting class prices nor is there any need to pool the value of butterfat in each class. All producer "differential" butterfat received by handlers will be priced the same to all handlers regardless of the class in which the butterfat is used. Accordingly, the order should be modified to provide only for the announcement and use of a single producer butterfat differential.

4. *Payment obligations that must be met by the operator of a partially regulated distributing plant.* The provisions of the order which specify the payment obligations that must be met by the operator of a partially regulated distributing plant [3] should not be modified on the basis of this record.

Under the present provisions of the order, an operator of a partially regulated distributing plant has three options in meeting the order's payment obligations on any fluid milk products that such operator disposes of on routes in the marketing area:

(a) The plant operator incurs no payment obligation if the operator purchases from any Federal milk order source an amount of milk classified and priced as Class I milk that is equivalent to such operator's fluid milk sales in the marketing area. Such purchases, however, may not be used to offset any obligation under another Federal order.

(b) The plant operator incurs no obligation under the order, except for an administrative assessment charge on the volume of fluid milk products disposed of in the marketing area, if the operator's payments to dairy farmers and to the producer-settlement fund of any Federal order are not less than the pool obligation that such operator would have incurred if such plant had been fully regulated under the order. Under this option, a plant operator whose payments for milk are less than the order's obligations may pay the difference either to his own dairy farmers or to the producer-settlement fund.[4]

(c) The plant operator may choose to pay to the producer-settlement fund the difference between the Class I price and the producer blend price of the order (both prices adjusted for the location of the plant) on all fluid milk products distributed in the marketing area (less any purchases of milk classified and priced as Class I milk under any Federal order).

The major cooperative on the market (LMCA) proposed the elimination of option B. The practical effect of the proposal under the current marketing situation would be that, irrespective of the amount that the plant operator may have paid his dairy farmers, a partially regulated distributing plant operator would be required to make payment into the producer-settlement fund on the quantity of Class I milk distributed in the marketing area. This would be at a rate equal to the difference between the order's Class I price and the blend price.

In addition to the proponent cooperative, the proposal was supported by the Nevada Milk Commission, Western General Dairies, Inc., and Anderson Dairy. These latter two parties, together with the proponent, operated at the time of the hearing the only three fully regulated distributing plants under the order.

Proponent's witness indicated that the elimination of option B is necessary to provide equity between dairy farmers supplying distributing plants fully regulated under the Lake Mead order and those dairy farmers supplying partially regulated distributing plants which also compete for Class I sales in the Lake Mead market. He stated that the proposal was prompted by the rapid increase in recent years in the proportion of the market's total Class I sales being made by the four partially regulated distributing plants serving the market. These plants are all located in the State of California and are fully regulated by the California State Bureau of Milk Stabilization.[5]

In support of the proposal, proponent's witness testified that option B, which allows a partially regulated plant operator to meet the order obligation by demonstrating that he has paid at least the order's full class use value for such milk, has enabled California handlers to incur little or no obligations to the producer-settlement fund of the Lake Mead order.

Because of this, the witness contended, producers supplying the fully regulated plants are disadvantaged since they are the only ones who share in the lower-valued reserve milk associated with the market. It was proponent's position that all Class I sales in the marketing area should contribute to the market's uniform producer price.

The spokesman for the proponent indicated that if option B were eliminated, the effect would be to equalize between the dairy farmers supplying regulated plants and the dairy farmers supplying California plants the benefits of the market's higher-valued Class I milk sales and the burden of carrying the market's reserve milk supplies. In his opinion, this would achieve equity between the two groups of dairy farmers involved.

In discussing the appropriateness of the proposal, the spokesman for the proponent noted that option B is uniformly provided in most other orders and may be an appropriate option available to the operator of a partially regulated distributing plant under the marketing conditions existing in those markets. However, the witness contended that option B is inappropriate for the Lake Mead market because of the unique circumstances and conditions existing in the market. He cited several factors to support this contention: (1) The Lake Mead market is small in comparison to the California market, both in terms of population and the volume of milk production involved; (2) The Class I milk disposition in the Lake Mead market by California plants is substantial in terms of the market's total Class I sales; (3) California plants are fully regulated by State regulation under terms markedly different than those of the Lake Mead order; (4) California plants are controlled by food chains operating both in the California and Lake Mead markets; (5) Class I sales in the Lake Mead market by California handlers represent only a minor part of their total Class I disposition; and (6) California plants normally are required by the State regulation to pay prices for Class I milk that are higher than those under the Lake Mead order. Because of these conditions prevailing in the California and Lake Mead markets, the witness concluded that option B is not equitable to fully regulated handlers and the producers supplying them.

At the hearing the proponent cooperative offered two alternative proposals in the event the Department did not adopt its proposal to eliminate option B. These alternative proposals (1) would eliminate the application of location adjustments to California plants in computing their order obligations under option B and (2) would apply the administrative assessment

[3] A plant with route disposition in the marketing area of less than 10 percent of its receipts of fluid milk products or its total route disposition of fluid milk products is less than 50 percent of such plant's receipts.

[4] In this proceeding and as used herein, this option is commonly referred to as option B.

[5] For ease of discussion, these plants are referred to herein as "California plants" and the operators of such plants" as "California handlers."

charge on a California plant's total milk receipts rather than on just the quantity of Class I milk distributed in the marketing area as the order now provides.

Proponent did not present any testimony in support of the first alternative proposal. In the case of the second alternative proposal, proponent held that when the handler elects option B the market administrator must audit a California handler's plant on the same basis as though the plant were fully regulated. In this case, proponent contended, it is appropriate that such plant be subject to an administrative charge equivalent to what is assessed against a fully regulated plant. Proponent's witness claimed that this change in the application of the administrative assessment would fully defray the costs of verifying the utilization and payments of such a plant electing option B which, he claimed, are now borne in large part by fully regulated handlers.

At the hearing, three of the four California handlers that presently have Class I route disposition in the Lake Mead market opposed the proposal to remove option B. They claimed that the adoption of the proposal would either force them to discontinue serving the market because of higher product costs or to increase their wholesale and retail prices to noncompetitive levels. In their post-hearing briefs, opponents argued that the proponent failed to demonstrate a need for the proposal. Beyond this, they questioned the legality of the proposal on the basis that it may constitute a trade barrier prohibited by the Act.

The current provisions of the Lake Mead order prescribing the payment obligations of a partially regulated distributing plant have been in effect since the inception of the order in August 1973. They were patterned after those adopted in most of the Federal orders following a 1962 U.S. Supreme Court decision that in effect invalidated many of the existing order provisions relating to the pricing of milk not fully regulated under an order. The court ruled against provisions that resulted in partially regulated handlers paying a higher cost for raw milk than handlers fully regulated under an order. The Court concluded that such a payment constituted a trade barrier to the free movement of milk, and, thus, was prohibited by the Act authorizing Federal milk orders.

In this regard, the Assistant Secretary's June 1, 1973 decision (38 FR 15006) proposing a new order for the Lake Mead marketing area adopted the findings and conclusions of the Assistant Secretary's June 14, 1964 decision (29 FR 9002) which provided the basis for the three payment options available under the Lake Mead order to the operator of a partially regulated distributing plant. (These three options were summarized earlier.) These options were designed to place handlers operating partially regulated distributing plants and handlers operating fully regulated plants on a comparable basis with respect to the cost of Class I milk distributed in an order's marketing area.

The basis for option B was stated in the 1964 decision (referred to as option (a) in such decision) as follows:

"If the operator of the unregulated distributing plant elects to show that he has complied with option (a) above, it will be clearly evident that he has paid at least as much for his Class I sales as a fully regulated handler for in fact he has paid for all his milk as if he were fully regulated. Such an option accords him competitive parity with respect to his minimum class prices with regulated handlers. The regulated handler is required to pay for all his milk sold as Class I whether inside or outside the marketing area, at the Class I price established by the order. The operator of the unregulated distributing plant will show that he has also paid at least the equivalent of the order Class I and Class II prices for milk utilized in these repective classes. This option provides a meaningful determination of actual pay prices for milk by such an operator."

The 1964 decision also stated that:

"* * * This option will particularly accommodate such operators who, because of State regulation of milk prices, pay their dairy farmers at least the minimum prices required by the order regulating the handling of milk in the Federal order marketing area where they distribute milk. When he pays for his milk supply as much as if he were fully regulated, this option gives him an opportunity to distribute milk in regulated areas without incurring any additional financial obligations on such milk as the result of the order. At the same time, the fact that he has paid full class prices for his milk, will assure the integrity of the regulatory plan has been protected."

Option B thus was established as a means of providing competitive parity between fully regulated handlers who are required to pay the order's minimum class prices and those handlers who have only limited in-area sales and thus are not subject to full regulation and minimum prices. In dealing with the issue at hand, it is necessary to determine if there are overriding reasons, as suggested by proponent, for doing away with this means of maintaining competitive parity.

Option B, as well as the other two options available to the operator of a partially regulated distributing plant in meeting the order's payment obligations, was concluded to be appropriate at the outset of the Lake Mead order even though California plants at that time had substantial Class I sales in the Lake Mead market. Such sales were over 15 percent of the market's total Class I disposition during the first month (August 1973) that the order was effective. From 1974 through 1978 the percentage of total Class I sales in the Lake Mead market by the California plants increased slightly—from 19 percent in 1974 to 24 percent in 1978. However, this percentage jumped to over 36 percent in 1979, which was the basic factor prompting the proponent cooperative's proposal. The record reveals that this latter change was due largely to the closing of two pool distributing plants. Most of the Class I disposition from these two plants was taken over by California plants.

Early in 1980, the proponent cooperative started a bottling operation at one of the closed pool distributing plants, the former Logandale, Nevada plant of Knudsen Dairy. The cooperative then customed bottled part of the Lake Mead area sales that had been coming from Knudsen Dairy's California plant. As a result of this change, the share of the market's total Class I disposition by California plants declined in 1980 to 30 percent.[6]

In February 1981 Knudsen Dairy reacquired this plant from the cooperative.[7] With this change, it would be reasonable to expect that the share of the Lake Mead Class I market held by California handlers will return to about the same level that existed prior to 1979.

At the time of the hearing, there were four California plants distributing Class I milk on routes in the Lake Mead market. These plants were purchasing their milk in California under regulations established by the California Department of Agriculture. Their principal sales were in the Las Vegas portion of the marketing area to their own retail store outlets. Such sales, however, represented only a small part of each plant's total sales, all of which are large Class I volume plants.

As indicated, the operator of a partially regulated distributing plant is exempt from the payment provisions of the Lake Mead order (except for an administrative assessment) during those months in which such operator pays a utilization value for all milk received at the plant from dairy farmers that is equal to or in excess of what the

[6] Official notice is taken of the release entitled "Market Administrator's Report" issued monthly by the market administrator of the Lake Mead order for each month from January 1980 through April 1981.

[7] Official notice is taken of the commercial fact of this acquisition by Knudsen Dairy in February 1981.

payment obligation would have been if it had been fully regulated under the Lake Mead order. For the most part, California handlers have not incurred a payment obligation under the order on their Class I sales in the marketing area for they have elected option B. This is because they paid as much or more for their total milk supply under the classified pricing plan established by the State of California than they would have been requred to pay if they had been fully regulated by the Lake Mead order. A temporary aberration from this normal situation happened only when the California Class I prices became relatively low in relation to the Lake Mead order Class I prices. Under such circumstances, California handlers incurred a payment obligation to the producer-settlement fund.

Data placed in the record by a representative of the market administrator's office showed the extent of payments made by California handlers to the producer-settlement fund from the inception of the order in August 1973 until July 1980. During the 84 months covered by this tabulation, California handlers made no such payments in 69 of these months. In 15 of the remaining months, one or more of the California handlers made payments to the producer-settlement fund. However, this situation could change at any time as a result of price adjustments under either the State or Federal orders.

There is no indication that California partially regulated handlers enjoy a price advantage over fully regulated handlers in terms of the cost of Class I milk distributed in the marketing area. The order has not contributed to the inroads on the market's Class I sales by California handlers. Instead, it is apparent that the principal reason for the relatively large volume of in-area sales by these handlers is that the handlers operate stores in the Lake Mead market, which they choose to supply from their California plants. Because the handlers have no price advantage, over Lake Mead handlers on their raw milk, the reasons for this marketing arrangement presumably are due to other incentives, such as increased plant efficiency with large-volume operations.

On the basis of the marketing conditions described above, it is concluded that the present payment provisions applicable to partially regulated handlers are carrying out the basic intent of placing pool and nonpool milk on substantially similar competitive positions.

The problem presented by proponent in connection with its proposal involves basically a concern that there is a lack of equity between dairy farmers supplying fully regulated plants in the Lake Mead area and dairy farmers supplying partially regulated plants that also are competing for Class I sales in the Lake Mead market. Proponent's position was that, when associated with the Lake Mead market, all dairy farmers, whether they are supplying a fully or partially regulated plant, should share proportionately in the benefits of the Class I sales as well as in the burden of the lower-priced reserve milk for the market. Proponent believes that equity for both groups of dairy farmers can be achieved by charging a California handler the difference between the order's Class I and blend prices on all of the handler's sales in the Lake Mead market. Proponent claims that this charge in turn, would be passed on automatically to the California dairy farmer in the form of a lower price for their milk. The reasoning for this approach was that the California producers would thus share in the volume of the Lake Mead Class I sales only to the extent of the Lake Mead blend price. This is because the California handlers would have to pay the difference between the Class I price and blend price to the Lake Mead pool. Proponent indicated that in this way the returns to California producers would be comparable to those of the Lake Mead producers who also share in the market's Class I sales only to the extent of the blend price.

The present partially regulated plant provisions of the order should not be amended for this purpose. There is no indication that the increased sales by California handlers have had any serious impacts on the local producers supplying the market. Such sales have not reduced the proportion of producer milk classified as Class I under the order and thus have not reduced the net price received by the producers associated with the Lake Mead market. Data introduced into the record show that in 1974, the first full year of operation of the order, producer milk classified as Class I was 63 percent of the total. With one minor exception, Class I utilization of producer milk has increased over the previous year from 1974 to 1980, reaching a high of 74 percent in 1980. During this same period, producer deliveries also increased—129 million pounds in 1974 compared to 146 million pounds in 1980, an increase of over 13 percent. Under these marketing conditions, it is concluded that the sales by California handlers in the Lake Mead market have not had an adverse effect on the Lake Mead producer price.

As indicated, the proponent cooperative proposed at the hearing that if its proposal to eliminate option B were not adopted then the California handlers involved in the market should be required to make a payment for administrative assessment based on their total plant receipts of milk from dairy farms. The proposal should not be adopted. There was no indication that the market administrator has inadequate funds to defray the costs of completing an audit to verify the utilization and payments of California handlers when they elect option B. Moreover, to apply the administrative assessment on the total receipts of a partially regulated plant would result in a monetary obligation to the California handlers, because of their large size, in excess of their obligation through the alternative of electing to make payment into the producer-settlement fund at the Class I price minus blend price rate. Under such circumstance, it would nullify the purpose of providing the partially regulated distributing plant operator alternatives in meeting the order's payment obligations on any fluid milk products that such operator distributes in the marketing area.

Finally, the proponent's alternative proposal to eliminate the application of location adjustments to California partially regulated distributing plants should not be adopted. The spokesman for the proponent cooperative did not present any specific testimony on this issue other than merely offering the proposal. Moreover, the record provides no evidence of marketing problems that would warrant not applying location adjustments to California partially regulated distributing plants.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the request to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the

aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to Section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

PART 1139—MILK IN THE LAKE MEAD MARKETING AREA

The recommended marketing agreement is not included in this decision because the regulatory provisions of it would be the same as those contained in the order that is proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Lake Mead marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

§ 1139.12 [Amended]

1. In § 1139.12, paragraph (b)(5) is removed.

2. In § 1139.40, paragraphs (b)(3) and (c)(1) are revised to read as follows:

§ 1139.40 Classes of utilization.

* * * * *

(b) * * *

(3) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese; and

(ii) Milkshakes and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes.

(c) * * *

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter, plastic cream, frozen cream, and anhydrous milkfat;

(iii) Any milk product in dry form;

(iv) Custards, puddings, and pancake mixes;

(v) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers;

(vi) Evaporated or condensed milk (plain or sweetened) in a consumer-type package, evaporated or condensed skim milk (plain or sweetened) in a consumer-type package, and any concentrated milk product in bulk, fluid form;

(vii) Any product containing 6 percent or more nonmilk fat (or oil) except those products specified in paragraph (b)(1) of this section; and

(viii) Any product that is not a fluid milk product and that is not specified in paragraphs (b) or (c)(1)(i) through (vii) of this section;

* * * * *

3. In § 1139.44, paragraph (a)(7)(vii) is revised to read as follows:

§ 1139.44 Classification of producer milk.

* * * * *

(a) * * *

(7) * * *

(vii) Receipts of milk from a dairy farmer pursuant to § 1139.12(b)(4);

* * * * *

4. Section 1139.53 is revised to read as follows:

§ 1139.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1139.55 [Removed]

5. Section 1139.55 is removed in its entirety.

6. In § 1139.60, paragraphs (a), (b), and (c) are revised to read as follows:

§ 1139.60 Handler's value of milk for computing uniform price.

* * * * *

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1139.44 by the applicable class prices (adjusted pursuant to § 1139.52) and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1139.44(a)(14) and the corresponding step of § 1139.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1139.74, that are applicable at the location of the pool plant;

(c) Add the following:

(1) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1139.44(a)(9) and the corresponding step of § 1139.44(b); and

(2) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class II price for the current month by the lesser of:

(i) The hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1139.44(a)(9) and the corresponding step of § 1139.44(b) for the current month; or

(ii) The hundredweight of skim milk and butterfat remaining in Class III after the computations pursuant to § 1139.44(a)(12) and the corresponding step of § 1139.44(b) for the preceding month, less the hundredweight of skim milk and butterfat specified in paragraph (c)(1) of this section;

* * * * *

7. Section 1139.61 is revised to read as follows:

§ 1139.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1139.60 for all handlers who filed reports prescribed by § 1139.30 for the month and who made the payments pursuant to § 1139.71 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1139.75;

(c) Add an amount equal to not less than one-half the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1139.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price."

8. Section 1139.62 is revised to read as follows:

§ 1139.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The 5th day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

9. Section 1139.74 is revised to read as follows:

§ 1139.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

Signed at Washington, D.C., on September 9, 1981.

William T. Manley,

Deputy Administrator.

[FR Doc. 81-26764 Filed 9-14-81; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

Defective and Nonstandard Materials and Equipment, Bulletin 345-5

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: REA proposes to amend Appendix A by withdrawing Bulletin 345-5, Defective and Nonstandard Materials and Equipment. This action is being taken as the document is obsolete and redundant. Essential material addressed in this document is more effectively covered in other REA bulletins.

DATE: Public comments must be received by REA no later than November 16, 1981.

ADDRESS: Submit written comments to Joseph M. Flanigan, Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: E. J. Cohen, Engineering Management and Standards Engineer, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-4561. The Draft Regulatory Impact Analysis describing the options considered in developing the proposed rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et. seq.), REA proposes to amend Appendix A—REA Bulletins by withdrawing Bulletin 345-5, Defective and Nonstandard Materials and Equipment. This action has been reviewed under USDA procedures established to implement Executive Order No. 12291 and has been classified as not major. A Regulatory Flexibility Analysis is not required, nor is an OMB Circular A-95 Review.

As the material addressed in this 1958 Bulletin has been more effectively addressed in subsequent documents, it is considered to be in the best interest of all concerned to withdraw it. Alternatives considered were the retention of the document in its present form, or a revision of it and other related bulletins to centralize and update the material. The present redundancy causes confusion, while the revisions required to update 345-5 and related bulletins would be significant, and coverage of the material would be in a less optimal context, so that neither of these options was considered best.

This program is listed in the Catalog of Federal Domestic Assistance as 10.851 Rural Telephone Loans and Loan Guarantees.

All written submissions made pursuant to this action will be made available for public inspection during regular business hours, above address.

Dated: September 8, 1981.

Jack Van Mark,

Acting Administrator.

[FR Doc. 81-26761 Filed 9-14-81; 8:45 am]

BILLING CODE 3410-15-M

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7 CFR Part 1701

Proposed Revision of REA Bulletin 44-7 (Electric) and 345-3 (Telephone)

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration proposes to amend Appendix A—REA Bulletins to provide for the revision of REA Bulletin 44-7 (Electric) and 345-3 (Telephone) "Acceptance of Standards, Standard Specifications, Drawings, Materials and Equipment for the Electric and Telephone Programs." The proposed revision will provide separate bulletins for the telephone and electric programs. This proposal deals with revised Bulletin 44-7 (Electric) "Standards, Standard Specifications, Drawings, Materials, Equipment, and Programs and Inspection Agencies for the Procurement of Timber Products for the Electric Program." It will bring organizational references up to date, consolidate electric program rules on the subject matter which are presently contained in REA Bulletin 44-7, Bulletin 44-1, "Specifications and Standards for Materials and Equipment," and Bulletin 43-6, "Selection and Inspection of Materials and Equipment." REA Bulletin 44-7 will include provisions for acceptance and removal of timber products inspection agencies to provide a more equitable procedure, and include new guidelines and procedures for removing-for-cause items from REA Bulletin 43-5, "List of Materials Acceptable for Use on Systems of REA Electrification Borrowers."

Upon issuance of the proposed revision of Bulletin 44-7, which will contain all the rules presently in Bulletins 44-1 and 43-6, REA proposes to amend Appendix A—REA Bulletins to provide for (1) the rescision of Bulletin 44-1 and (2) the removal of Bulletin 43-6 from Appendix A. A proposal for revised REA Bulletin 345-3 (Telephone) will be issued separately.

DATE: Public comments must be received by REA no later than: November 16, 1981.

ADDRESS: Submit written comments to the Director, Engineering Standards Division, Rural Electrification Administration, Room 1270, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Archie W. Cain, telephone (202) 447-3813. A Draft Impact Analysis has been prepared and is available from the Director, Engineering Standards Division, at the above address.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend Appendix A—REA Bulletins to provide for the revision of REA Bulletin 44-7 (Electric) and 345-3 (Telephone), "Acceptance of Standards, Standard Specifications, Drawings, Materials and Equipment for the Electric

and Telephone Programs," resulting in separate bulletins for each program. This proposal deals with revised REA Bulletin 44–7 (Electric), "Standards, Standard Specifications, Drawings, Materials, Equipment, and Programs and Inspection Agencies for the Procurement of Timber Products for the Electric Program." This proposal has been issued in conformance with Executive Order No. 12291, Federal Regulation, and has been determined to be "not major."

The Regulatory Flexibility Act (Public Law 96–354) does not apply to this action, therefore, a Regulatory Flexibility Analysis has not been prepared.

The proposed changes in REA requirements in revised REA Bulletin 44–7 (Electric) are as follows:

(a) Add provisions for acceptance and removal of timber products inspection agencies by the technical standards committees to provide more equitable procedures.

(b) Include new guidelines and procedures for removing-for-cause items from REA Bulletin 43–5, "List of Materials Acceptable for Use on Systems of REA Electrification Borrowers," in order to provide due process.

Copies of the draft revision are available from the Director, Engineering Standards Division, at the above address. This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: September 8, 1981.

Jack Van Mark,

Acting Administrator.

[FR Doc. 81-26760 Filed 9-14-81; 8:45 am]

BILLING CODE 3410-15-M

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7 CFR Part 1701

Specification for Self-Supporting Cable, PE–38, Bulletin 345–29

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: REA proposes to amend Appendix A by issuing a revised Bulletin 345–29, Specification for Self-Supporting Cable, PE–38. With increased labor rates for cable installations, self-supporting cable has become more cost-effective than lashed cable. The revision of this specification reflects this increased interest and the advances in technology since the last revision in 1971.

DATE: Public comments must be received by REA no later than November 16, 1981.

ADDRESS: Submit written comments to Joseph M. Flanigan, Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Harry M. Hutson, Chief, Outside Plant Branch, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3827. The Draft Regulatory Impact Analysis describing the options considered in developing the proposed rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electriciation Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend Appendix A by issuing a revised Bulletin 345–29, Specification for Self-Supporting Cable, PE–38. This proposed action has been issued in conformance with Executive Order 12291, Federal Regulation, and has been determined to be "not major." A Regulatory Flexibility Analysis is not required, nor is an OMB A–95 review applicable.

This specification was last revised in July 1971 to reflect the product available at that time. Due to the relatively high first cost of self-supporting cable, compared to lashed cable, and to the relatively small savings in installation costs, due to low labor rates, this product was not used extensively.

With recent drastic increases in labor rates, the product is now cost-effective for many installations. As technology has advanced in the decade since that last issuance of PE–38, this revision reflects these changes and provides a cost-effective tool for rural telephony.

Retaining the document in its 1971 form was considered inadvisable as this would have forced the use of obsolescent materials. Changing only sections of the document via addenda was considered and rejected as this would have forced the user to refer between several documents, thus increasing the likelihood of confusion and errors in applying the specification. The comprehensive revision, as undertaken, was considered to be the best available option.

This program is listed in the Catalog of Federal Domestic Assistance as 10.851—Rural Telephone Loans and Loan Guarantees.

REA, in its effort to assure the best, most cost-effective telecommunications for rural America, proposes to revise PE–38. This revision will permit the use of improved self-supporting cable resulting in more cost-effective installations. All written submissions made pursuant to this action will be made available for public inspection during regular business hours, above address.

Dated: September 8, 1981.

Jack Van Mark,

Acting Administrator.

[FR Doc. 81-26759 Filed 9-14-81; 8:45 am]

BILLING CODE 3410-15-M

FEDERAL ELECTION COMMISSION

11 CFR Part 114

Communications by Corporations and Labor Organizations

Corrections

In FR Doc. 81–26192 appearing at page 44964 in the issue of Tuesday, September 8, 1981, make the following changes:

(1) On page 44964, third column, three lines from the top of the page, "Is is proposed * * *" should have read "It is proposed * * *".

(2) In the same column, in § 114.3, in the heading, "* * * corporation of labor organization * * *" should have read "* * * corporation or labor organization * * *"; and the 16th line of paragraph (a) now reading "* * * organizations permitted under 11 CFR * * *" should have read "* * * organizations may also choose to make the nonpartisan communications permitted under 11 CFR * * *".

(3) On page 44965, first column, paragraph (4) of § 114.3(c), in the first line, *"Partisan Registeration* * * *"* should have read *"Partisan Registration* * * *".*

(4) In the same column, in the heading for § 114.4, "* * * corporation of labor organization * * *" should have read "* * * corporation or labor organization * * *".

(5) In the second column of page 44965, in paragraph (i) of § 114.4(a)(2), in the fourth line, "* * * apear * * *" should have read "* * * appear * * *".

(6) In the third column of page 44965, change the following:

Seventeenth line from the top of the page (in § 114.4(a)(3)(i)), "* * * cadidate * * *" should have read "* * * candidate * * *".

Twenty lines from the bottom of the page (in § 114.4(b)(2)(i)(A)), "* * * candidates(s) * * *" should have read "* * * candidate(s) * * *".

Thirteen lines from the bottom of the page (in § 114.4(b)(2)(i)(B)), the reference now reading "* * * 11 CFR 114.4(b)(2)(A) * * *" should have read "* * * 11 CFR 114.4(b)(2)(i)(A) * * *".

(7) On page 44966, first column, six lines from the top of the page (in paragraph (ii) of § 114.4(b)(2)), "* * * means of communications * * *" should have read "* * * means of communication* * *".

(8) In the third column of the same page, in the second line of paragraph (i) of § 114.4(c)(1), "* * * sponsors the drivers * * *" should have read "* * * sponsors the drives * * *".

(9) On page 44967, first column, between the tenth and eleventh lines, insert the beginning of paragraph (d) to § 114.4 as follows:

"(d) *Incorporated Membership Organizations, Trade Associations, Cooperatives and Corporations Without* * * *".

(10) In the third column of page 44967, between the second and third lines from the top of the page, insert the following to indicate that paragraph (e) of § 114.4 was not amended:

"(e) (No change)"

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 203

[Docket No. 79N-0186]

Prescription Drug Products; Patient Package Insert Requirements; Public Meeting and Request for Comments; Amendment to Previous Announcement

AGENCY: Food and Drug Administration, HHS.

ACTION: Amended notice of public meeting and request for comments.

SUMMARY: The Food and Drug Administration announced in the Federal Register of August 21, 1981, (46 FR 42470) a public meeting to be held September 30, 1981, to receive comments on its proposed patient package insert program. This document announces that a second meeting will be held on the same subject and at the same location. Mark Novitch, Deputy Commissioner of Food and Drugs, will preside at the second meeting.

DATE: The meeting will be held October 1, 1981, beginning at 9:30 a.m.

ADDRESS: The meeting will be held in the auditorium, HHS North Bldg., 330 Independence Ave. SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Louis A. Morris, Bureau of Drugs (HFD-175), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4893.

Dated: September 11, 1981.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-26965 Filed 9-14-81; 8:45 am]

BILLING CODE 4110-03-M

COPYRIGHT ROYALTY TRIBUNAL

37 CFR Part 307

[Docket No. 81-3]

Royalty Payable Under Compulsory License for Making and Distributing Phonorecords (Mechanical Royalty); Possible Commencement of Proceeding for Determination of Interim Adjustment

September 9, 1981.

AGENCY: Copyright Royalty Tribunal.

ACTION: Request for comments on possible commencement of rulemaking proceeding.

SUMMARY: The Copyright Royalty Tribunal (Tribunal) published in the Federal Register of January 5, 1981 (46 FR 891-92) its final rule concerning the adjustment of the royalty payable under the compulsory license for the making and distributing of phonorecords. The findings to accompany the rule were published in the Federal Register of February 3, 1981 (46 FR 10466-87). The Tribunal rule adjusted the royalty payable under the compulsory license, and provided for interim adjustment of the royalty on the basis of changes in record prices.

Several parties filed petitions for judicial review of the Tribunal's rule. These petitions challenged the Tribunal's rule and findings on a variety of grounds. These petitions were consolidated in the United States Court of Appeals for the District of Columbia Circuit (Recording Industry Association of America v. Copyright Royalty Tribunal and the United States of America, No. 80-2545). The Court on June 23, 1981 entered its judgment in the consolidated cases and on August 27, 1981 issued its opinion. The Court set aside the Tribunal's interim adjustment mechanism, but in "all other respects" upheld the Tribunal's decision.

The Court has remanded the case to the Tribunal "for the limited purpose of allowing the Tribunal to consider whether it wishes to adopt an alternative scheme for interim adjustments."

The Tribunal now invites comments on whether the Tribunal should commence a proceeding for the purpose of modifying the record price interim adjustment mechanism as set forth in 37 CFR 307.3 and 307.4, in accordance with the opinion of the Court of Appeals so as to exclude "annual exercise of discretion" by the Tribunal.

DATE: Any such comments shall be submitted not later than October 1, 1981.

ADDRESS: Comments shall be addressed to the Chairman, Copyright Royalty Tribunal, 1111 20th Street, N.W., Rm. 450, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Thomas C. Brennan, Acting Chairman, (202) 653-5175.

Thomas C. Brennan,

Acting Chairman, Copyright Royalty Tribunal.

[FR Doc. 81-26978 Filed 9-14-81; 8:45 am]

BILLING CODE 1410-01-M

VETERANS ADMINISTRATION

38 CFR Part 1

Disclosure of Loan Guaranty Information

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The VA (Veterans Administration) is proposing to revise the provision of the general regulations which governs the release of information from loan guaranty files. The proposed regulation is designed to assure compliance with the Freedom of Information Act, the Privacy Act, and the Veteran's Rehabilitation and Education Amendments of 1980.

DATES: Comments must be received on or before October 15, 1981. It is proposed to make this regulation effective on the date of final approval.

ADDRESSES: Interested persons are invited to submit written comments, suggestions or objections regarding this proposal to the Administrator of Veterans Affairs (271A), 810 Vermont Avenue, NW, Washington, D.C. 20420. All written comments received will be available for public inspection only at the above address between 8 a.m. and 4:30 p.m., Monday through Friday (except holidays), until October 26, 1981. Persons visiting the Veterans Administration Central Office for the purpose of inspecting public comments will be received by the Veterans

Services Unit in room 132 of the above address.

FOR FURTHER INFORMATION CONTACT: George Moerman, Loan Guaranty Service (264), Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW Washington, D.C. 20420, (202) 389-3042.

SUPPLEMENTARY INFORMATION: The proposed § 1.512 would require field stations to release information from loan guaranty files in accordance with the Freedom of Information Act (Pub. L. 89-487, 5 U.S.C. 552), the Privacy Act (Pub. L. 93-579, 5 U.S.C. 552a) and the confidentiality provisions of the law governing veterans benefits (38 U.S.C. 3301), as amended by the Veterans' Rehabilitation and Education Amendments of 1980 (Pub. L. 96-466).

Section 1.512(a) sets forth the general requirements concerning the disclosure of information from loan guaranty files.

Section 1.512(b) lists those items including appraisal reports and certificates of reasonable value, which will be disclosed to any person under the Freedom of Information Act, provided the veteran-purchaser's or dependent's name and address are deleted before release to any person not a party to the related transaction.

Section 1.512(c) will implement 38 U.S.C. 3301(h)(2)(A) through (C), as added by Pub. L. No. 96-466. It allows the VA to release a veteran's or other person's name and address when requesting or verifying data used to evaluate creditworthiness in connection with loans made, insured or guaranteed by the VA, or where necessary to allow a person to obtain a specially adapted housing grant. Releases shall also be made in connection with a person's request to assume the liability of or substitute loan graranty entitlement on an existing VA loan, or where necessary for sale of a loan or installment sales contract held by the VA.

Section 1.512(d) will implement 38 U.S.C. 3301(e), (h)(2)(A) and (D) as amended by Pub. L. No. 96-466 with respect to loan guaranty matters. The proposed regulatory paragraph authorizes release of a veteran's or other person's VA loan account status to a prospective creditor or other person or organization which is considering extending credit, providing services, or other benefits to the VA loan obligor. In administering the credit underwriting function of the Loan Guaranty Program, the VA relies on credit data furnished by other credit granting persons and organizations. The VA uses such data in order to underwrite loans with a proper regard for both the Government's fiscal interests and the veteran's ability to carry his or her prospective financial obligations. The VA cannot expect to receive data from other organizations without reciprocating by furnishing other prospective creditors with like data on the status of a veteran's financial obligations undertaken through his or her participation in the Loan Guaranty Program. Therefore, these releases are made as a part of the ongoing administration of the program. They also serve to assist individuals who might otherwise be unable to obtain credit or some other benefit from a prospective creditor or other organization without verification of the payment history on his or her obligation to the VA. Releases shall be made only if the person or organization seeking the information furnishes the individual's name, address, or other necessary identifying information.

Section 1.512(e) will provide that appropriate records of any releases from loan guaranty files shall be maintained in the affected files.

The Administrator hereby certifies that this proposed regulation will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, Secs. 601-612. Pursuant to 5 U.S.C.(b), this proposed regulation is therefore exempt from the initial and final Regulatory Flexibility analyses requirements of Secs. 603 and 604. The proposed regulation, if adopted, should have no effect upon small government jurisdictions, small organizations, or small businesses. The regulations are proposed to assure VA compliance with existing statutory provisions relating to the release of information from loan guaranty files.

The proposed regulation has been reviewed pursuant to Executive Order 12291 and has been found to be a nonmajor regulation. The official program numbers and titles of the VA programs affected by this action as set forth in OMB Circular A-89, Catalog of Federal Domestic Assistance, are: (1) 64.106, Specially Adapted Housing for Disabled Veterans; (2) 64.113, Veterans Housing—Direct Loans and Advances; (3) 64.114, Veterans Housing—Guaranteed and Insured Loans; (4) 64.118, Veterans Housing—Direct Loans for Disabled Veterans, and (5) 64.119, Veterans Housing—Mobile Home Loans.

Approved: September 3, 1981.

Robert P. Nimmo,

Administrator.

(38 U.S.C. 210(c), 1803(c), 1819(g), 1820(a) and 3301(c), (e) and (h)).

PART 1—GENERAL PROVISIONS

38 CFR 1.512 is revised to read as follows:

§ 1.512. Disclosure of loan guaranty information.

(a) The disclosure of records or information contained in loan guaranty files is governed by the Freedom of Information Act, 5 U.S.C. 552; the Privacy Act, 5 U.S.C. 552a; the confidentiality provisions of 38 U.S.C. 3301, and the provisions of 38 CFR 1.500-1.584. In addition, the release of names and addresses and the release of certificates of reasonable value, appraisal reports, property inspection reports, or reports of inspection on individual water supply and sewage disposal systems shall be governed by paragraphs (b), (c), (d), and (e) of this section.

(b)(1) Upon request, any person is entitled to obtain copies of certificates of reasonable value, appraisal reports, property inspection reports, or reports of inspection on individual water supply and sewage disposal systems provided that the individual identifiers of the veteran-purchaser(s) or dependents are deleted prior to release of such documents. However, individual identifers may be disclosed in accordance with paragraph (b)(2) of this section. The address of the property being appraised or inspected shall not be considered an individual identifier. (38 U.S.C. 3301(a), (c))

(2) Individual identifiers of veteran purchasers or dependents may be disclosed when disclosure is made to the following:

(i) The individual purchasing the property;

(ii) The current owner of the property;

(iii) The individual that requested the appraisal or report;

(iv) A person or entity which is considering making a loan to an individual with respect to the property concerned; or

(v) An attorney, real estate broker, or any other agent representing any of these persons. (38 U.S.C. 3301(c), (h)(2)(D))

(c)(1) The Administrator may release the name, address, or both, and may release other information relating to the identity of an applicant for or recipient of a Veterans Administration-guaranteed, insured, or direct loan, specially adapted housing grant, loan to finance acquisition of Veterans Administration-owned property, release of liability, or substitution of entitlement to credit reporting agencies, companies or individuals extending credit, depository institutions, insurance companies, investors, lenders, employers, landlords, utility companies and governmental agencies for any of

the purposes specified in paragraph (c)(2) of this section.

(2) A release may be made under paragraph (c)(1) of this section

(i) To enable such parties to provide the Veterans Administration with data which assists in determining the creditworthiness, credit capacity, income or financial resources of the applicant for or recipient of loan guaranty administered benefits, or verifying whether any such data perviously received is accurate; or

(ii) To enable the Administrator to offer for sale or other disposition any loan or installment sale contract. (38 U.S.C. 3301(h)(2)(A), (B), (C))

(d) Upon request, the Administrator may release information relating to the individual's loan transaction to credit reporting agencies, companies or individuals extending credit, depository institutions, insurance companies, investors, lenders, employers, landlords, utility companies and governmental agencies where necessary in connection with a transfer of information on the status of a Veterans Administration loan account to persons or organizations proposing to extend credit or render services or other benefits to the borrower in order that the person or organization may determine whether to extend credit or render services or other benefits to the borrower. Such releases shall be made only if the person or organization seeking the information furnishes the individual's name, address or other information necessary to identify the individual. (38 U.S.C. 3301(e), (h)(2)(A) and (D))

(e) The Administrator shall maintain information in the loan guaranty file consisting of the date, notice and purpose of each disclosure, and the name and address of the person to whom the disclosure is made from the loan guaranty files. (38 U.S.C. 3301(h)(2)(D), 5 U.S.C. 552a(c))

[FR Doc. 81-26755 Filed 9-14-81; 8:45 am]

BILLING CODE 8320-01-M

POSTAL SERVICE

39 CFR Part 111

Northern Mariana Islands; Mail Security Regulations

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize postal employees in the Northern Mariana Islands to cooperate with customs officials of the Government of the Northern Mariana Islands by permitting them to examine the exterior of mail entering the Islands which may contain dutiable or prohibited articles and to open without a search warrant or the consent of the sender or addressee, such incoming mail as the Postal Service has authority to open without a search warrant or consent. This would extend to customs officials of the Northern Marianas the same cooperation which is authorized to be given by postal employees in Guam and American Samoa to customs officials of the Government of Guam and the Government of American Samoa, respectively, and by postal employees in the U.S. Virgin Islands to officials of the U.S. Customs Service in the Virgin Islands, under existing postal regulations.

DATE: Comments must be received on or before October 15, 1981.

ADDRESS: Written comments should be directed to the Assistant General Counsel, Special Projects Division, U.S. Postal Service, Washington, D.C. 20260. Copies of all written comments received will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, outside room 9010, 475 L'Enfant Plaza West, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Scott L. Reiter or Charles R. Braun (202) 245-4620.

SUPPLEMENTARY INFORMATION: Postal mail security regulations generally prohibit, with expressly stated exceptions, the opening, detention, and delay of mail, and the disclosure of information concerning mail in postal custody. Domestic Mail Manual ("DMM"), part 115, incorporated by reference, 39 CFR 111.1 (1980), 46 FR 33980, 33997 (1981). Among the exceptions are authorizations for postal employees in the U.S. Virgin Islands, in Guam, and in American Samoa, to permit customs officials of the United States, of Guam, and of American Samoa, respectively, without a search warrant, to open, inspect, and read the contents of incoming unsealed mail, and to examine the exterior (but not open or read the contents) of incoming sealed mail. DMM 115.91b, 43 FR 14313-14 (1978) (Virgin Islands); DMM 115.94, 43 FR 14314 (1978) (Guam); DMM 115.98, 44 FR 37229-30 (1979) (American Samoa).

The Government of the Northern Mariana Islands ("NMI") has asked the Postal Service to provide for a similar arrangement with respect to mail entering the NMI to enable NMI customs officials adequately to enforce NMI customs laws prohibiting the importation of certain items and NMI internal revenue laws imposing taxes on imported articles. The Postal Service has concluded that there is no reasonable basis to withhold from customs officials of the NMI Government the same cooperation which the Postal Service presently affords to Guam customs officials in Guam, to American Samoa customs officials in American Samoa, and to U.S. customs officials in the U.S. Virgin Islands. No comments in opposition to the provisions authorizing such cooperation in these areas were received before or after their adoption. Accordingly, the Postal Service proposes to adopt regulations authorizing the same cooperation with the customs officials of the Northern Mariana Islands that is authorized with the other above-named customs officials.

Although exempted by 39 U.S.C. 410(a) from the provisions of the Administrative Procedure Act regarding proposed rulemaking, 5 U.S.C. 553 (b), (c), the Postal Service invites comments on the following proposed amendment of the Domestic Mail Manual, incorporated by reference in the **Federal Register**. 39 CFR 111.1.

Part 115 of the Domestic Mail Manual is proposed to be amended by adding a new section 115.95 as follows:

.95 *Customs Inspection in the Northern Mariana Islands.*

Postal employees in the Saipan post office and the Rota post office may permit designated Northern Mariana Islands customs officials, without a search warrant, to open, inspect, and read the contents of unsealed mail, and to examine the exterior (but not open or read the contents) of sealed mail which originates outside the Northern Mariana Islands and is addressed for delivery within the Northern Mariana Islands. Upon the request of Northern Mariana Islands customs officials, postal employees in the Saipan post office or the Rota post office may ask the addressee of sealed mail which Northern Mariana Islands customs reasonably suspects of containing dutiable or prohibited matter to authorize Northern Mariana Islands customs officials to open and inspect the contents of the sealed mail, or to appear at the post office to accept delivery of the sealed mail in the presence of a Northern Mariana Islands customs official.

An appropriate amendment of 39 CFR 111.3 to reflect this change will be published if the proposal is adopted.

(39 U.S.C. 401, 403, 404, 3623(d))

W. Allen Sanders,

Associate General Counsel, General Law and Administration.

[FR Doc. 81-26717 Filed 9-14-81; 8:45 am]

BILLING CODE 7710-12-M

Notices

Federal Register
Vol. 46, No. 178
Tuesday, September 15, 1981

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Adjustment of Section 22 Import Fees on Sugar

AGENCY: Office of the Secretary.

ACTION: Notice.

SUMMARY: Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States (TSUS) requires the Secretary of Agriculture to increase by one cent the amount of the fees which shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) under the authority of Section 22 of the Agricultural Adjustment Act of 1933, as amended, whenever the average daily spot price quotation for raw sugar for 10 consecutive market days within any calendar quarter, adjusted to a United States delivered basis, plus the fee then in effect, is less than 14.0 cents. This notice announces such adjustment.

EFFECTIVE DATE: 12:01 AM (local time at point of entry) September 11, 1981. (See Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: William F. Doering, Foreign Agricultural Service, Department of Agriculture, Washington, D.C. 20250, (202) 447-6723.

SUPPLEMENTARY INFORMATION: By Presidential Proclamation No. 4631, dated December 28, 1978, headnote 4 of Part 3 of the Appendix to the TSUS was amended to provide for quarterly adjusted fees on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15). Paragraph (c)(ii) of headnote 4 provides that the quarterly adjusted fee for item 956.15 shall be the amount by which the average of the daily spot (world) price quotations for raw sugar for the 20 consecutive market days immediately preceding the 20th day of the month preceding the calendar quarter during which the fee shall be applicable (as reported by the New York Coffee and Sugar Exchange or, if such quotations are not being reported, by the International Sugar Organization), expressed in United States cents per pound, Caribbean ports, in bulk, adjusted to a United States delivered basis by adding the applicable duty and 0.90 cents per pound to cover attributed costs for freight, insurance, stevedoring, financing, weighing and sampling, is less than 15.0 cents per pound. However, whenever the average of the daily spot price quotations for 10 consecutive market days within any calendar quarter, adjusted to a United States delivered basis, plus the fee then in effect, (1) exceeds 16.0 cents, the fee then in effect shall be decreased by one cent, or (2) is less than 14.0 cents, the fee then in effect shall be increased by one cent. However, the fee may not be greater than 50 per centum of the average of such daily spot price quotations. Paragraph (c)(i) further provides that the quarterly adjusted fee for items 956.05 and 957.15 shall be the amount of the fee for item 956.15 plus .52 cents per pound.

The average of the daily spot price quotations for raw sugar (item 956.15) for the 10 consecutive market day period August 24–September 4, inclusive, within the third calendar quarter of 1981, adjusted as provided in headnote 4(c) to a United States delivered basis, plus the fee of 0 cents per pound now in effect for item 956.15 [13.90 cents +0=13.90 cents], is less than 14 cents per pound. Accordingly, the fee of 0 cents per pound for item 956.15 is required to be increased by one cent, resulting in a fee for item 956.15 of 1.00 cents per pound and a fee for items 956.05 and 957.15 of 1.52 cents per pound.

Headnote 4(c) requires the Secretary of Agriculture to determine and announce any adjustment in the fees made within a calendar quarter, certify such adjustment fees to the Secretary of the Treasury, and file notice thereof with the Federal Register within 3 market days of such determination. This notice is therefore being issued in order to comply with the requirements of headnote 4(c).

Effective Date

In accordance with headnote 4(c)(v) of part 3 of the Appendix to the Tariff Schedules of the United States, the adjustment in fee made herein shall not apply to the entry or withdrawal from warehouse for consumption of sugar exported (as defined in § 152.1 of the Customs Regulations) on a through bill of lading to the United States from the country of origin before the effective date of the adjustment.

Notice

Notice is hereby given that, in accordance with the requirements of headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States, it is determined that the fees for raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) for the remainder of the third calendar quarter of 1981 shall be as follows:

Item and Fee

956.05—1.52 cents per lb.
956.15—1.00 cents per lb.
957.15—1.52 cents per lb.

The amounts of such fees have been certified to the Secretary of the Treasury in accordance with paragraph (c)(iii) of headnote 4.

Signed at Washington, D.C. on September 10, 1981.

John R. Block,

Secretary of Agriculture.

[FR Doc. 81-26743 Filed 9-10-81; 1:28 pm]
BILLING CODE 3410-10-M

Rural Electrification Administration

Oglethorpe Power Corp.; Finding of no Significant Impact

The Rural Electrification Administration (REA) has made a Finding of No Significant Impact (FONSI) in connection with proposed financing assistance to Oglethorpe Power Corporation (OPC) for 30 percent ownership of a 49 MW combustion turbine. The turbine is located at the Plant Wansley Electric Generating Station in Heard and Carroll Counties, Georgia, and has already been constructed. The project was required to provide black-start capability and loss of power protection at Plant Wansley, to increase system reliability, and to provide black-start capability at Plant Yates.

OPC prepared a Borrower's Environmental Report (BER) concerning the project. Based on this BER and other support documents, REA prepared an Environmental Assessment which

incorporates the BER. REA's independent evaluation of the project leads to the conclusion that approval of the project does not represent a major Federal action that will significantly affect the quality of the human environment, and in accordance with REA Bulletin 20–21:320–21, REA has made a FONSI.

Copies of the FONSI, REA's Environmental Assessment and OPC's Borrower's Environmental Report may be obtained from the office of Frank W. Bennett, Director, Power Supply Division, Room 0230, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone (202) 382–1400 or at the Office of Oglethorpe Power Corporation, 2888 Woodcock Boulevard, Atlanta, Georgia 30341.

This Program is listed in the catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 8th day of September 1981.

Jack Van Mark,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 81–26756 Filed 9–14–81; 8:45 am]

BILLING CODE 3410–15–M

COMMISSION ON CIVIL RIGHTS

Massachusetts 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 Massachusetts Advisory Committee to the Commission will convene at 4:00 p.m. and will end at 6:00 p.m., on October 14, 1981, at the New England Regional Office, 55 Summer Street, 8th Floor, Boston, MA 02110. The purpose of this meeting is to discuss the following: (1) Consultation on Layoffs in Public Education and the Impact on Minorities and (2) the report, Massachusetts Bay Transportation Authority and Affirmative Action in the Private Sector.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Dr. Bradford Brown, 17 Roberta Jean Cir., P.O. Box 95, E. Falmouth, MA 02536, 617/540–0276 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, MA 02110, 617/223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 9, 1981.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 81–26705 Filed 9–14–81; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Elemental Sulphur From Canada; Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination To Revoke In Part

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding and tentative determination to revoke in part.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on elemental sulphur from Canada. The review covers 47 of the 52 known producers and/or exporters of this merchandise to the United States, generally for the period July 1, 1978 through November 30, 1980. The review indicates the existence of dumping margins in particular periods for certain exporters.

As a result of this review the Department has preliminarily determined to assess dumping duties for individual exporters equal to the calculated differences between United States price and foreign market value on each of their shipments during the period of review. Where company-supplied information was inadequate or no information was received, the Department has used the best information available.

The Department also has tentatively determined to revoke the finding with respect to the following companies: Home Oil Co., Ltd., Sulconam, Inc., and Irving Oil, Ltd. There have been no imports of elemental sulphur from Canada, produced and sold by Home Oil Co., Ltd., Sulconam, Inc., and Irving Oil, Ltd., at less than fair value from July 1, 1978 through November 30, 1980, and there is no evidence of any sales at less than fair value since that time. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 15, 1981.

FOR FURTHER INFORMATION CONTACT: Jonathan Seiger or Robert Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–2704).

SUPPLEMENTARY INFORMATION:

Procedural Background

On December 17, 1973, a dumping finding with respect to elemental sulphur from Canada was published in the Federal Register as Treasury Decision 74–1 (38 FR 34655). A notice of "Tentative Determination to Modify or Revoke Dumping Finding" with respect to this merchandise sold by Shell Canada, Ltd., Hudson's Bay Oil & Gas, Ltd., Gulf Oil Canada, Ltd., Chevron Standard, Ltd., and Canadian Superior Oil, Ltd., was published by the Department of the Treasury in the Federal Register on February 8, 1979 (44 FR 8057–8). Reasons for the tentative determination were given in the notice and interested parties were given an opportunity to present written or oral views. Treasury received comments from the petitioner; however, Treasury took no final action on the proposed revocation. The Department of Commerce ("the Department") published in the Federal Register of April 9, 1981 (46 FR 21214–16) a notice of preliminary results and tentative determination to revoke in part with respect to these five companies.

On January 1, 1980, the provisions of title I of the Trade Agreements Act of 1979 became effective. Title I replaced the provisions of the Antidumping Act of 1921 ("the 1921 Act") with a new title VII to the Tariff Act of 1930 ("the Tariff Act"). On January 2, 1980, the authority for administering the antidumping duty law was transferred from the Department of the Treasury to the Department. The Department published in the Federal Register of March 28, 1980 (45 FR 20511–12) a notice of intent to conduct administrative reviews of all outstanding dumping findings. As required by section 751 of the Tariff Act, the Department has conducted an administrative review of the finding on elemental sulphur from Canada. The substantive provisions of the 1921 Act and the appropriate Customs Service regulations apply to all unliquidated entries made prior to January 1, 1980.

Scope of the Review

Imports covered by this review are shipments of elemental sulphur, currently classifiable under item 415.4500 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of a total of 52 exporters to the United States of elemental sulphur from Canada, 47 of which are covered by this notice. This review covers varying time periods

through November 30, 1980. Treasury reviewed all prior periods. The applicable periods are indicated for each firm under *Preliminary Results of the Review.*

The issue of the Department's obligation to conduct administrative review of entries, unliquidated as of January 1, 1980 and covered by previously issued appraisement instructions ("master lists"), is under review. Liquidation has been suspended pending disposition of the issue.

Six exporters stated that they did not export elemental sulphur to the U.S. during the period July 1, 1978 through November 30, 1980. The estimated deposit rate for these firms shall be the most recent information for each firm. Twenty-eight exporters refused to respond to our questionnaire or gave inadequate information. For these non-responsive exporters we proceeded to use the best information available to determine the assessment and estimated deposit rates. The best information available is the highest current rate among all responding firms with shipments during the review period, which is 75.19 percent.

United States Price

In calculating United States price the Department used purchase price or exporter's sales price, as defined in section 772 of the Tariff Act or sections 203 or 204 of the 1921 Act, as appropriate.

Purchase price was based either on the ex-factory, packed price to an unrelated purchaser in the U.S., or to an unrelated trading company for export to the U.S., as appropriate. Exporter's sales price was based on the ex-factory, packed or loaded price to the first unrelated purchaser in the United States. Where applicable, deductions were made for brokerage charges, commissions to unrelated parties, Canadian and U.S. inland freight and discounts to distributors. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act or section 205 of the 1921 Act. For companies where we used home market price, at least 3.7 percent of total sulphur production (and at least 7 percent of the amount sold to third countries) was sold in the home market during the covered period. The foreign market values were adjusted, where applicable, for Canadian inland freight, commissions to unrelated parties, packing differentials, and handling charges. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exists:

Manufacturer/exporter	Time period	Margin (percent)
Amerada Minerals	7/1/78-11/30/80	75.19
Amoco Canada	1/1/79-11/30/80	75.19
Amoco/Canamex	6/1/79-11/30/80	0
Aquitaine	7/1/78-12/31/78	75.19
	1/1/79-11/30/80	2.46
Aquitaine/Brimstone	12/1/73-12/31/78	75.19
	1/10/79-11/30/80	75.19
Aquitaine-Canamex	6/1/79-11/30/80	21.22
BP Canada	7/1/78-11/30/80	75.19
BP Canada/Canamex	6/1/79-11/30/80	75.19
Brimestone Export/all other mfrs	12/1/73-11/30/80	75.19
Candel Oil	7/1/78-11/30/80	[1] 28.90
Canadian Reserve	7/1/78-11/30/80	19.06
Canadian Reserve/Canamex	6/1/79-11/30/80	18.96
Canadian Bright Sulphur	2/1/76-11/30/80	75.19
Canamex Commodity/all other mfrs	12/1/73-5/31/79	75.19
CDC Oil & Gas	7/1/78-11/30/80	[1] 28.90
Cities Service	10/1/79-11/30/80	75.19
Cornwall Chemicals	12/1/74-12/31/75	75.19
	1/1/76-11/30/80	3.84
Dome Petroleum	7/1/78-11/30/80	[1] 28.90
Fanchem	3/1/79-11/30/80	75.19
Home Oil	7/1/78-11/30/80	0
Home Oil/Canamex	6/1/79-11/30/80	46.75
Imperial Oil	7/1/78-12/31/78	.32
	1/1/79-12/31/79	1.06
	1/1/80-11/30/80	8.47
Irving Oil	7/1/78-11/30/80	0
Koch Oil	2/1/74-11/30/80	75.19
Marathon Oil	7/1/78-11/30/80	75.19
Marathon Oil/Canamex	6/1/79-11/30/80	75.19
Mobil Oil	7/1/78-12/31/78	12.90
	1/1/79-11/30/80	75.19
Pacific Petroleum	1/1/75-11/30/80	75.19
Pan Canadian	8/1/78-12/31/78	75.19
	1/1/79-11/30/80	0
Pan Canadian/Canamex	1/1/79-11/30/80	0
Petro Canada Exploration	8/1/74-12/31/78	75.19
	1/1/79-11/30/80	.56
Petrofina	12/1/79-11/30/80	75.19
Petrofina/Canamex	6/1/79-11/30/80	75.19
Petrogas Processing	7/1/78-11/30/80	75.19
Petrosul	5/1/78-11/30/80	75.19
Real Int'l Marketing	7/1/78-11/30/80	75.19
Real Int'l/Canamex	6/1/79-11/30/80	75.19
Suconam [3]	7/1/78-11/30/80	0
Sulbow Minerals	2/1/80-11/30/80	75.19
Sulmar Canada	6/1/73-11/30/80	75.19
Suncor, Inc. [2]	12/1/73-11/30/80	75.19
Texaco Canada	7/1/78-11/30/80	[1] 28.90
Tiger Chemcials	11/1/76-11/30/80	.77
Union Oil	7/1/78-12/31/78	0
	1/1/79-11/30/80	75.19
Union Texas	7/1/78-11/30/80	75.19
West Decalta	7/1/78-11/30/80	[1] 28.90
Westcoast Transmission	7/1/78-11/30/80	[1] 28.90

[1] No shipments made during period.
[2] Formerly known as Laurentide Sulphur & Chemicals, Ltd.
[3] Formerly known as Sun Oil Company of Canada, Ltd. and Great Canadian Oil Sands, Ltd.

The proposed rate for Imperial Oil is based on shipments from Imperial's Sarnia, Ontario refinery. The Department has learned of additional shipments originating in Vancouver, British Columbia, and is attempting to determine the appropriate foreign market value to which to compare these shipments. The results of this examination will be presented in the *Final Results of Review.*

In addition, the Department has concluded that, for the period July 1, 1978 through November 30, 1980, there were no sales of elemental sulphur made at less than fair value by Home Oil Company, Ltd., and Irving Oil, Ltd., and that, for the period January 1, 1979 through November 30, 1980, there were no sales made at less than fair value by Sulconam, Inc. Prior Treasury review indicated no sales at less than fair value by Sulconam, Inc. for the period July 1, 1978 through December 31, 1978. There is no indication of any sales at less than fair value by these three companies since that time. As provided for in § 353.54(e) of the Commerce Regulations, the three firms have agreed in writing to an immediate suspension of liquidation and reinstatement of the finding if circumstances develop which indicate that elemental sulphur thereafter produced and imported by these three companies into the United States is being sold at less than fair value.

Tentative Determination

As a result of our review we tentatively determine to revoke the finding on elemental sulphur with respect to Sulconam, Inc., Home Oil Company, Ltd., and Irving Oil, Ltd. If this revocation is made final it will apply to entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after September 15, 1981.

Interested parties may submit written comments on these preliminary results on or before October 15, 1981, and may request disclosure and/or a hearing on or before September 30, 1981. Any request for an administrative protective order must be made no later than September 21, 1981. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all entries made with purchase or export dates, as appropriate, during the time periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions separately on each exporter directly to the Customs Service.

Further, as required by § 353.48(b) of the Commerce Regulations, a cash deposit based upon the most recent of the margins calculated above shall be required on all shipments of elemental sulphur entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This deposit requirement shall

remain in effect until publication of the final results of the next administrative review.

This administrative review, tentative determination to revoke in part and notice are in accordance with sections 751 (a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1), (c)) and §§ 353.53 and 353.54 of Commerce Regulations (19 CFR 353.53 and 353.54).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

September 9, 1981.

[FR Doc. 81-26712 Filed 9-14-81; 8:45 am]

BILLING CODE 3510-25-M

University of Iowa Hospitals and Clinics, et al.; Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the Federal Register.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, in Room 2119 of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 81-00337. Applicant: The University of Iowa, Hospitals and Clinics, Newton Road, Iowa City, Iowa 52252. Article: Single-Photon Emission Tomography System with Accessories. Manufacturer: Medimatic A/S, Denmark. Intended use of article: The article is intended to be used to study blood flow into different brain regions. Two experiments planned are: (1) The study of rCBF in both healthy subjects and in patients as it measures brain activity in a series of functions, such as various reading problems, stuttering and hearing, (2) the study of rCBF in patients threatened by stroke or who are suffering stroke "in evolution" and migraine as caused by minor to major reduced blood flow to the brain. A better understanding of how various brain functions are affected by cerebral vascular diseases and other higher brain disorders will be sought. The article will not be used in formal education courses but its results will be used to enhance and broaden graduate training. Application received by Commissioner of Customs: August 4, 1981.

Docket No. 81-00338. Applicant: NINCDS-Lab of Neuro-Otolaryngology, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20205. Article: Election Microscope, Model JEM-100CX/SEG with Accessories. Manufacturer: Japan Electron Optics Ltd., Japan. Intended use of article: The article will be used to carry out medium and high resolution ultrastructural investigations in the auditory and other regions of the nervous system. These investigations are to include:

1. Immunohistochemical localizations of a variety of substances related to synaptic activity in the organ of Corti and cochlear nucleus.
2. Developmental study of the organ of Corti, spiral ganglion cells and cochlear nucleus.
3. Studying purified membrane and synaptosome preparations. The article will also be used to train graduate and postgraduate students involved in doctoral level research requiring electron microscopy. Application received by Commissioner of Customers: August 4, 1981.

Docket No. 81-00339. Applicant: Lucile Reid Cancer Institute, 2920 H Street, Suite R, P.O. Box 2471, Bakersfield, CA 93303. Article: Automated Ultrasound Body Imager. Manufacturer: Ausonics, Ltd., Australia. Intended use of article: The article will be used for clinical and scientific research in the field of human ultrasonic diagnosis. The fully automated, high resolution features of this diagnostic instrument provides several capabilities not currently available in domestic instrumentation. It will permit large image reconstruction of the heart at selected phases of the cardiac cycle to provide images of structure position or in a motion format it will provide diagnostic information concerning the movement of structures. It will also permit rapid and accurate calculations of the volumes of organs, as well as the display of structures in 3-dimension, using a computerized facility. Certain organs are not well studied by contact B-scanning techniques, for example, excellent images of the breast can be obtained for analysis of tissue characteristics and for the identification of disease processes. The heads of infants can also be imaged to demonstrate the size of the ventricular system and to evaluate surgical procedure aimed at decompression. Testicles can also be readily imaged to permit more invasive diagnoses of a variety of diseases. Also the article's results on mammogaphy will be correlated with thermography of the breast. In addition, the article will be used to educate 12 resident physicians who will have continuous exposure to the article. Application received by Commissioner of Customs: August 4, 1981.

Docket No. 81-00340. Applicant: Presbyterian Hospital, Columbia-Presbyterian Medical Center, 622 West 168th Street, New York, New York 10032. Article: Therac 6/Neptune Linear Accelerator with Accompanying Accessories. Manufacturer: Atomic Energy of Canada, Canada. Intended use of article: The article will be used to study the complex and sophisticated techniques in radiation therapy as an important part of clinical cancer research. Experiments will be conducted to verify the dose distribution of the deep-seated cancers and vital normal tissues and organs. In addition, the article will be used in a resident teaching program for continuing education of physicians specializing in the field of Radiation Therapy. Application received by Commissioner of Customs: August 4, 1981.

Docket No. 81-00341. Applicant: Medical College of Wisconsin, National Biomedical ESR Center, 8701 Watertown Plank Road, P.O. Box 26509, Milwaukee, Wisconsin 53226. Article: Laser Energy Meter with Accessories. Manufacturer: GEN-TEC Inc., Canada. Intended use of article: The article will be used to test and monitor the energy output of a single pulse from a high energy Excimer Laser. The immediate purpose will need measurement of the outputs in the 250 to 450 nm region and the 10.6 u region. Application received by Commissioner of Customs: August 4, 1981.

Docket No. 81-00342. Applicant: U.S. Department of Interior, Bureau of Reclamation, P.O. Box 25007, Code D-1523, Denver, CO 80225. Article: High Resolution Double-Focusing Mass Spectrometer, VG-7070H with Accessories. Manufacturer: VC-Organic Limited, United Kingdom. Intended use of article: The article will be used for the following intended purposes:

(1) Establish the chemical composition of PVC, CPE, polyurethanes and other polymeric type materials in order to study aging characteristics, long-term stability.

(2) Identification of hazardous waste which is generated by Bureau projects.

(3) Identification of organic and halogenated organic compounds from natural and treated water supplies.

(4) Identification of organic chemicals which will adversely effect the performance of reverse-osmosis membranes through chemically attacking the membrane or altering the physical and mechanical properties of the membrane.

(5) Characterization of the reverse-osmosis membranes to establish whether any chemical degradation of the membrane has taken place. The reverse-osmosis membranes are used in desalination of brackish waters.

(6) Identification of organic compounds in reservoirs, impoundments and selected irrigation systems for Environmental Impact Statements, and to establish organic water quality.

These studies involve the separation and isolation of complex mixtures of organic compounds from a variety of sample matrices. Application received by Commissioner of Customs: August 4, 1981.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational Scientific Materials)

Stanley P. Kramer,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81-26711 Filed 9-14-81; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Restraint Level for Certain Man-Made Fiber Apparel Products From the Socialist Republic of Romania

September 10, 1981.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing from 41,162 to 44,044 dozen the consultation level for women's, girls' and infants' man-made fiber coats in Category 635, produced or manufactured in the Socialist Republic of Romania and exported during the agreement year which began on April 1, 1981.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142) and May 5, 1981 (46 FR 25121).)

SUMMARY: Pursuant to the terms of the Bilateral Wool and Man-Made Fiber Textile Agreement of September 3, 1980, as amended, between the Governments of the United States and the Socialist Republic of Romania, the consultation level established for man-made fiber apparel products in Category 635 is being increased for the agreement year which began on April 1, 1981 and extends through March 31, 1982.

EFFECTIVE DATE: September 10, 1981.

FOR FURTHER INFORMATION CONTACT: Gordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On March 25, 1981, there was published in the Federal Register (46 FR 18576) a letter dated March 19, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of wool and man-made fiber textile products, including Category 635, produced or manufactured in the Socialist Republic of Romania, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on April 1, 1981 and extends through March 31, 1982. In the letter published below, in accordance with the terms of the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the twelve-month level previously established for Category 635 to 44,044 dozen.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

September 10, 1981.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on March 19, 1981 by the Chairman of the Committee for the Implementation of Textile Agreements concerning imports into the United States of certain wool and man-made fiber textile products, produced or manufactured in Romania.

Effective on September 10, 1981, paragraph 1 of the directive of March 19, 1981 is amended to increase the level of restraint for man-made fiber textile products in Category 635 to 44,044 dozen for the twelve-month period beginning on April 1, 1981 and extending through March 31, 1982.[1]

The actions taken with respect to the Government of the Socialist Republic of Romania and with respect to imports of man-made fiber textile products from Romania have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 81-26802 Filed 9-14-81; 8:45 am]

BILLING CODE 3510-25-M

[1] The level of restraint has not been adjusted to reflect any imports after March 31, 1981.

Soliciting Public Comment on Bilateral Textile Consultations With the Government of Sri Lanka To Include a Review of Trade in Categories 347 (Cotton Trousers) and 445/446 (Wool Sweaters)

September 14, 1981.

In accordance with the Committee for the Implementation of Textile Agreement's wish to solicit public comment whenever practicable on U.S. Government actions implementing the GATT Arrangement Regarding International Trade in Textiles (the "Multifiber Arrangement" or "MFA"), and pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of July 7, 1980 between the Governments of the United States and Sri Lanka, the United States requested, on August 24, 1981, consultations with the Government of Sri Lanka regarding exports of cotton trousers in Category 347 and wool sweaters in Category 445/446. It is anticipated that these consultations will be held shortly.

The purpose of this notice is to advise that if no solution is agreed upon between the two governments within 90 days of the date of delivery of the aforementioned note requesting consultations, entry and withdrawal from warehouse for consumption of cotton and wool textile products in Categories 347 and 445/446, produced or manufactured in Sri Lanka and exported to the United States during the twelve-month period beginning on November 22, 1981 and extending through November 21, 1982 may be restrained at respective levels of 255,988 dozen and 33,070 dozen. The United States reserves the right to invoke import controls on these categories during the 90-day consultation period.

Anyone wishing to comment or provide data or information regarding the treatment of Categories 347 or 445/446 is invited to submit such comments or information in ten copies to Mr. Paul T. O'Day, Chairman, Committe for the Implementation of Textile Agreements

and Deputy Assistant Secretary of Textiles and Apparel, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, it is requested that comments be submitted promptly.

Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 2808, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, and may be obtained upon written request. Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the U.S. textile and apparel import restraint program is not a waiver in any respect of the exemption contained in 5 U.S.C. 533(a)(1) and 554(a)(4) relating to matters which constitute "a foreign affairs function of the United States".

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 81-26989 Filed 9-14-81; 11:05 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; Notice of Amendments to Systems of Records

AGENCY: Department of the Army, DOD.

ACTION: Proposed deletion and amendment of systems of records notices.

SUMMARY: The Department of the Army proposes to delete one system notice and amend another system notice for two systems of records subject to the Privacy Act of 1974. Specific changes to the system of records being amended are set forth below, followed by that system printed in its entirety as amended.

DATE: Actions shall be effective proposed on October 15, 1981 unless comments are received which would result in a contrary determination.

ADDRESSES: Written public comments are invited and may be submitted to Headquarters, Department of the Army, ATTN: DAAG-AMR-R, Room 1146, Hoffman Building I, Alexandria, VA 22331.

FOR FURTHER INFORMATION CONTACT: Mrs. Dorothy Karkanen, Office of The Adjutant General (DAAG-AMR-R), HQDA, at the above address; telephone: 703-325-6163.

SUPPLEMENTARY INFORMATION: Department of the Army systems of records appear in the following editions of the **Federal Register:**

FR Doc. 79-37052 (44 FR 73729), December 17, 1979
FR Doc. 81-65 (46 FR 1002), January 5, 1981
FR Doc. 81-897 (46 FR 6460), January 21, 1981
FR Doc. 81-3374 (46 FR 9692), January 29, 1981
FR Doc. 81-5883 (46 FR 13544), February 23, 1981
FR Doc. 81-7250 (46 FR 15531), March 6, 1981
FR Doc. 81-7621 (46 FR 16111), March 11, 1981
FR Doc. 81-10724 (46 FR 21220), April 9, 1981
FR Doc. 81-10791 (46 FR 21221), April 9, 1981
FR Doc. 81-12660 (46 FR 23523), April 27, 1981
FR Doc. 81-15109 (46 FR 27518), May 20, 1981
FR Doc. 81-16678 (46 FR 29981), June 4, 1981
FR Doc. 81-19043 (46 FR 33069), June 26, 1981
FR Doc. 81-25194 (46 FR 43231), August 27, 1981

The proposed amendment does not fall within the criteria of 5 U.S.C. 552a(o), which requires an altered system report.

M. S. Healy,

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

September 9, 1981.

DELETION

A1107.21aDAMO

System Name:

Still Picture Files (Personalities/ Categories) (44 FR 73980), December 17, 1979.

Reason:

Records were transferred to Defense Audiovisual Agency.

AMENDMENT

A1205.30aDAAG

System Name:

Individual Travel Files (44 FR 73993), December 17, 1979.

Changes:

System Location:

Delete entry and substitute therefor: "Travel offices at installations, major commands, and Army Staff Agencies. Addresses are listed in the Appendix to the Army's Inventory of System Notices (44 FR 73702), December 17, 1979."

Categories of individuals covered by the system:

Delete entry and substitute therefor: "Army military (active and reserve) and civilian personnel, US Government personnel assigned to Army and other military installations, their dependents and bona fide members of individual's household, and US personnel traveling under Army sponsorship, including contractors."

Categories of records in the system:

Delete entry and substitute therefor: "Documents pertaining to travel of persons on official Government business, and/or their dependents, including but not limited to travel assignment orders, authorized leave enroute, availability of quarters and/or shipment of household goods and personal effects, application for passport/visas, the passport on completion of authorized travel, security clearance, and relevant messages and correspondence. Records may also include clearances for official travel to or within certain foreign countries which may require military theater/area and/ or Department of State authorization pursuant to DOD Directive 5000.7, AR 1-40, or other established military requirements applying in oversea commands for personal unofficial travel in certain foreign countries."

Authority for maintenance of the system:

Delete entry and substitute therefor: "10 U.S.C., sections 704 and 3012; Status of Forces Agreement or other similar international agreements binding on military forces."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry and substitute therefor: "By the Department of the Army: to process official travel requests (and personal travel to restricted areas, if in oversea commands) for military and civilian personnel; to determine eligibility of individual's dependents to travel; to obtain necessary clearances where foreign travel is involved, including assisting individual in applying for passports and visas and counseling where proposed travel involves visiting/transiting communist countries. Information may be disclosed to attaché or law enforcement authorities of foreign countries; to US Department of Justice or Department of Defense legal/intelligence/investigative agencies for security, investigative, intelligence, and/or counterintelligence operations."

Safeguards:

Add "Buildings in which records are housed are either located on controlled access post or otherwise secured when offices are closed."

Notification procedure:

Delete entry and substitute therefor: "Information may be obtained from the Administrative or Personal Services Office of the installation/major command at which travel request/clearance was initiated."

Record access procedures:

Delete entry and substitute therefor: "Individuals may submit written requests for information in this system to the appropriate decentralized record custodian, furnishing full name, grade/rank, signature, and details of travel authorization/clearance documents being accessed. Custodian of records may require notarized statement of indentity."

Contesting record procedures:

Delete entry and substitute therefor: "The Army's rules for contesting contexts and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505)."

Record source categories:

Delete entry and substitute therefor: "From the individual requesting travel authorization/clearance, and from existing records."

A1205.30aDAAG

SYSTEM NAME:

Individual Travel Files

SYSTEM LOCATION:

Travel offices at installations, major commands, and Army Staff Agencies. Addresses are listed in the Appendix to the Army's Inventory of System Notices (44 FR 73702), December 17, 1979.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Army military (active and reserve) and civilian personnel, US Government personnel assigned to Army and other military installations, their dependents and bona fide members of individual's household, and US personnel traveling under Army sponsorship, including contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents pertaining to travel of persons on official Government business, and/or their dependents, including but not limited to travel assignment orders, authorized leave enroute, availability of quarters and/or shipment of household goods and personal effects, application for passport/visas, the passport on completion of authorized travel, security clearance, and relevant messages and correspondence. Records may also include clearances for official travel to or within certain foreign countries which may require military theater/area and/or Department of State authorization pursuant to DOD Directive 5000.7, AR 1–40, or other established military requirements applying in oversea commands for personal unofficial travel in certain foreign countries.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., sections 704 and 3012; Status of Forces Agreement or other similar international agreements binding on military forces.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Department of the Army: to process official travel requests (and personal travel to restricted areas if in oversea commands) for military and civilian personnel; to determine eligiblity of individual's dependents to travel; to obtain necessary clearances where foreign travel is involved, including assisting individual in applying for passports and visas and counseling where proposed travel involves visiting/transiting communist countries. Information may be disclosed to attaché or law enforcement authorities of foreign countries; to US Department of Justice or Department of Defense legal/intelligence/investigative agencies for security, investigative, intelligence, and/or counterintelligence operations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Alphabetically by surname of individual.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized persons who are properly screened, cleared, and trained. Buildings in which records are housed are either located on controlled access post or otherwise secured when offices are closed.

RETENTION AND DISPOSAL:

Records are retained for 2 years after which they are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

The Adjutant General, Headquarters, Department of the Army, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Information may be obtained from the Administrative or Personal Services Office of the installation/major command at which travel request/clearance was initiated.

RECORD ACCESS PROCEDURES:

Individuals may submit written requests for information in this system to the appropriate decentralized record custodian, furnishing full name, grade/rank, signature, and details of travel authorization/clearance documents being accessed. Custodian of records may require notarized statement of identity.

CONTESTING RECORD PROCEDURES:

The Army's rules for contesting contexts and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual requesting travel authorization/clearance, and from existing records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 81–26729 Filed 9–14–81; 8:45 am]

BILLING CODE 3810–08–M

Office of the Secretary

Defense Systems Management College; Board of Visitors Meeting

A meeting of the Defense Systems Management College (DSMC) Board of Visitors will be held in Building 204, Fort Belvoir, VA, on Thursday, October 8, 1981, from 11:00 a.m. until 4:30 p.m. The agenda will include a review of accomplishments related to the system acquisition education, system acquisition research, and information collection and dissemination missions. It will also include a review of the DSMC plans, resources and operations. The meeting is open to the public; however, because of limitations on the space available, allocation of seating will be made on a first-come, first-served basis. Persons desiring to attend the meeting should call Lieutenant Commander Judy Ray (703–664–1175) to reserve a seat.

M. S. Healy,

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

September 10, 1981.

[FR Doc. 81–26795 Filed 9–14–81; 8:45 am]

BILLING CODE 3810–01–M

Joint Strategic Target Planning Staff Scientific Advisory Group; Closed Meeting

Pursuant to the provisions of Section 10 of Public Law 92–463, effective January 5, 1973 as amended by Public Law 94–409, notice is hereby given that a closed meeting of the Joint Strategic Target Planning Staff Scientific Advisory Group will be held at Offutt Air Force Base, Nebraska, during the period: Tuesday, December 1, 1981 through Wednesday, December 2, 1981. The entire meeting is devoted to the discussion of classified information within the meaning of Section 552b(c)(1), Title 5 of the U.S. Code, and therefore will be closed to the public.

Dated: September 9, 1981.

M. S. Healy,

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

[FR Doc. 81-26726 Filed 9-14-81; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 81-25-NG]

Natural Gas Imports; Great Lakes Gas Transmission Co.; Application for Authorization To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of Application to Import Natural Gas from Canada for Resale.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on July 9, 1981, of an application from Great Lakes Gas Transmission Company (Great Lakes) for authorization to import natural gas from Canada. Great Lakes proposes to import up to 25,000 Mcf of natural gas per day from TransCanada Pipelines Limited (TransCanada) for the period November 1, 1982 through October 31, 1991, and to resell the gas, in equal shares, to Natural Gas Pipeline Company of America (Natural) and Michigan Wisconsin Pipe Line Company (Michigan Wisconsin). Great Lakes proposes to pay a price equal to the U.S.-Canadian border price. The application is filed with ERA pursuant to Section 3 of the Natural Gas Act (NGA) and DOE Delegation Order No. 0204–54. Protests or petitions to intervene are invited.

DATE: Protests or petitions to intervene are to be filed no later than 4:30 p.m. on October 15, 1981.

FOR FURTHER INFORMATION CONTACT:

Stephen Gary, Division of Natural Gas, Economic Regulatory Administration, 2000 M Street, N.W., Room 7108, RG–13, Washington, D.C. 20461, (202) 653–3220

Sue D. Sheridan (Office of General Counsel Natural Gas and Mineral Leasing), 1000 Independence Avenue, S.W., Forrestal Building, Room 6E–042, Washington, D.C. 20585, (202) 252–6667

SUPPLEMENTARY INFORMATION: By an order issued June 1, 1971, by the Federal Power Commission (FPC) (FPC Docket No. CP71–223), Great Lakes was authorized to import from TransCanada up to 17 Bcf of natural gas annually for fuel and other company uses available to it under Gas Purchase Contract No. 3 (Contract No. 3), dated June 11, 1971, with TransCanada. By an amendment to Contract No. 3 dated April 30, 1981, transCanada agreed to sell Great Lakes, for resale, up to 25,000 Mcf per day of the company use volumes not previously taken under Contract No. 3.

In an application filed with ERA on July 9, 1981, Great Lakes requested authorization to import up to 25,000 Mcf per day for resale, over a nine year term beginning November 1, 1982 and ending on October 31, 1991.

Great Lakes states that the price of the gas will be a price equal to the U.S.-Canadian international border price, currently U.S. $4.94 per MMBTU. Great Lakes also states that the take-or-pay provisions under the contract are the same as those under its Gas Purchase Contract No. 1, as amended (Contract No. 1) with TransCanada, dated July 14, 1967, which was authorized by the FPC in an order issued on June 20, 1967 (FPC Docket No. CP66–112). Under Contract No. 1, Great Lakes is required to take and pay for, or nevertheless pay for, seventy-five percent (75%) of the total contract quantity times the number of days in the contract year.

Great Lakes states that it has filed an application with the Federal Energy Regulatory Commission (FERC) requesting authority to construct and operate additional facilities needed for receipt and marketing of the volumes of gas proposed to be imported (FERC Docket No. CP81–375).

Great Lakes proposes to resell the 25,000 Mcf per day to Natural and to Michigan Wisconsin in equal shares. Both Natural and Michigan Wisconsin are current customers of Great Lakes. Natural and Michigan Wisconsin have indicated a need for these additional volumes for their system supplies in correspondence attached to the application. Great Lakes states that the proposed import will not be inconsistent with the public interest, since authorization of these small volumes will have a *de minimus* impact on the United States balance of payments.

Other information: Any person wishing to become a party to the proceeding or to participate as a party in any conference or hearing which might be convened must file a petition to intervene. Any person may file a protest with repect to this application. The filing of a protest will not serve to make the protestant a party to the proceeding. Protests will be considered in determining the appropriate action to be taken on the application.

All protests and petitions to intervene must meet the requirements specified in 18 CFR 1.8 and 1.10. They should be filed with the Division of Natural Gas, Economic Regulatory Administration, Room 7108, RG–13, 2000 M Street, N.W., Washington, D.C. 20461. All protests and petitions to intervene must be filed no later than 4:30 p.m., on October 15, 1981.

A hearing will not be held unless a motion for a hearing is made by a party or person seeking intervention and granted by ERA, or if ERA on its own motion believes that a hearing is necessary or required. A person filing a motion for hearing should demonstrate how a hearing will advance the proceedings. If a hearing is scheduled, ERA will provide notice to all parties and persons whose petitions to intervene are pending.

A copy of the application noticed herein is available for public inspection and copying in the Division of Natural Gas Docket Room, Room 7108, 2000 M Street, N.W., Washington, D.C. 20461, between the hours of 8:00 a.m., and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on September 8, 1981.

F. Scott Bush,

Acting Director, Office of Program Operations, Economic Regulatory Administration.

[FR Doc. 81-26638 Filed 9-14-81; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. G-6613-000, et al.]

Champlin Petroleum Co., et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

September 8, 1981.

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.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 22, 1981, 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 tmely 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.

Docket No. and dated filed	Applicant	Purchaser and location	Price per 1,000 ft.[3]	Pressure base
G-6613-000, Aug. 26, 1981 [1]	Champlin Petroleum Company, Two Allen Center, Suite 1900, 1200 Smith Street, Houston, Texas 77002.	Cities Service Gas Company, Witcher Plant, Witcher Field, Logan County, Oklahoma.	(2)	14.65
G-10083-001 D Aug. 24, 1981	Texaco Inc. (Operator), *et al.*, P.O. Box 2420, Tulsa, Oklahoma 74102.	Northern Natural Gas Company, Hugoton Field, Finney County, Kansas.	(2)	
G-13299-001 C Sept. 20, 1978	Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Michigan Wisconsin Pipe Line Company, Goering Unit, Section 22, T26N, R24W, Harper County, Oklahoma.	(4)	14.73
G-18142-000 D Aug. 24, 1961	Sun Oil Company, P.O. Box 20, Dallas, Texas 75221	Transwestern Pipeline Company, Laverne, et al., Fields—Beaver, Ellis and Harper Counties, Oklahoma.	(5)	
CI60-252-001 D Aug. 25, 1981	Mobil Oil Corporation, Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Panhandle Eastern Pipe Line Company, Guymon-Hugoton (Deep) Field, Texas County, Oklahoma.	(6)	
CI67-601-000 D Aug. 13, 1981	Texaco Inc., P.O. Box 2420, Tulsa, Oklahoma 74102	Michigan Wisconsin Pipeline Company, Lovedale N.W. Field, Harper County, Oklahoma.	(7)	
CI67-1437-000 D Aug. 26, 1981	do	Natural Gas Pipeline Company of America, South Balko Field, Beaver County, Oklahoma.	(7)	
CI67-1437-001 D Aug. 26, 1981	do	Natural Gas Pipeline Company of America, Balko South Field, Beaver County, Oklahoma.	(7)	
CI72-450-000 D Aug. 24, 1981	Ladd Petroleum Corporation, 830 Denver Club Building, Denver, Colorado 80202.	Arkansas Louisiana Gas Company, Cedars Field, Le Flore County, Oklahoma.	(8)	
CI78-109-002 E Aug. 18, 1981 [9]	Buckhorn Petroleum Co. (Succ. in Interest to Texoma Production Company), P.O. Box 5928, T.A., Denver, Colorado 80217.	Kansas-Nebraska Natural Gas Company, Inc., Wallace Creek Field, Natrona County, Wyoming.	(10)	15.025
CI81-475-000 (G-4950) B Aug. 24, 1981.	Sun Oil Company, P.O. Box 20, Dallas, Texas 75221	United Gas Pipe Line Company, Brandt Field, Goliad County, Texas.	(11)	
CI81-476-000 B Aug. 21, 1981	W. W. Lindsey, P.O. Box 902, Pikeville, Kentucky 41501	Columbia Gas Transmission Corporation and Kentucky West Virginia Gas Co., five counties in eastern Kentucky—Floyd, Knott, Pike, Letcher and Perry Counties.	(12)	
CI81-477-000 (CI77-689) B Aug. 24, 1981.	Exxon Corporation, P.O. Box 2180, Houston, Texas 77001	Columbia Gas Transmission Corporation, Bayou Jean LaCroix Field, Terrebonne Parish, Louisiana.	(13)	
CI81-478-000 A Aug. 27, 1981	Chevron U.S.A. Inc., P.O. Box 7309, San Francisco, California 94120.	Trunkline Gas Company, Vermilion Block 213, Offshore Louisiana.	(14)	15.025
CI81-479-000 A Aug. 27, 1981	ANR Production Company, 5075 Westheimer, Suite 1100, Galleria Towers West, Houston, Texas 77056.	Michigan Wisconsin Pipe Line Company, Mustang Island Block A-85, Offshore Texas.	(15)	14.73

[1] Applicant is filing to change delivery point from Southeast Quarter of Section 21, Township 15 North, Range 4 West, Logan County, Oklahoma to Southeast corner of Section 28, Township 15 North, Range 4 West, Logan County, Oklahoma.
[2] Applicant is filing under Gas Purchase Contract dated March 21, 1949, as amended and further amended by amendment dated October 22, 1980.
[3] Leases have been terminated or forfeited.
[4] Applicant is filing under Gas Purchase Contract dated March 9, 1957, amended by amendment dated May 8, 1978.
[5] Sun released rights to these leases because all economically recoverable reserves had been depleted.
[6] The subject contract expired of and by its own terms on November 1, 1980. Production has never occurred on these leases in the zone dedicated to Panhandle; however, they are held by oil and gas production in shallower formations.
[7] Leases expired or were terminated.
[8] Well is not economic at rate in effect. Purchaser has declined Ladd's request to amend the contract to provide for the payment of NPGA rates.
[9] By Assignment dated December 31, 1980, Texoma has assigned all of its interest in the Wallace Creek State No. 1 Well to Buckhorn Petroleum Co.
[10] Applicant proposes to continue the sale of gas to Kansas-Nebraska at the existing delivery point under an existing gas sales contract between Natmco Inc. (Del.) and Kansas-Nebraska Natural Gas Company, Inc., dated October 11, 1977.
[11] G. H. Brandt, et ux. Lease expired and was released by "Release of Oil and Gas Lease" dated November 28, 1979.
[12] Under the Kentucky Revised Statute 278.485, Applicant is filing to abandon sufficient gas to supply approximately 625 domestic customers.
[13] The available supply of gas is depleted, and the contract has been cancelled.
[14] Applicant agrees to accept a Certificate at the rates prescribed by the NGPA.
[15] Applicant is filing under Gas Sales Contract dated August 21, 1981.
Filing code: A.—Initial service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total succession. F—Partial succession.

[FR Doc. 81-26817 Filed 9-14-81; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. CP81-473-000]

Florida Gas Transmission Co.; Application

September 8, 1981.

Take notice that August 20, 1981, Florida Gas Transmission Company (Applicant), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP81-473-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of pipeline and appurtenant facilities in Putnam County, Florida, in order to deliver natural gas to Florida Power and Light Company (FP&L), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is submitted that pursuant to an agreement dated March 12, 1964, Amoco Production Company delivers gas to Applicant for the account of FP&L in Louisiana and that Applicant subsequently delivers such gas to FP&L at certain designated plants in Florida. It is further submitted that FP&L has requested Applicant to provide an additional delivery point under such agreement.

In order to establish such delivery point, Applicant proposes to construct and operate approximately 19 miles of 12-inch pipeline extending from a point on Applicant's existing mainline in Putnam County, Florida, to a proposed new delivery point on FP&L's Putnam generating station, East Palatka, Putnam County, Florida, along with a meter and regulator station and other appurtenant facilities pursuant to a July 23, 1981 agreement with FP&L.

Applicant estimates the cost of the proposed facilities to be $6,627,000, for which cost Applicant would be reimbursed by FP&L.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 28, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-26608 Filed 9-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. QF81-48-000]

Melvin Grundmeier; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 8, 1981.

On July 16, 1981, Melvin Grundmeier filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility is a Jacobs 10 kilowatt Wind Electric System to be located in Storm Lake, Iowa. The primary energy source of the facility is wind. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility. Applicant states that this is the only unit installed at the site owned by Melvin Grundmeier.

Any person desiring to be heard or objecting to the granting of qualifying status 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. All such petitions or protests must be filed on or before October 15, 1981, and must be served on the applicant. 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. 81-26609 Filed 9-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. CS71-0571-000, et al.]

Houston Oil & Gas Co., Inc. (Southeastern Public Service Co.), et al.; Applications for "Small Producer" Certificates [1]

September 8, 1981.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 21, 1981, 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

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that 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 be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No.	Date filed	Applicant
CS71-0571-000.	Aug. 14, 1981 [1].	Houston Oil & Gas Company, Inc. (Southeastern Public Service Company), 1625 Southwest Tower, Houston, Texas 77002.
CS74-414	July 10, 1981 [2]	Comanche Production Inc. (Ilus Industries, Inc.), 4121 West 83rd Street, Prairie Village, Kansas 66208.
CI81-112-000	Aug. 24, 1981	Bruce F. Everson—Operator, P.O. Box 367, Kimball, Nebraska 69145.
CS81-113-000	Aug. 21, 1981	Marie C. Anderson, 19100 Crest Ave. #10, Castro Valley, California 94546.
CS81-114-000	Aug. 21, 1981	Richard M. Fulsaas, West 1417 Kiernan, Spokane, Washington 99205.
CS81-115-000	Aug. 20, 1981	West Delta Block 52 Partners, 610 Six Piedmont Center, Atlanta, Georgia 30305.

[1] Applicant is filing to change its name from Southeastern Public Service Company to Houston Oil & Gas Company, Inc.

[2] Applicant has informally advised that as a result of a corporate acquisition, Ilus Industries, Inc. (CS74-414) has been absorbed by Comanche Production Inc. This filing has been filed to reflect a name change from Ilus Industries, Inc. to Comanche Production Inc.

[FR Doc. 81-26811 Filed 9-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 5199-000]

Mac Hydro-Power Co., Inc.; Application for Preliminary Permit

September 8, 1981.

Take notice that Mac Hydro-Power Company, Inc. (Applicant) filed on August 7, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for Project No. 5199 to be known as the Ladies Canyon Creek Project located on Ladies Canyon Creek in Sierra County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Gary A. McKnight, Vice President, Mac Hydro-Power Company, Inc., 2515 Grass Valley Hwy., P.O. Box 5193, Auburn, California 95603.

Project Description—The project would consist of: (1) A 5-foot high, 20-foot long concrete diversion structure; (2) a 4,200-foot long, 48-inch diameter low pressure conduit; (3) a 4,000-foot long, 24-inch diameter steel penstock; (4) a powerhouse with a total installed capacity of 5,100 kW; and (5) a 300-foot long, 12.5-kV transmission line which would connect the powerhouse to an existing Pacific Gas & Electric Company transmission line. The Applicant estimates that the average annual energy production would be 44 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would conduct technical, environmental and economic analysis; and prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $40,000 to $60,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before November 13, 1981, either the competing application itself [See 18 CFR 4.33 (a) and (d)(1980)] or a notice of intent [See 18 CFR 4.33(b) and (c)(1980)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before November 13, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the tile "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICANT", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representatives of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-26815 Filed 9-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 5198-000]

Mac Hydro-Power Co., Inc.; Application for Preliminary Permit

September 8, 1981.

Take notice that Mac Hydro-Power Company, Inc. (Applicant) filed on August 7, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for Project No. 5198 to be known as the Haypress Creek (Middle Facility) located on Haypress Creek (Middle Facility) in Sierra County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Gary A. McKnight, Vice President, Mac Hydro-Power Company, Inc., 2515 Grass Valley Hwy., P.O. Box 5193, Auburn, California 95603.

Project Description—The project would consist of: (1) A 5-foot high, 20-foot long concrete diversion structure; (2) a 3,200-foot long, 48-inch diameter low pressure conduit; (3) a 2,200-foot long, 24-inch diameter steel penstock; (4) a powerhouse with total installed capacity of 5,100 kW; and (5) a 1.5-mile long, 12.5kV transmission line which would connect the powerhouse to an existing Pacific Gas & Electric Company transmission line. The Applicant estimates that the average annual energy production would be 44 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would conduct technical, environmental and economic analysis; and prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $40,000 to $60,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before November 13, 1981, either the competing application itself [See 18 CFR 4.33 (a) and (d) (1980)] or a notice of intent [See 18 CFR 4.33 (b) and (c) (1980)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before November 13, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-26618 Filed 9-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-176]

Michigan Wisconsin Pipe Line Co.; Status of Proceeding

September 8, 1981.

On August 27, 1981, the presiding judge in this proceeding certified to the Commission the question of the current status of the case. The proceeding was terminated and the docket closed on November 12, 1980.

Michigan Wisconsin filed a notice of withdrawal of its application on October 8, 1980. In accordance with our regulations, 18 CFR 1.11(d), the withdrawal was deemed effective, in the absence of Commission directions to the contrary, after 30 days. The Director of the Office of Pipeline and Producer Regulation, acting under the authority delegated to him by the regulations, 18 CFR 375.307(g), notified the parties by letter of November 12, 1980, that the withdrawal had been accepted and became effective on that date. No further action is warranted.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-26621 Filed 9-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 5185-000]

San Juan Hydro, Inc.; Applicant for Preliminary Permit

September 8, 1981.

Take notice that San Juan Hydro, Inc. (Applicant) filed on August 6, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5185 to be known as the Cedar Bluff Reservoir Dam near Brownell, Kansas located on Cedar Bluff Reservoir on the Smokey Hill River in Trego County, Kansas. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Kenneth T. Meredith, President, San Juan Hydro, Inc., 120 Valdivia Drive, Santa Barbara, California 93110.

Project Description—The proposed project would utilize an existing U.S. Army Corps of Engineers' dam and reservoir. Project No. 5185 would consist of: (1) An existing flood control gate; (2) an existing conduit to be used as a penstock; (3) a proposed powerhouse to be built at the end of the existing conduit; (4) a proposed tailrace; (5) a proposed transmission line that would interconnect with an existing utility line 5 miles east of the project site; and (6) appurtenant facilities. Applicant estimates the capacity of the proposed project to be 1.0 MW and the annual energy output to be 1.5 GWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 12 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 as estimated by the Applicant to be $11,200.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before November 4, 1981, either the competing application itself [See 18 CFR 4.33(a) and (d) (1980)] or a notice of intent [See 18 CFR 4.33(b) and (c) (1980)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c).

Agency Comments—Federal, state, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before November 14, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION",

"COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-26812 Filed 9-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 5189-000]

San Juan Hydro, Inc.; Application for Preliminary Permit

September 8, 1981.

Take notice that San Juan Hydro, Inc. (Applicant) filed on August 6, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5189 to be known as the Wilson Lake Dam near Wilson, Kansas located on Wilson Lake, on the Saline River in Russell County, Kansas. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Kenneth T. Meredith, President, San Juan Hydro, Inc., 120 Valdiva Drive, Santa Barbara, California 93110.

Project Description—The proposed project would utilize an existing U.S. Army Corps of Engineers' dam and reservoir. Project No. 5189 would consist of: (1) An existing flood control gate; (2) an existing conduit to be used as a penstock; (3) a proposed powerhouse to be built at the end of the existing conduit; (4) a proposed tailrace; and (5) appurtenant facilities. Applicant estimates the capacity of the proposed project to be 2.0 MW and the annual energy output to be 5.0 GWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 12 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 by the Applicant to be $11,200.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before November 12, 1981, either the competing applicaton itself [See 18 CFR 4.33 (a) and (d) (1980)] or a notice of intent [See 18 CFR 4.33 (b) and (c) (1980)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before November 12, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-26813 Filed 9-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 5187-000]

San Juan Hydro, Inc., Application for Preliminary Permit

September 8, 1981.

Take notice that San Juan Hydro, Inc. (Applicant) filed on August 6, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5187 to be known as the Pomona Reservoir Dam near Vassar, Kansas located on Pomona Reservoir on Hundred and Ten Mile Creek in Osage County, Kansas. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Kenneth T. Meredith, President, San Juan Hydro, Inc., 120 Valdivia Drive, Santa Barbara, California 93110.

Project Description—The proposed project would utilize an existing U.S. Army Corps of Engineers' dam and reservoir. Project No. 5187 would consist of: (1) An existing flood control gate; (2) an existing conduit to be used as a penstock; (3) a proposed powerhouse to be built at the end of the existing conduit; (4) a proposed tailrace; (5) a proposed transmission line to run from the powerhouse to a Kansas Power and Light substation in Vassar, Kansas, 3¼ miles from the proposed site; and (6) appurtenant facilities. Applicant estimates the capacity of the proposed project to be 2.0 MW and the annual energy output to be 4.0 GWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 12 month permit to prepare a definitive project report, including a 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 by the Applicant to be $11,200.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before November 13, 1981, either the competing application itself [See 18 CFR 4.33(a) and (d) (1980)] or a notice of intent [See 18 CFR 4.33(b) and (c) (1980)] to file a competing application.

Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before November 13, 1981.

Filing and Service of Responsive Documents—Any filing must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-26814 Filed 9-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 5076-000]

St. Vrain and Left Hand Water Conservancy District; Application for Preliminary Permit

September 8, 1981.

Take notice that the St. Vrain and Left Hand Water Conservancy District (Applicant) filed on July 14, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5076 known as the Coffintop Pumped Storage Project located on St. Vrain Creek in Sections 23 through 27, T3N, R71W, of the 6th P.M., in Boulder County, Colorado. The application is on file with the Commission and is available for public inspection. Correspondence with the applicant should be directed to: Mr. James A. Cinea, Executive Director, St. Vrain and Left Hand Water Conservancy Disatrict, 500 Coffman, Suite 107, Longmont, Colorado 80501.

Project Description—The proposed project would utilize the existing Price Reservoir (impounded by Button Rock Dam which is owned by the City of Longmont, Colorado) as the forebay for a pumped storage hydroelectric project. The reservoir to be created by the proposed Coffintop Dam would be utilized as the proposed hydroelectric project's afterbay reservoir. Button Rock dam, an earth and rockfill dam 925 feet long with a maximum height of 215 feet, impounds Price Reservoir with a surface area of 248 acres and storage capacity of 16,000 acre-feet at maximum surface elevation 6,400 feet m.s.l. The proposed Coffintop Dam would be an earth and rockfill or a roller compacted concrete dam 2,350 feet long and 350 feet high (if concrete) or 365 feet high (if earthfill), impounding a reservoir with a surface area of 800 acres and storage capacity of 115,000 acre-feet at maximum surface elevation 5,740 feet m.s.l. Additional new project works would consist of: (1) a 15-foot diameter concrete-lined tunnel/penstock 17,800 feet long; connecting to (2) a 15-foot diameter steel-lined tunnel/penstock 2,350 feet long; leading to (3) a powerhouse with an installed capacity of 156 MW consisting of 3 pump-turbines rated at 52 MW each; (4) a surge chamber, 5,950 feet upstream of the powerhouse; (5) a 1,550-foot long 15-foot diameter concrete-lined tunnel leading from the powerhouse to (6) a tailrace; (7) a transmission line 2.5 miles long; and (8) other appurtenances. Applicant estimates average annual energy production would be 573,955,000 kWh. Project energy would be sold to area utility systems including the Public Service Company of Colorado, Tri-State Generation and Transmission Association, and the Platte River Power Authority.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a permit for a period of 36 months during which time it would complete studies in progress including geological surface and deep drilling investigations, environmental studies and cost and financing studies. Additional proposed studies would include an environmental impact study. Based on the results of studies, preliminary and final design and preparation of an application for FERC-license would be accomplished. Cost of studies in progress and proposed would not exceed $25,000,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before November 13, 1981, either the competing application itself [See 18 CFR 4.33 (a) and (d) (1980)] or a notice of intent [See 18 CFR 4.33 (b) and (c) (1980)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protest, or petition to intervene must be received on or before November 13, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission,

Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-26810 Filed 9-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 5266-000]

Lawrence R. Taft; Application for Preliminary Permit

September 8, 1981.

Take notice that Lawrence R. Taft (Applicant) filed on August 24, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5266 to be known as the Cranberry Lake Power Project located on the East Branch Oswegatchie River in the Town of Clifton, St. Lawrence County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Philip J. Movish, Daverman & Associates, 500 South Salina Street, Syracuse, New York 13202.

Project Description—The proposed project would utilize existing facilities owned by the Oswegatchie River-Cranberry Lake Commission consisting of: (1) A 162-foot long and 17-foot high concrete gravity-type dam having a 110-foot long spillway section and having five sluice ways; (2) a reservoir having a surface area of 6,975 acres and a storage capacity of 60,100 acre-feet at normal maximum pool elevation 1,486 m.s.l.; and (3) appurtenant facilities.

Applicant proposes to construct a new powerhouse at the toe of the dam containing three generating units having a total rated capacity of 400 kW. Applicant estimates that the average annual energy output would be 2,450,000 kWh. Project energy would be sold to Niagara Mohawk Power Corporation.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would perform technical and economic feasibility studies, investigations, and the work involved to prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $10,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before November 13, 1981, either the competing application itself [See 18 CFR 4.33(a) and (d) (1980)] or a notice of intent [See 18 CFR 4.33(b) and (c) (1980)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protest or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before November 13, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-26811 Filed 9-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-463-000]

Trunkline Gas Co.; Application

September 8, 1981.

Take notice that on August 13, 1981, Trunkline Gas Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP81-463-000 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 on behalf of Panhandle Eastern Pipe Line Company (Panhandle), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes pursuant to a transportation agreement dated August 11, 1981, to transport up to 13,200 Mcf of natural gas per day, on a firm basis for Panhandle. Applicant explains that the gas would be transported from a point of production in East Cameron Block 359, Offshore Louisiana, to an existing point of redelivery at the interconnection of Applicant's and Panhandle's facilities in Douglas County, Illinois.

Applicant states that it has jointly filed with other pipeline companies an application in Docket CP81-213 requesting authorization to construct and operate a lateral pipeline facility necessary to connect East Cameron Block 359 to Stingray Pipeline Company's (Stingray) system. Applicant explains that it would transport Panhandle's gas through the facilities proposed to be constructed in Docket CP81-213 to the East Cameron Block 338 point of interconnection. It is said that Stingray would then deliver the gas to the interconnection between Stingray and the High Island Offshore System (HIOS) in High Island Block A-330 for the account of Applicant.

Applicant states that it has arranged for pipeline capacity in HIOS and the U-T Offshore System (U-TOS) and has arranged with Natural Gas Pipeline Company of America (Natural) to transport volumes of gas from the onshore terminus of U-TOS to Applicant's onshore facilities.

Applicant asserts that it has agreed to redeliver a daily quantity of gas equal to the quantity received by Applicant less appropriate fuel and shrinkage due to processing, less a proportionate part of the compressor fuel and unaccounted for losses on any pipeline system through which the volumes are transported, and less 5 percent reduction for fuel usage and unaccounted for losses on Applicant's system.

Applicant states that the term of the transportation agreement is ten years from the date of first deliveries and from

year to year thereafter. Applicant further states that Panhandle may reduce the daily transportation quantity six months prior to the end of the first five years of the transportation agreement but that such reduction would not be less than fifty percent of the daily transportation quantity in effect at the date such reduction is made.

Applicant proposes to charge Panhandle a monthly charge of $245,150 for the proposed transportation service which charge consists of, a charge for the utilization of a portion of Applicant's capacity entitlement in the pipeline system of others including but not limited to HIOS, U-TOS and Natural, an amount equal to the product of (i) the transportation quantity under the transportation agreement on either a daily or monthly basis as appropriate, and (ii) the then currently effective rates being charged to Applicant by the other pipeline transporters as approved by the Commission, and a charge for the utilization of a portion of Applicant's capacity in the offshore lateral pipeline facilities connecting East Cameron Block 359 to the Stingray system in East Cameron Block 338 and for the transportation from the onshore point of receipt of said gas by Applicant to the point of redelivery hereunder. Applicant explains that the monthly charge would be increased or decreased 61.05 cents for each Mcf above or below 13,200 Mcf which Applicant takes or fails or is unable to take on any day or days.

Applicant states that Panhandle would purchase its gas in East Cameron Block 359 from Pan Eastern Exploration Company and Texas Eastern Exploration Company.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 28, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-26819 Filed 9-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2075-002]

Washington Water Power Co.; Application for Approval of Change in Land Rights

September 8, 1981.

Take notice that an application was filed on July 17, 1981, under the Federal Power Act, 16 U.S.C. 791(a)-825(r) by The Washington Water Power Company, Licensee for the Noxon Rapids Project No. 2075, for approval of a change in land rights. The project is located on the Clark Fork River in Sanders County, Montana, between the Towns of Thompson Falls, Montana, and Clark Fork, Idaho. Correspondence with the Applicant should be directed to: Mr. J. P. Buckley, Vice President and Secretary, The Washington Water Power Company, P.O. Box 3727, Spokane, Washington 99220.

The Company is requesting Commission approval of the leasing of 37.8 acres of land within the project boundary to the Town of Thompson Falls, Montana. The parcel is located within the Noxon Rapids Project approximately 3 miles downstream from Thompson Falls, Montana. The property will be used by Thompson Falls for construction of a municipal golf course to be used in conjunction with adjoining property presently owned by the Town of Thompson Falls.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before October 23, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-26820 Filed 9-14-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 5066-000]

Charles Loring Woodman; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

September 8, 1981.

Take notice that on July 6, 1981, and revised on August 13, 1981, Charles Loring Woodman (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 5066) would be located on Kinky Creek, a tributary to the Gros Ventre River, in Teton County, Wyoming. Correspondence with the Applicant should be directed to: Charles L.

Woodman, Darwin Ranch, Box 511, Jackson, Wyoming 83001.

Project Description—The run-of-creek project would affect lands within the Teton National Forest and would consist of: (1) An existing diversion structure at about elevation 8,400 feet; (2) a reservoir having a small surface area and negligible storage; (3) an existing 8-inch diameter, 1,650-foot long buried PVC pipeline and a proposed 8-inch diameter, 50-foot long buried PVC pipeline; (4) a proposed powerhouse containing a generating unit having a rated capacity of 12 kW operated under a 200-foot head; (5) a proposed 15-inch diameter, 10-foot long buried culvert tailrace; (6) a proposed 1,300-foot long buried transmission line; and (7) appurtenant facilities.

Purpose of Project—Project energy would be used by Applicant within the Darwin Ranch. Applicant estimates that the average energy output would be 61,320 kWh.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State of Wyoming Game and Fish Department, Cheyenne, Wyoming 82002 are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before October 22, 1981 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc., are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before October 22, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-26822 Filed 9-14-81; 8:45 am]

BILLING CODE 6450-85-M

Office of Hearings and Appeals

Objection to Proposed Remedial Order Filed the Week of August 17 Through August 21, 1981

During the week of August 17 through August 21, 1981, the notice of objection to proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial order described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 on or before October 5, 1981. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in this proceeding should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

September 9, 1981.

Frederick Walentynowicz, Buffalo, New York, BRO-1462, motor gasoline

On August 17, 1981, the Statement of Objections filed by Frederick Walentynowicz to a Proposed Remedial Order that was issued by the Northeast District Office of Enforcement on May 22, 1980 was transferred to the National Office of Hearings and Appeals for analysis. In the PRO the Northeast District found that during the period from August 1, 1979 to April 12, 1980, Walentynowicz exceeded maximum lawful prices in his sales of motor gasoline. According to the PRO, Walentynowicz's violation resulted in $802.71 of overcharges.

[FR Doc. 81-26832 Filed 9-14-81; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed; the Week of July 20 Through July 24, 1981

During the week of July 20 through July 29, 1981, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial oders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205. 194 on or before October 5, 1981. The Office of Hearings and Appeals will then determine those person who may participate on an active basis in the proceeding and will prepare an official service list, which it

will mail to all persons who filed requests to participate. Persons may also be placed on the official servcie list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC. 20461.

September 9, 1981

George B. Breznay,

Director Office of Hearings and Appeals.

Shelter Ridge Arco, Mill Valley, California, BRO-1456, Crude Oil

On July 21, 1981, Shelter Ridge Arco filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on May 29, 1981.

In the PRO the Western District found that during the period February 26, 1980 through April 30, 1980, Shelter Ridge Arco charged prices for motor gasoline which exceeded the maximum lawful selling price allowed by 10 CFR Part 212.

According to the PRO the Shelter Ridge Arco Violation resulted in $14,252.47 of overcharges.

[FR Doc. 81-26833 Filed 9-14-81; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed Week of July 13 Through July 17, 1981

During the week of July 13 through July 17, 1981, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 on or before October 5, 1981. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

September 9, 1981.

Conoco, Inc., Houston, Texas, BRO-1455, Crude Oil

On July 13, 1981, Conoco, Inc., Houston, Texas, filed a Notice of Objection to a Proposed Remedial Order which the DOE Office of Special Counsel for the Compliance of the Economic Regulatory Administration issued to the firm on June 8, 1981.

In the PRO the Office of Special Counsel found that during the period September 1973 through May 1979, Conoco, Inc. charged prices for domestically produced crude oil in excess of the ceiling price permitted by 10 CFR, Part 212.

According to the PRO the Conoco, Inc., violation resulted in $23,868,317.19 of overcharges.

[FR Doc. 81-26834 Filed 9-14-81; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders; Week of August 24 Through August 28, 1981

During the week of August 24 through August 28, 1981, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

September 9, 1981.

CENTRAL SALES, 8/25/81, BEE-1666

Central Sales filed an Application Exception from the reporting requirements of Form EIA-9A ("No. 2 Distillate Price Monitoring Report"). The exception request, if granted, would relieve the firm of the obligation to prepare and submit the form to the Energy Information Administration. On August 25, 1981, the DOE issued a Proposed Decision and Order in which it tentatively determined that the exception request should be denied.

[FR Doc. 81-26835 Filed 9-14-81; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed Week of August 14 Through August 21, 1981

During the week of August 14 through August 21, 1981, the appeals and applications for exception or other relief listed in the appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energency.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

September 9, 1981.

List of Cases Received by the Office of Hearings and Appeals

[Week of August 14 Through August 21, 1981]

Date	Name and location of applicant	Case No.	Type of Submission
Aug. 14, 1981	Caribou Four Corners, Inc., Allon, Wyoming	BER-0156; BES-0169	Motion for Modification/Rescission and Request for Stay. If granted: The June 25, 1981, Decision and Order (Case No. BEE-1478) issued by the Office of Hearings and Appeals to Caribou Four Corners, Inc. would be modified to correct errors made in the calculations. Caribou Four Corners, Inc. would also receive a stay of the June 25, 1981 Decision and Order (Case No. BEE-1478).
Aug. 17, 1981	Hatcher & Arthur Production Co., Burkburnett, Texas	BEE-1687	Price exception. If granted: Hatcher & Arthur Production Company would receive an exception from the provisions of 10 CFR 212.131, the crude oil price certification regulations.
Aug. 17, 1981	McDonald Oil Company, Fort Edward, NY	BEE-1688	Exception to the reporting requirements. If granted: McDonald Oil Company would not be required to file Form EIA-9A, "No. 2 Distillate Price Monitoring Report."
Aug. 17, 1981	Quad Refining Corp., Newport Beach, CA	BEE-1685	Exception from the entitlements program. If granted: Quad Refining Corp. would receive an exception from the provisions of 10 CFR 211.67 regarding the entitlements sales obligations to Southwestern Refining Co., Inc.
Aug. 18, 1981	Audubon Society of the Everglades, West Palm Beach, FL	BFA-0729	Appeal of an Information Request Denial. If granted: The July 13, 1981, Information Request Denial issued by the Office of Procurement Operations would be rescinded and the Audubon Society of the Everglades would receive access to certain DOE information.
Aug. 18, 1981	Butler, Binion, Rice, Cook and Knapp, Washington, D.C	BFA-0728	Appeal of an Information Request Denial. If granted: The July 16, 1981, Information Request Denial issued by the Economic Regulatory Administration would be rescinded, and Butler, Binion, Rice, Cook and Knapp would receive access to information relating to price violations by Inexco Oil Company.
Aug. 18, 1981	Phibro Corporation, Washington, D.C	BEG-0061, BES-0171	Petition for Special Redress and Request for Stay. If granted: The Office of Hearings and Appeals would direct the Economic Regulatory Administration (ERA) to promptly release the documents involved in the April 17, 1981, FOIA Appeal Decision issued to Englehard Minerals & Chemicals Corporation (Case No. BFA-0633). The ERA would also be stayed from issuing a Proposed Remedial Order to Phibro Corporation pending release of the documents involved in its Petition for Special Redress.
Aug. 18, 1981	Plateau, Inc., Washington, D.C	BEL-0079	Request for Temporary Exception. If granted: Plateau, Inc. would receive a temporary exception from the provisions of 10 CFR 211.67 which would modify its entitlements purchase obligations.
Aug. 18, 1981	Ward, L.O., Enid, Oklahoma	BFA-0703	Appeal of an Information Request Denial. If granted: The July 16, 1981, Information Request Denial issued by the Economic Regulatory Administration would be rescinded and L.O. Ward would receive access to certain DOE information.
Aug. 19, 1981	Bracewell & Patterson, Washington, D.C	BFA-0733	Appeal of an Information Request Denial. If granted: The Information Request Denial issued by the Office of Enforcement, Economic Regulatory Administration would be rescinded, and Bracewell & Patterson would receive access to certain DOE information.
Aug. 19, 1981	Hermiston Herald, The, Hermiston, Oregon	BFA-0731	Appeal of an Information Request Denial. If granted: The July 17, 1981, Information Request Denial issued by the Idaho Operations Office would be rescinded, and *The Hermiston Herald* would receive access to certain DOE information.
Aug. 19, 1981	Standard Oil Company of Ohio, Cleveland, Ohio	BEA-0732	Appeal of an Economic Regulatory Administration Decision and Order. If granted: The Office of Hearings and Appeals would review the June 12, 1981 Decision and Order issued to Standard Oil Company of Ohio by the Economic Regulatory Administration regarding Monthly Cost Allocation Reports.
Aug. 19, 1981	Warrior Asphalt Company of Alabama, Inc., Tuscaloosa, Alabama.	BES-0172	Request for Stay. If granted: Warrior Asphalt Company of Alabama, Inc. would receive a stay of its entitlements purchase obligations pending a final determination on its Motions for Modification/Rescission (Case Nos. BYR-0137, BYR-0132 and BYR-0133).
Aug. 20, 1981	OE/Armour Oil Company, Washington, D.C	BER-0157	Request for Modification/Rescission. If granted: The February 22, 1980, Decision and Order (Case No. BRF-0001) to the Office of Enforcement by the Office of Hearings and Appeals would be modified and OHA would accept jurisdiction over the Petition for Special Refund Procedures involving the Armour Oil Company Consent Order.
Aug. 20, 1981	OE/Homestake Production Company, Washington, D.C	BEF-0074	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR, Part 205, Subpart V, in connection with June 1, 1979, Consent Order issued to Homestake Production Company.

Notices of Objection Received

[Week of August 14, 1981 to August 21, 1981]

Date	Name and location of applicant	Case No.
Aug. 21	Placid Oil Company, Washington, D.C	BEE-1584

[FR Doc. 81-26836 Filed 9-14-81; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed Week of August 21 Through August 28, 1981

During the week of August 21 through August 28, 1981, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the

procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

September 9, 1981.

List of Cases Received by the Office of Hearings and Appeals

[Week of Aug. 21 through Aug. 28, 1981]

Date	Name and location of applicant	Case No.	Type of submission
Aug. 21, 1981	Clark Oil & Refining (Gainsburg), Washington, D.C	BFA-0734	Appeal of Information Request Denial. If granted: The June 20, 1981 Information Request Denial issued by the Office of Special Counsel would be rescinded, and Clark Oil & Refining would receive access to certain DOE enforcement documents.
Aug. 21, 1981	Tesoro Petroleum Corp., San Antonio, Texas	BER-0158	Request for Modification, Rescission. If granted: The August 5, 1981 Decision and Order (Case No. BEE-1668) issued to Tesoro Petroleum Corp. by the Office of Hearings and Appeals would be modified regarding the firm's participation in the entitlements program.
Aug. 24, 1981	Barkett Oil Company, Maimi, Florida	BRD-1357	Motion for Discovery. If granted: Discovery would be granted to Barkett Oil Company in connection with the Statement of Objections submitted by the firm in response to the November 12, 1980 Proposed Remedial Order (Case No. BRO-1357) issued to the firm by the Southeast District Office of Enforcement of the Economic Regulatory Administration.
Aug. 24, 1981	Barkett Oil Company, Maimi, Florida	BRD-1342	Motion for Discovery. If granted: Discovery would be granted to Barkett Oil Company in connection with the Statement of Objections submitted by the firm in response to the November 7, 1980 Proposed Remedial Order (Case No. BRO-1342) issued to the firm by the Southeast District Office of Enforcement of the Economic Regulatory Administration.
Aug. 24, 1981	Laketon Asphalt Refining, Inc., Washington, D.C	BES-0173	Request for Stay. If granted: Laketon Asphalt Refining, Inc. would receive a stay of the April 20, 1981 Decisions and Orders (Case Nos. DEX-0053 and DEX-0155) issued by the Office of Hearings and Appeals with respect to the firm's entitlement purchase obligations.
Aug. 24, 1981	Petroleum Supply, Inc., Houston, Texas	BFA-0735	Appeal of Information Request Denial. If granted: The July 14, 1981 Information Request Denial issued by the Southwest District Manager of the Economic Regulatory Administration would be rescinded, and Petroleum Supply, Inc. would receive access to certain DOE enforcement documents.
Aug. 27, 1981	Office of Enforcement/Diamond Shamrock Corporation, Amarillo, Texas.	BEF-0076	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR part 205, in connection with the May 24, 1979 Consent Order entered into by Diamond Shamrock Corporation.
Aug. 27, 1981	Office of Enforcement/Louis H. Haring, Jr., San Antonio, Texas.	BEF-0075	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR part 205, in connection with the June 14, 1979 Consent Order entered into by Louis H. Haring, Jr.

Notices of Objection Received

Week of Aug. 21 to Aug. 28, 1981

Date	Name and location of applicant	Case No.
Aug. 25, 1981	Gulf States Oil & Refining, Washington, D.C	BEE-1616.

[FR Doc. 81-26837 Filed 9-14-81; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51315; TSH-FRL-1932-8]

Certain Chemicals; Premanufacture Notices

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. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the Federal Register of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of nine PMN's and provides a summary of each.

DATES: Written comments by:

PMN 81-425, 81-427, 81-428, and 81-429—October 31, 1981.

PMN 81-430, 81-431, 81-432, 81-433, and 81-434—November 1, 1981.

ADDRESS: Written comments, identified by the document control number "[OPTS-51315]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460, (202-755-5687).

FOR FURTHER INFORMATION CONTACT:

For PMN No.	Notice manager	Telephone	Room No.
81-425	Carrie Berlin 202-426-8815 E-222.		
81-427	Rachel Diamond 202-426-2601 E-222.		
81-428	Kathleen Ehrensberger 202-426-8815 E-222.		
81-429	Mary Cushmac 202-426-0503 E-229.		
81-430	Carrie Berlin 202-426-8815 E-222.		
81-431	Carrie Berlin 202-426-8815 E-222.		
81-432	Carrie Berlin 202-426-8815 E-222.		
81-433	Rose Allison 202-426-8815 E-222.		
81-434	Mary Cushmac 202-426-0503 E-229.		

Mail address of notice managers: Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMN's received by EPA:

PMN 81-425

Close of Review Period. November 30, 1981.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Annual sales—between $100,000,000 and $499,999,000.

Manufacturing site—East North Central region.

Standard Industrial Classification Code—851.

Specific Chemical Identity. Aromatic aliphatic branched polyester resin.

Use. Claimed confidential business information.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	250,000	450,000
2d year	300,000	500,000
3d year	350,000	550,000

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data. No data were submitted.

Exposure. Claimed confidential business information.

Environmental Release/Disposal. The manufacturer states that there is no release to the environment. Condensates are collected, pumped into a tank truck, and hauled away for incineration.

PMN 81-427

Close of Review Period. November 30, 1981.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Annual sales—over $500 million.

Manufacturing site—East South Central.

Standard Industrial Classification Code—286.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Epoxidized glyceride polyoxyethylene ether.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in a dispersive use.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Milky emulsion (liquid).
pH—7.2.
Percent Activity—50.
Specific gravity—1.036.
Nonionic.

Toxicity Data

Ames Salmonella—Non-mutagenic.

Environmental Test Data

BOD_5—58,000 mg/l at 0.1% concentration.

COD—1,083 mg/l at 0.1% concentration.

Exposure. The manufacturer estimates that during manufacture, processing, use, and disposal a total of 14 workers may experience dermal and inhalation exposure 9 hrs/day, 5 days/wk. Exposure could occur during removal from the reactor, drumming and/or blending, and cleaning/removal of residual product in reactor.

Environmental Release/Disposal. The manufacturer states that rinse water from the reactor cleaning would be discharged into a holding lagoon which would overflow into the city sewer. Release to the air is anticipated to be negligible.

PMN 81-428

Close of Review Period. November 30, 1981.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Annual sales—between $10,000,000 and $99,999,999.

Manufacturing site—East North Central.

Standard Industrial Classification Code—286.

Specific Chemical Identity. Substituted heteromonocyclic derivative of a substituted thiozantheno isoquinolin. phenylpyrazol-3-ene-5-one[2,3-b]thioxantheno[2,1,9-d,e,f] isoquinolin-7-one.

Use. The manufacturer states that the PMN substance will be used in textile and plastic coloration.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	5	800
2d year	500	3,000
3d year	1,000	5,000

Physical/Chemical Properties

Appearance—Deep, yellow powder.
Melting point—250-290° C.
Insoluble in water.
Slightly soluble in alcohol.
Soluble in ketones and esters.

Toxicity Data. No data were submitted.

Exposure. The manufacturer estimates that during manufacture 2 workers may experience dermal and inhalation exposure 8 hrs/day, 10 days/yr. Exposure may occur during the manual transfer of the product from filter press to tub to drier, to grinder to packaging.

Environmental Release/Disposal. The manufacturer states that no release to the environment is anticipated. Grinding and packaging will be done under conventional dust collection systems.

PMN 81-429

Close of Review Period. November 30, 1981.

Manufacturer's Identity. Dow Corning Corporation, P.O. Box 1767, 2200 W. Salzburg Road, Midland, MI 48640.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Silicon substituted organic ester.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used as a chemical intermediate.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Color—Pale yellow to brown.
Physical state—Liquid.
Flash point—>160° F.
Soluble in toluene and chloroform.

Toxicity Data. The manufacturer states that due to the corrosive nature of the material toxicity testing was not done.

Environmental Test Data

Acute state toxicity LC_{50} 48 hr (daphnia magna)—>100 parts per million (ppm).

Acute state toxicity LC_{50} 96 hr (rainbow trout)—71 mg/l.

Ames Salmonella—Non-mutagenic.

Exposure. The manufacturer states that the manufacturing process for the production of this material incorporates a closed system and no worker exposure is anticipated. One individual could be exposed 1 hr/day, 37 days/yr during the drumming off process.

Environmental Release/Disposal. The manufacturer states that there will be essentially no release of this new chemical to the environment. Any material requiring disposal will be incinerated.

PMN 81-430

Close of Review Period. December 1, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Substituted aromatic amine.

Use. The manufacturer states that the PMN substance will be used as an intermediate.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture 7 workers may experience dermal exposure 8 hrs/day, 10 days/yr. Exposure may occur during the removal of solids from the filterpress and the charging of solids to the reaction vessel.

Environmental Release/Disposal. The manufacturer states that no environmental release is expected. Upon completion of the manufacture process, equipment is washed down and the wash is directed to the manufacturer's waste treatment facility for treatment.

PMN 81-431

Close of Review Period. December 1, 1981.

Manufacturer's Identity. Claimed confidential business information.

Special Chemical Identity. Claimed confidential business information. Generic name provided: Substituted aromatic amine.

Use. The manufacturer states that the PMN substance will be used as an intermediate.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture 7 workers may experience dermal exposure 8 hrs/day, 10 days/yr. Exposure may occur during the removal of solids from the filterpress and the charging of solids to the reaction vessel.

Environmental Release/Disposal. The manufacturer states that no environmental release is expected. Upon completion of the manufacture process equipment is washed down and the wash is directed to the manufacturer's waste treatment facility for treatment.

PMN 81-432

Close of Review Period. December 1, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Substituted aromatic amine.

Use. The manufacturer states that the PMN substance will be used as an intermediate.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture 6 workers may experience dermal exposure 4 hrs/day, 2 days/yr. Exposure may occur during the removal of solids from the filterpress and the charging of solids to the reaction vessel.

Environmental Release/Disposal. The manufacturer states that no environmental release is expected. Upon completion of the manufacture process equipment is washed down and the wash is directed to the manufacturer's waste treatment facility for treatment.

PMN 81-433

Close of Review Period. December 1, 1981.

Manufacturer's Identity. E. I. du Pont de Nemours and Company, Inc., 1007 Market Street, Wilmington, DE 19898.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Acrylic polymer.

Use. The manufacturer states that the PMN substance will be used in preparation of textile fibers.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Clear, liquid.
Odor—Mild amine.
Solubility in water—>10%.
Evaporation rate (butyl acetate)—<1.

Toxicity Data. Data on the chemical substance not available.

Exposure. The manufacturer states that because polymerization is carried out in a closed system, practices instituted to control exposure to the major component are considered sufficient to ensure safety.

Environmental Release/Disposal. The manufacturer states that the unrecovered monomer will be discharged as a dilute aqueous stream to the plant waste disposal system. Approximately 75% biodegrades in the system. The remaining monomer and the biodegraded products are non-toxic at these levels to the waste treatment organisms. The outflow is retained in ponds and diluted one hundredfold before release to the river. Nonsalable fibers will be committed to landfill and incineration.

PMN 81-434

Close of Review Period. December 1, 1981.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Annual sales—over $500,000,000.

Manufacturing site—South Atlantic region.

Standard Industrial Classification Code—289.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Disubstituted cyclohexanol.

Use. The manufacturer states that the PMN substance will be used in a intermediate.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	800	1,600
2d year	800	5,000
3d year	800	5,000

Physical/Chemical Properties

Boiling point—93° C. at 10 mm/Hg.
Specific gravity—0.9566.
Color—0-5 APHA.
Refractive index (20° C.)—1.4980.
Flash point, TAG closed cup—190° F.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture and use 3 workers may experience dermal exposure 24 hrs/day, 1-6 days/yr. Exposure may occur during transfer of material from reactor to drums to distillation column, from distillation column to use reactor and during sampling.

Environmental Release/Disposal. The manufacturer states that from less than 10 to 100 kg/yr may be released to air, land and water. Disposal is via an approved publicly owned treatment works (POTW).

Dated: September 4, 1981.

Linda K. Smith,

Acting Director for Management Support Division.

[FR Doc. 81-26742 Filed 9-14-81; 8:45 am]

BILLING CODE 6560-31-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. I-999]

Common Carrier Bureau; Fourth Datel Interconnection Meeting

August 19, 1981.

The Commission's staff has scheduled a fourth meeting on Datel Interconnection for Tuesday and Wednesday, September 22nd and 23, 1981, at 10:00 am in room A-110, 1229-20th Street, N.W. (the Annex).

FOR FURTHER INFORMATION CONTACT: Stuart Chiron (202) 632-7265 or William F. Adler (202) 632-7265.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 81-26725 Filed 9-14-81; 8:45 am]

BILLING CODE 6712-01-M

[Gen. Docket No. 81-498; FCC 81-384]

Telecommunications Technical Assistance to Developing Countries

AGENCY: Federal Communications Commission.

ACTION: Public notice regarding notice of inquiry.

SUMMARY: This Notice regarding FCC Participation in Telecommunications Technical Assistance is issued to inform public and private sectors of the FCC Technical Assistance Program and to encourage their participation and suggestions for improvement.

DATES: Comments are due on or before December 14, 1981 and replies on or before January 29, 1982.

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

FOR FURTHER INFORMATION CONTACT: Gloria McShane, Office of Science and Technology, (202) 653-8102.

SUPPLEMENTARY INFORMATION: .

August 11, 1981.

In the matter of action in docket case; FCC seeks to upgrade technical telecommunications assistance to developing countries.

The Commission has issued a Notice of Inquiry seeking to encourage the American communications industry and educational institutions to participate in upgrading U.S. technical telecommunications assistance to developing countries, in order to meet existing international needs.

Since 1944, the Commission has been the primary U.S. agency for administering foreign technical assistance programs in telecommunications. The telecommunications technical assistance program is funded primarily by the United Nations Development Program through voluntary contributions by U.N. member countries. The program is sponsored by the International Telecommunication Union (ITU) in the form of fellowship grants, recruitment of experts and procurement of equipment.

Through the FCC's Office of Science and Technology, the Commission designs study and observation programs in the United States for selected telecommunications personnel from ITU member countries. Every attempt is made to arrange training that will provide maximum benefit to candidates at a minimum cost to their governments and participating training organizations.

According to a recent FCC study, several problems in administering the technical assistance program were uncovered. A major drawback found was the lack of awareness in the public and private sectors of Commission responsibility for telecommunications training for foreign nationals.

Another problem has been the reluctance of some industries and educational institutions to participate because they feel foreign nationals receive inadequate cultural orientation before undertaking a program in the United States. Moreover, participating organizations have found that the time required for their employees to assist the foreign national is indirectly costly.

The Commission noted that the U.S. Government has a policy whereby employees may participate in the technical assistance programs of international organizations. However, some employers in the private sector, faced with a position vacancy, but a job yet to accomplish, are unable or unwilling to guarantee an employee's reinstatement to his former position at the end of an overseas assignment.

Another deterrent in recruiting experts for overseas positions, the Commission pointed out, is that salaries, including benefits, are often not commensurate with the pay they would have received if they remained in domestic employ.

However, the Commission stated, whereas private organizations may be concerned about the disadvantages of participating in the recruitment of experts, there are advantages.

Since 1975, the trend has been toward short-term rather than long-term assignments, generally about three to six months. Therefore, an employer can lend his employee for a relatively short period and reap the benefits of international exposure.

Cooperation in the technical assistance program can prove economically beneficial to American firms and institutions because developing countries, recognizing the importance of telecommunications to basic infrastructural, social and economic development needs, are augmenting their investments in this area.

Therefore, the Commission said it hoped that a heightened awareness and understanding of the program, its problems and its benefits would encourage increased participation by the communications industry and educational institutions.

Comments are due by December 14, 1981, replies by January 29, 1982.

Action by the Commission August 4, 1981, by Notice of Inquiry (FF 81-384). Commissioners Fowler (Chairman), Quello, Washburn, Fogarty and Dawson, with Commission Fogarty issuing a statement.

For additional information contact Gloria McShane, (202) 653-8102.

Note.—Because of the effort to minimize printing costs, the Notice of Inquiry will not be printed herein. However, copies may be obtained through the FCC Press Office, Rm. 202, 1919 M St. N.W., Washington, D.C. 20554.

William J. Tricarico,

Secretary, Federal Communications Commission.

Separate Statement of Commissioner Joseph R. Fogarty

In Re: An Inquiry Relating to FCC Participation in Telecommunications Technical Assistance

I would urge all communications companies to participate in the Commission administered foreign technical assistance programs. Both the ITU Fellowship Program and the ITU Experts Program serve worthwhile purposes. I congratulate those companies currently participating in these programs including Comsat, GT&E and AT&T. It is clear, however, that greater corporate participation is necessary as the number of applicants seeking technical assistance is expected to increase several-fold in the next few years. I would particularly encourage the United States Independent Telephone Association and its members as well as the other independent telephone companies to participate in these technical assistance programs. The independent telephone industry represents substantial expertise which should be utilized. I hope that this Notice of Inquiry will

alert the independent telephone companies of the need to share this expertise.

[FR Doc. 81-27724 Filed 9-14-81; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10327; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 5, 1981. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: 50 DR-5.

Filing Party: Ralph M. Pais, Esquire, Graham & James, One Maritime Plaza—Suite 300, San Francisco, California 94111.

Summary: Agreement No. 50 DR-5 would amend the arbitration provisions contained in the Pacific/Australia-New Zealand Conference's Merchant's (Dual Rate) Contract.

Agreement No.: 8210-46.

Filing party: Mr. Howard A. Levy, Attorney at Law, Suite 727, 17 Battery Place, New York, New York 10004.

Summary: Agreement No. 8210-46 amends Article 17 of the Continental North Atlantic Westbound Freight Conference Agreement to (1) authorize members to establish uniform credit rules and (2) provide that tariff matters regarding credit conditions (except the time and currency in which payments will be made, and currency conversion rules) will be determined by unanimous agreement of all members entitled to vote. Agreement No. 8210-46 supersedes a previous amendment, Agreement No. 8210-43 conditionally approved by the Commission by Order dated June 30, 1981, and withdrawn by the parties effective September 1, 1981.

Dated: September 10, 1981.

By order of the Federal Maritime Commission.

Francis C. Hurney,
Secretary.

[FR Doc. 81-26706 Filed 9-14-81; 8:45 am]
BILLING CODE 6730-01-M

Filing and Approval of Agreement

The Federal Maritime Commission hereby gives notice that on August 17, 1981, the following agreement was filed with the Commission pursuant to section 15 of the Shipping Act, 1916, as amended by section 4 of the Maritime Labor Agreements Act of 1980, Pub. L. 96-325, 94 Stat. 1021, and was deemed approved that date, to the extent it constitutes an amendment to an assessment agreement as described in the fifth paragraph of section 15, Shipping Act, 1916.

Agreement No: LM-65-1.

Filing party: C. P. Lambos, Esquire, Lambos, Flynn, Nyland & Giardino, 29 Broadway, New York, New York 10006.

Summary: Agreement No. LM-65-1 is a modification of Agreement No. LM-65, which is the collectively-bargained Job Security Program Agreement between steamship carriers operating on the North Atlantic, South Atlantic and Gulf Coasts, and the International Longshoremen's Association, AFL-CIO (ILA). The purpose of the modification is to formalize the settlement of a dispute between various locals of the ILA, the ILA trustees of the Philadelphia Marine Trade Association (PMTA)-ILA Welfare Fund and PMTA-ILA Pension Fund, the PMTA and the Job Security Program as to whether or not the JSP Agency, Inc., or the PMTA, or both, are obligated to make certain payments to the PMTA-ILA Welfare and Pension Funds.

Dated: September 10, 1981.

By order of the Federal Maritime Commission.

Francis C. Hurney,
Secretary.

[FR Doc. 81-26707 Filed 9-14-81; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Open Committee Meetings

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, October 1, 1981
Thursday, October 15, 1981
Thursday, October 22, 1981

These meetings will convene at 10 a.m., and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public,

upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Committee Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW., Washington, D.C. 20415 (202-632-9710).

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate Advisory Committee.

September 9, 1981.

[FR Doc. 81-26757 Filed 9-14-81; 8:45 am]

BILLING CODE 6325-01-M

FEDERAL RESERVE SYSTEM

Allied Bancshares, Inc.; Acquisition of Bank

Allied Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Community Bank, Houston, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank 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 October 5, 1981. 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, September 8, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-26770 Filed 9-14-81; 8:45 am]

BILLING CODE 6210-01-M

Central Banking Co.; Formation of Bank Holding Company

Central Banking Company, Swainsboro, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of The Central Bank, Swainsboro, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank 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 October 5, 1981. 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, September 8, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-26774 Filed 9-14-81; 8:45 am]

BILLING CODE 6210-01-M

First Bancorp of N.H., Inc.; Acquisition of Bank

First Bancorp of N.H., Inc., Manchester, New Hampshire, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of the successor by merger to Granite State National Bank, Somersworth, New Hampshire. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than October 5, 1981. 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, September 8, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-26775 Filed 9-14-81; 8:45 am]

BILLING CODE 6210-01-M

First National Cincinnati Corp.; Acquisition of Bank

First National Cincinnati Corporation, Cincinnati, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent, less directors' qualifying shares, of the voting shares of the successor by acquisition to The Second National Bank of Hamilton, Hamilton, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than October 5, 1981. 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, September 9, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-26776 Filed 9-14-81; 8:45 am]

BILLING CODE 6210-01-M

First Virginia Banks, Inc.; Acquisition of Bank

First Virginia Banks, Inc., Falls Church, Virginia, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of First Virginia Bank-Alleghany, Covington, Virginia, an organizing state-chartered bank that would be the successor by merger to The Covington National Bank, Covington, Virginia, an existing bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than October 5, 1981. 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, September 8, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-26773 Filed 9-14-81; 8:45 am]

BILLING CODE 6210-01-M

Hernando Banking Corp.; Formation of Bank Holding Company

Hernando Banking Corporation, Brooksville, Florida, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Hernando State Bank, Brooksville, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank 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 October 1, 1981. 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, September 8, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-26771 Filed 9-14-81; 8:45 am]

BILLING CODE 6210-01-M

Lexington Bancshares, Inc.; Formation of Bank Holding Company

Lexington Bancshares, Inc., Lexington, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Peoples Bank of Lexington, Lexington, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 5, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lie 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, September 8, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-26777 Filed 9-14-81; 8:45 am]

BILLING CODE 6210-01-M

McLean Bank Holding Co.; Formation of Bank Holding Company

McLean Bank Holding Company, Garrison, North Dakota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 87 percent or more of the voting shares of Garrison State Bank, Garrison, North Dakota; 92 percent or more of the voting shares of Bank of Turtle Lake, Turtle Lake, North Dakota; and 93 percent or more of the voting shares of the Farmers Security Bank, Washburn, North Dakota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank 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 September 29, 1981. 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, September 9, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-26778 Filed 9-14-81; 8:45 am]

BILLING CODE 6210-01-M

Michigan Financial Corp.; Acquisition of Bank

Michigan Financial Corporation, Marquette, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent, less directors' qualifying shares, of the voting shares of First National Bank & Trust of Menominee, Menominee, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank 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 October 5, 1981. 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, September 8, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-26779 Filed 9-14-81; 8:45 am]

BILLING CODE 6210-01-M

Midwest National Corp.; Formation of Bank Holding Company

Midwest National Corporation, Indianapolis, Indiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Midwest National Bank, Indianapolis, Indiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 1, 1981. 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, September 8, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-26769 Filed 9-14-81; 8:45 am]

BILLING CODE 6210-01-M

New Mexico Banquest Corp.; Acquisition of Bank

New Mexico Banquest Corporation, Santa Fe, New Mexico, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of San Juan National Bank, Farmington, New Mexico. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The Application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. 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 October 1, 1981. 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, September 9, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-26780 Filed 9-14-81; 8:45 am]

BILLING CODE 6210-01-M

Preston Bancshares, Inc.; Formation of Bank Holding Company

Preston Bancshares, Inc., Preston, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding compnay be acquiring 80 percent or more of the voting shares of Farmers Savings Bank, Preston, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 5, 1981. 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, September 8, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-26781 Filed 9-14-81; 8:45 am]

BILLING CODE 6210-01-M

Scandia American Bancorporation, Inc.; Formation of Bank Holding Company

Scandia American Bancorporation, Inc., Stanley, North Dakota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 98.5 percent of the voting shares of Scandia American Bank, Stanley, North Dakota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank 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 October 5, 1981. 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, September 8, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-26772 Filed 9-14-81; 8:45 am]

BILLING CODE 6210-01-M

Utah Bancorporation; Acquisition of Bank

Utah Bancorporation, Salt Lake City, Utah, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Silver King State Bank, Park City, Utah. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. 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 September 29, 1981. 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, September 8, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-26782 Filed 9-14-81; 8:45 am]

BILLING CODE 6210-01-M

Wyatt Bancorp, Inc.; Formation of Bank Holding Company

Wyatt Bancorp, Inc., Wyatt, Indiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Farmers State Bank of Wyatt, Wyatt, Indiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 5, 1981. 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, September 8, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-26783 Filed 9-14-81; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Transportation and Public Utilities Service

Federal Hotel/Motel Discount Directory; Availability

The General Services Administration (GSA) announces a new semiannual publication, the "Federal Hotel/Motel Discount Directory."

This directory has been developed to assist the Government employee, traveling on official business, to secure discounted lodging rates at certain

hotels and motels, nationwide. The use of these establishments is on an optional basis; however, significant savings in lodging costs can be achieved by using the hotels and motels listed in the directory. The 4½x8½-inch, 87-page directory includes over 1,200 establishments in more than 475 cities in all 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

Copies of the directory will be available in mid-September 1981 at the General Services Administration, Transportation and Public Utilities Service, Office of Tranaportation and Travel Management, 425 I Street, NW., Room 3210, Washington, D.C. 20406. For additional information contact: Phyllis M. Hickman (202) 275–0651.

Dated: September 2, 1981.

Allan W. Beres,

Commissioner, Transportation and Public Utilities Service.

[FR Doc. 81–26708 Filed 9–14–81; 8:45 am]

BILLING CODE 6820–AM–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committees; Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Dental Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel

Date, time, and place. October 2, 1 p.m., Rm. 1207, 8757 Georgia Ave., Silver Spring, MD.

Type of meeting and panel section leader. Open public hearing, 1 p.m. to 2 p.m.; open committee discussion, 2 p.m. to 3 p.m.; Dr. Gregory Singleton, Bureau of Medical Devices (HFK–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7536.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the panel section leader before September 20, 1981, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a premarket approval application for a material used to construct customs endosseous implants.

Applications for reimbursement. Must be received by September 24, 1981.

Orthopedic Device Section of the Surgical and Rehabilitation Devices Panel

Date, time, and place. October 14, 9 a.m., Rm. 703–727A, 200 Independence Ave. SW., Washington, DC.

Type of meeting and panel section leader. Open public hearing, October 14, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; Dr. James G. Dillon, Bureau of Medical Devices (HFK–410), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7238.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the panel section leader before October 1, 1981, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss questions pertaining to bone cements, and premarket approval applications for bone cement (P810020) and a bovine heterograft (P800044).

Applications for reimbursement. Must be received by September 30, 1981.

Endocrinologic and Metabolic Drugs Advisory Committee

Date, time, and place. October 15, 9 a.m., Conference Rms. G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and executive secretary. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; A. T. Gregoire, Bureau of Drugs (HFD–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3542.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drug products for use in treating endocrine and metabolic disorders.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to present information should contact the executive secretary.

Open committee discussion. The committee will review and discuss (1) the FDA action report, (2) the safety and efficacy of Metformin, and (3) Phase IV protocols for lipid-altering drugs.

Applications for reimbursement. Must be received by September 30, 1981.

Miscellaneous Internal Drug Products Panel

Date, time, and place. October 16 and 17, 9 a.m., Conference Rm. M, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD (October 16), Bldg. A, Lecture Rm. C, Uniformed Services University of the Health Sicences, 4301 Jones Bridge Rd., Bethesda, MD.

Type of meeting and executive secretary. Open public hearing, October 16, 9 a.m. to 10 a.m.; open committee discussion, October 16, 10 am. to 5 p.m., October 17, 8 a.m. to 3 p.m.; John R. Short, Bureau of Drugs (HFD–510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6156.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of nonprescription drugs.

Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the committee. Those who desire to make such a presentation should notify the executive secretary before October 9, 1981, and submit a brief statement of the general nature of

the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this Panel (see also 21 CFR 330.10(a)(2)). This is the last meeting of the Panel. The Panel will be adopting a report on OTC menstrual drug products. The Panel also invites comments on, and may discuss, the following drug categories: glucose tolerance, appetite stimulants, leg muscle cramps, oral electrolyte replacement, poison oak/ivy remedies, ammonia inhalants, benign prostatic hypertrophy, kidney and bladder irritation remedies. The agency will use these comments in the future in developing proposed rulemaking for these categories of drugs. The Panel will also be approving the summary minutes of the August 21–23, 1981 meeting.

Applications for reimbursement. Must be received by September 30, 1981.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will faciliate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Applications for reimbursement for participation in the meetings listed above should be sent to the Office of Consumer Affairs (HFE–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, rather than to the Dockets Management Branch as prescribed in § 10.210 of the regulations (21 CFR 10.210). If you wish to submit an application or wish more information regarding the reimbursement program, please call 301–443–5006.

FDA has established expedited procedures for review of any application for reimbursement for participation in the meetings announced in this notice. The Office of Consumer Affairs, FDA, will file any application for reimbursement for participation in the meetings announced in this notice in the docket for this notice.

Dated: September 9, 1981.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 81–26740 Filed 9–14–81; 8:45 am]

BILLING CODE 4110–03–M

National Institutes of Health

Allergy, Immunology, and Transplantation Research Committee: Allergy and Clinical Immunology Research Subcommittee and Transplantation Biology and Immunology Subcommittee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Allergy, Immunology, and Transplantation Research Committee, National Institute of Allergy and Infectious Diseases, and its Subcommittees on October 28–30, 1981 at the National Institutes of Health, Building 31C, Conference Room 10, Bethesda, Maryland 20205.

The meeting will be open to the public on October 29 from approximately 9:00 a.m. until 11:00 a.m. to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting of the AITRC Transplantation Biology and Immunology Subcommittee will be closed to the public for review, evaluation, and discussion of individual grant applications and contract proposals from 9:00 a.m. until approximately 5:00 p.m. on October 28. The meeting of the AITRC Allergy and Clinical Immunology Research Subcommittee will be closed to the public from 11:30 a.m. to approximately 5:00 p.m. on October 29 and again on October 30 from 9:00 a.m. to approximately 5:00 p.m. for review, evaluation, and discussion of individual grant applications and contract proposals.

These applications, proposals, and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A–32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496–5717, will provide summaries of the meetings and rosters of the Committee members as requested.

Dr. Luz A. Froehlich, Acting Executive Secretary, Allergy, Immunology and Transplantation Research Committee, NIAID, NIH, Westwood Building, Room 703, Telephone (301) 496–7291, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855 Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

NIH programs are not covered by OMB Circular A–95 because they fit the description of "program not considered appropriate" in Sections 8(b) (4) and (5) of that Circular.

Dated: September 9, 1981.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 81–26731 Filed 9–14–81; 8:45 am]

BILLING CODE 4110–08–M

Animal Resources Review Committee, Animal Resources Subcommittee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Subcommittee on Animal Resources, Animal Resources Review Committee, Division of Research Resources, November 2–3, 1981, Conference Room 8, Building 31, National Institutes of Health, Bethesda, Maryland, 20205.

The meeting will be open to the public on November 2 from approximately 2:00 p.m. to recess, during which time there will be a brief staff presentation on the current status of the Animal Resources Program and the Committee will select future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on November 2 from 8:00 a.m. to approximately 2:00 p.m. and on November 3 from 8:00 a.m. to adjournment for the review, discussion and evaluation of individual grant applications submitted to the Laboratory Animal Sciences Program.

These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Room 5B13, Bldg. 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Carl E. Miller, Executive Secretary of the Animal Resources Review Committee, Room 5B55, Bldg. 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5175, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.306, Laboratory Animal Sciences, National Institutes of Health)

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: September 9, 1981.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 81–26737 Filed 9–14–81; 8:45 am]

BILLING CODE 4110–08–M

Biometry and Epidemiology Contract Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Biometry and Epidemiology Contract Review Committee, National Cancer Institute, November 18, 1981, Building 1, Wilson Hall, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public on November 18, from 9:00 am. to 9:30 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on November 18, from 9:30 a.m. to adjournment, for the review, discussion and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and a roster of committee members, upon request.

Dr. Wilna A. Woods, Executive Secretary, National Cancer Institute, Westwood Building, Room 822, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5173) will furnish substantive program information.

Dated: September 9, 1981.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 81–26732 Filed 9–14–81; 8:45 am]

BILLING CODE 4110–08–M

Board of Scientific Counselors Division of Cancer Treatment; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, DCT, National Cancer Institute, October 1–2, 1981, Building 31, 6th Floor, "C" Wing, Conference Room 6, National Institutes of Health. This meeting will be open to the public on October 1, 1981, from 8:30 a.m. until 5:30 p.m., and again on October 2, 1981, from 8:30 a.m. until adjournment, to review program plans, contract recompetitions and budget for the DCT program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on October 1, 1981, from 7:30 p.m. to 9:30 p.m., for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A–06, National Institutes of Health, Bethesda, Maryland 20205 (301–496–5708) will provide summaries of the meeting and rosters of committee members, upon request. Dr. Bruce A. Chabner, Acting Director, Division of Cancer Treatment, National Cancer Institute, Building 31, Room 3A–52, National Institutes of Health, Bethesda, Maryland 20205 (301–496–4291) will furnish substantive program information.

Dated: September 9, 1981.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 81–26733 Filed 9–14–81; 8:45 am]

BILLING CODE 4110–08–M

Cancer Clinical Investigation Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cancer Clinical Investigation Review Committee, National Cancer Institute, November 9–10, 1981, Building 31C, Conference Room 6, National Institutes of Health, Bethesda, Maryland 20205. This meeting will be open to the public on November 9, from 8:30 a.m. to 9:30 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on November 9, from 9:30 a.m. to 5:00 p.m., and on November 10, from 8:30 a.m. to adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property

such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Dorothy K. Macfarlane, Executive Secretary, National Cancer Institute, Westwood Building, Room 819, National Institutes of Health, Bethesda, Maryland 20205 (301/496-7481) will furnish substantive program information.

(Catalog of Federal Domestic Assistance, No. 13.395, Project grants in cancer treatment research, National Institutes of Health)

NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: September 9, 1981.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 81-26735 Filed 9-14-81; 8:45 am]

BILLING CODE 4110-08-M

Cancer Research Manpower Review Committee; Amended Meeting

Notice is hereby given of the cancellation of the first day of the meeting of the Cancer Research Manpower Review Committee, National Cancer Institute, National Institutes of Health, September 24, 1981; which was published in the **Federal Register** on July 24, 1981 (46 FR 38143). Also the open portion of the meeting will be changed from September 24, 9:00 a.m.-10:00 a.m., to September 25 from 9:00 a.m.-9:30 a.m., to review administrative details. Attendance by the public will be limited to space available. For further information, please contact Dr. Leon Niemiec, Executive Secretary, Cancer Research Manpower Review Committee, National Cancer Institute, Westwood Building, Room 10A03, National Institutes of Health, Bethesda, Maryland 20205 (301/496-7978).

Dated: September 9, 1981.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 81-26734 Filed 9-14-81; 8:45 am]

BILLING CODE 4110-08-M

National Advisory Dental Research Council; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Dental Research Council, National Institutes of Dental Research, on November 2-3, 1981, in Conference Room 6, Building 31-C, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 9:00 a.m. to adjournment on November 3 for general discussion and program presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 525b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting of the Council will be closed to the public on November 2 from 9:00 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Dorothy Costinett, Committee Management Assistant, National Institute of Dental Research, National Institutes of Health, Building 31-C, Room 2C17, Bethesda, MD 20205, (phone 301 496-2883), will furnish rosters of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Programs Nos. 13.840—Caries Research, 13.841—Periodontal Diseases Research, 13.842—Craniofacial Anomalies Research, 13.843—Restorative Materials Research, 13.844—Pain Control and Behavioral Studies, 13.845—Dental Research Institutes, 13.878—Soft Tissue Stomatology and Nutrition Research, National Institutes of Health)

NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: September 9, 1981.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 81-26736 Filed 9-14-81; 8:45 am]

BILLING CODE 4110-08-M

Clinical Cancer Education Committee, National Cancer Institute; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Clinical Cancer Education Committee, National Cancer Institute, November 4, 1981, Building 31C, Conference Room 6, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205. This meeting will be open to the public on November 4, from 8:30 a.m. to 9:30 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92-463, the meeting will be closed to the public on November 4, 1981, from 9:30 a.m. to 5:00 p.m., for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Margaret H. Edwards, Executive Secretary, National Cancer Institute, Blair Building, Room 722, National Institutes of Health, Bethesda, Maryland 20205 (301/427-8855) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Number 13.398, project grants in cancer research manpower)

(NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular)

Dated: September 9, 1981.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 81-26730 Filed 9-14-81; 8:45 am]

BILLING CODE 4110-08-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-81-1090]

President's Commission on Housing; Schedule of Meetings

Notice is hereby given in the following revised schedule of meetings of the President's Commission on Housing, through October 20, 1981.

Due to the possibility of changes in the schedule, members of the public should call the Commission offices to confirm the date, location and time for

each meeting. All Commission and Committee meetings are open to the public.

Further information may be obtained by calling Jean M. Freeze, President's Commission on Housing, 730 Jackson Place, N.W., Washington, D.C. 20503, (202) 395–5832.

Section 10(a)(2), Federal Advisory Committee Act, as amended (5 U.S.C. App. I).

Issued at Washington, D.C., September 11, 1981.

Samuel R. Pierce, Jr.,

Secretary, Department of Housing and Urban Development.

The President's Commission on Housing

Tentative Schedule of Meetings Thru October 30, 1981 [1]

Date	Commission/committee	Place	Time
Monday, Sept. 14	Committee on Federal Housing Programs and Alternatives.	New Executive Office Bldg., Room 2010, Washington, D.C.	9:00 a.m.–5:00 p.m.
Monday, Sept. 14	Committee on Private Sector Financing of Housing.	CEQ Conference Room, 722 Jackson Place, NW., Washington, D.C.	2:00 a.m.–5:00 p.m.
Monday, Sept. 14	Committee of Government Regulation and the Cost of Housing.	New Executive Office Bldg., Room 7006, Washington, D.C.	9:00 a.m.–5:00 p.m.
Monday, Sept. 14	Committee on Housing and the Economy.	New Executive Office Bldg., Room 8103, Washington, D.C.	3:00–5:00 p.m.
Tuesday, Sept. 15	President's Commission on Housing (Full Commission).	New Executive Office Bldg., Room 2010, Washington, D.C.	9:00 a.m.–5:00 p.m.
Wednesday, Sept. 16 and Thrusday, Sept. 17.	Committee on Government Regulations and the Cost of Housing.	Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C., 6th Fl Board Room (Wed), 2nd Fl Amphitheater (Thurs).	9:00 a.m.–5:00 p.m.
Thursday, Oct. 1	Committee on Federal Housing Programs and Alternatives.	New Executives Office Bldg., Room 2010.	9:00 a.m.–5:00 p.m.
Thursday, Oct. 1	Committee on Private Sector Financing of Housing.	CEQ Conferences Room, 722 Jackson Place, NW., Washington, D.C.	To be announced.
Thrusday, Oct. 1	Committee on Government Regulation and the Cost of Housing.	New Executive Office Bldg., Room 10104, Washington, D.C.	To be announced.
Thursday, Oct. 1	Committee on Housing and the Economy.	New Executive Office Bldg., Room 8103, Washington, D.C.	To be announced.
Friday, Oct. 2	President's Commission on Housing (Full Commission).	New Executive Office Bldg., Room 2010, Washington, D.C.	9:00 a.m.–5:00 p.m.
Monday, Oct. 19 and Tuesday, Oct. 20.	President's Commission on Housing (Full Commission) and Committee Meetings.	New Executive Office, Bldg., Room 2010, Washington, D.C. (Other rooms to be announced).	To be announced.

[1] Meetings, dates, times, and locations are subject to change. Confirmation of the above information should be obtained prior to attendance at a meeting by calling the Commission offices at (202) 395–5832.

[FR Doc. 81–26947 Filed 9–14–81; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–14015]

Alaska Native Claims Selection

Correction

In FR Doc. 81–24113 appearing at page 42195 in the issue of Wednesday, August 19, 1981, make the following correction:

In the first column of page 42196, under **Copper River Meridian**, in Sec. 26, ". . . N½SE¼" should have read ". . . N½SW¼".

BILLING CODE 1505–01–M

[OR 3225–A]

Oregon; Partial Termination of Classification for Multiple Use Management

1. By order of the Oregon State Director, Bureau of Land Management, which was published in the **Federal Register** on September 19, 1968 (33 FR 14182), the following described public lands were classified for multiple-use management pursuant to the Classification and Multiple Use Act of September 19, 1964 (43 U.S.C. 1412):

Willamett Meridian

T. 16 S., R. 15 E.,
Sec. 1, Lot 4, S½NE¼, SW¼NW¼, W½SW¼, SE¼SW¼, and SE¼;
Sec. 12, N½NE¼, SE¼NE¼, NW¼, and E½SE¼;
Sec. 13, W½NE¼, SE¼NW¼, E½SW¼, and NW¼SE¼.
T. 16 S., R. 16 E.,
Sec. 20, S½SE¼;
Sec. 28, W½, W½SE¼, and SE¼SE¼;
Sec. 29, NE¼ and S½SE¼;
Secs. 32, 33, and 34.
T. 17 S., R. 16 E.,
Sec. 2, Lots 1, 2, 3, and 4, S½N½, and S½;
Sec. 3, Lots 1, 2, 3, and 4, S½N½, and S½;
Sec. 4, Lots 1, 2, 3, and 4, S½N½, and S½;
Sec. 5, Lots 1, 2, and 4, S½N½, and S½;
Sec. 10, NW¼NE¼, W½, W½SE¼, and SE¼SE¼.
T. 16 S., R. 21 E.,
Sec. 1, Lots 1, 2, 5, 6, and 7, SW¼NE¼, SW¼, and W½SE¼;
Sec. 11;
Sec. 12, Lots 1, 2, 3, and 4, W½, and W½E½;
Sec. 13, Lots 1, to 12, inclusive, and SE¼;
Sec. 14, Lots 1, 2, 3, and 4, N½, and N½S½;
Sec. 15, Lots 1 to 7, inclusive, NE¼, E½NW¼, NE¼SW¼ and N½SE¼;
Secs. 24, 26, and 34.
T. 15 S., R. 22 E.,
Sec. 20, S½;
Sec. 21, E½, E½NW¼, and SW¼;
Sec. 28;
Sec. 29, W½;
Sec. 31, Lots 1, 2, 3, and 4, NE¼, and E½W½;
Secs. 32 and 33.
T. 16 S., R. 22 E.,
Sec. 4, Lots 1, 2, 3, and 4, S½N½, and S½;
Sec. 5, Lots 1 to 10, inclusive, S½NE¼, and SE¼;
Sec. 6, Lots 1 to 13, inclusive, SE¼NW¼, and E½SW¼;
Sec. 7, Lots 1, 2, 3, and 4, E½, and E½W½;
Sec. 8;
Sec. 18, Lots 1, 2, 3, and 4, E½, and E½W½.

The areas described aggregate 19,657.53 acres in Crook County, Oregon.

2. Pursuant to 43 CFR 2461.5(c)(2), the classification as to the above-described public lands is terminated upon publication of this notice in the **Federal Register.**

3. At 10:00 a.m., on October 14, 1981, the above described public lands will be relieved of the segregative effect of the above-mentioned classification order.

Dated: September 8, 1981.

William G. Leavell,

State Director.

[FR Doc. 81–26800 Filed 9–14–81; 8:45 am]

BILLING CODE 4310–84–M

[M 45991 (SD)]

South Dakota; Realty Action, Noncompetitive Sale of Public Lands in Lawrence County, S. Dak.

September 8, 1981.

The following described lands have

been examined and identified as suitable for disposal by direct sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713) at no less than the fair market value:

Black Hills Meridian

T. 4 N., R. 2 E.,
Sec. 1, Lots 9, 14, 15, 16, 17, 18, 19, 20, 21, and MS-997; and
Sec. 2, Lots 2 and 3.
Containing 17.81 acres.

The above-described lands will be sold to the Black Hills Chairlift Corporation owner of the improvements (chairlift, ski runs, parking lot) on the above tracts. Sale of the land will not be held until 60 days after date of this notice.

The proposed sale is consistent with the Bureau's planning system. The sale of this land has been discussed with Lawrence County and South Dakota government officials. Public interest will be served, as the sale will assist the economy of the area by satisfying local government and private needs for land identified for disposal.

The following terms and conditions will be applicable to the sale:

1. All minerals will be reserved to the United States;

2. A right-of-way for ditches and canals will be reserved to the United States; and

3. The sale of these lands will be subject to all valid existing rights and reservations of record.

The decision to conduct the sale is based on information contained in the environmental assessment and land report written for this case. These documents are available for inspection at the Bureau of Land Management, Miles City District Office, Box 940, Miles City, Montana 59301.

For a period of 45 days from the date of this notice, interested parties may submit comments to the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absense of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Kannon Richards,

Acting State Director.

[FR Doc. 81-26801 Filed 9-14-81; 8:45 am]

BILLING CODE 4310-84-M

Hard Mineral Leasing on Outer Continental Shelf Offshore Alaska (Arctic) and Offshore South Atlantic States; Request for Additional Information

ACTION: Request for additional informtion regarding hard mineral leasing on the Outer Continental Shelf offshore Alaska (Arctic) and offshore the South Atlantic States.

SUMMARY: The Secretary of the Interior is authorized under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.), to issue leases for minerals other than oil, gas, and sulphur on the Outer Continental Shelf. The Department requests additional information to that submitted by commenters on the Federal Register (46 FR 1037) on January 5, 1981. Specific information is requested for sand and gravel mining on the OCS in the Arctic offshore Alaska and for manganese nodules located offshore the South Atlantic States.

DATE: Comments and information must be received on or before October 9, 1981.

ADDRESS: Information should be submitted to the Division of Offshore Resources (540), Bureau of Land Management, U.S. Department of the Interior, Washington, D.C. 20240. Envelopes or packages should be marked "Request for Additional Information on Hard Mineral Leasing on the Outer Continental Shelf." Respondents to the January 1981 request need not send duplicate information, but may wish to update or supplement previous submissions.

FOR FURTHER INFORMATION CONTACT: Eileen Carlton or Carol Hartgen at (202) 343-6906.

SUPPLEMENTAL INFORMATION: The Department issued a Request for Comments Regarding Hard Mineral Leasing on the Outer Continental Shelf in the Federal Register on January 5, 1981. This Request for Additional Information asks for commodity-specific information on sand and gravel in the Arctic offshore Alaska and on manganese nodules offshore the South Atlantic States.

The Outer Continental Shelf Lands Act, as amended, provides that the leasing of these minerals on the OCS will be by cash bonus bid with the royalty established by the Secretary. Also annual rental payments will be established by the Secretary.

Precise marine boundaries between the United States and opposite or adjacent Nations have not been determined in all cases. Accordingly, certain areas are or may be subject to negotiation or dispute.

AREA OF INTEREST: Respondents are requested to submit information and comments on Federal portion of the Arctic offshore Alaska especially the area east of 156° 30' W. Longitude to the U.S.-Canadian boundary for any interest in mining sand and gravel deposits. For mining manganese nodules, submit information and comments on the Federal area offshore the South Atlantic States.

A. Information is requested on the following items. Respondents should identify any proprietary information so that the Department can protect its confidentiality.

1. Interest in leasing sand and gravel on the Arctic OCS offshore Alaska.

a. Grade or quality of gravel.

b. Intended use of material; for example, whether intended for sale to manufacturers or others, or for use by a lessee in construction of artificial islands used in oil and gas exploration and development activities in the Arctic.

c. Location of probable markets.

2. Interest in mining manganese nodules offshore the South Atlantic States.

a. Intended use of material mined; for example, whether material will be used for extraction of its metal content for strategic applications.

b. Location of probable markets.

3. Timing of Lease Sale, Schedule of Operational Activities and Location of Area.

a. Specify approximate time at which your company would be economically and technologically prepared to bid for these commodities.

b. Submit schedule of operations (timing), including whether activities will be continuous or intermittent.

c. Express whether areas of interest are contiguous or noncontiguous (i.e., whether they lie adjacent to each other or scattered throughout area).

4. Ability to mine and transport commodity to shore.

a. Describe present and projected state of technology for extraction and processing of commodities, including any water depth limitation.

b. Specify the minimum acreage needed to be economically viable in mining of these resources.

c. Estimate the magnitude of exploration, development and production activities needed to mine these commodities economically.

5. Any other relevant commodity and site-specific information.

B. Geological and geophysical (G&G) permits. Notice is also give that permits are available, upon suitable application pursuant to 30 CFR 251, for hard mineral exploration on the Outer Continental

Shelf. Activities authorized under this regulation include geological and geophysical activities for exploration of mineral resources and for scientific research. For further information in regard to these permits, contact Hans Waetjen, U.S. Geological Survey, Stop 640, 12201 Sunrise Valley Drive, Reston, Virginia 22092, (703) 860–7571.

Robert F. Burford,

Director, Bureau of Land Management.

Approved:

Garrey E. Carruthers,

Assistant Secretary of the Interior.

September 9, 1981.

[FR Doc. 81–26693 Filed 9–14–81; 8:45 am]

BILLING CODE 4310–84–M

Roseburg District Advisory Council; Meeting

Notice is hereby given that in accordance with Section 309 of the Federal Land Policy and Management Act (as amended), the Roseburg District Advisory Council will meet October 20, 1981. The meeting will convene at 9:00 a.m. in the conference room at the Roseburg District Office, 777 N.W. Garden Valley Blvd., Roseburg, OR. The topic to be considered at the meeting is the next step in the land use planning process, the Timber Management Environmental Impact Statement for the Douglas-South Umpqua Sustained Yield Units. Particular attention will focus on the issues and alternatives that have surfaced in the EIS "scoping" process.

All Council meetings are open to the general public and news media. Interested persons or organizations may make oral statements to the Council at 11:00 a.m., or they may file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager by October 13, 1981. Depending upon the number of persons wishing to make statements, a per person time limit may be established by the District Manager.

Summary minutes of each Council meeting will be maintained in the Roseburg District Office and will be available for public inspection and copying during regular business hours within 30 days following the meeting.

For additional information, contact Gary Majors, Public Information Officer, telephone (503) 672–4491.

Dated: September 3, 1981.

James E. Hart,

District Manager.

[FR Doc. 81–26792 Filed 9–14–81; 8:45 am]

BILLING CODE 4310–84–M

[OR 6918]

Oregon; Termination of Disposal Classification

Correction

In FR Doc. 81–24292, appearing at page 42357, in the issue of Thursday, August 20, 1981, make the following changes:

1. Add [OR 6918] to the heading of the document.

2. In the land description under "Willamette Meridian, Oregon", in Sec. 7, change "E½SE¼" to read "E½SW¼".

BILLING CODE 1505–01–M

Fish and Wildlife Service

Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; Third Regular Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service announces the availability of the official report of the U.S. Representative to the Third Regular Meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora and publishes a summary of resolutions adopted by the Conference which may bear directly on the conditions of international trade in specimens of species controlled by the Convention.

ADDRESS: Copies of the official report may be requested from the U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240. Due to limited supply, requests should be limited to one copy per person or organization.

FOR FURTHER INFORMATION CONTACT: Richard M. Parsons, Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 703/235–2418.

SUPPLEMENTARY INFORMATION:

Background

In accordance with the Service's rules providing for public participation in the development of negotiating positions for meetings of the Conference of the Parties (hereinafter referred to as Conference) to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (hereinafter referred to as CITES or Convention), the Service announces the availability of the official report of the United States Representative to the Third Regular Meeting of the Conference held in New Delhi, India, February 25–March 8, 1981. Only a limited number of copies of this report have been produced; therefore, requests for it should be limited to one per person or organization.

In addition, in the interest of informing the general public of those actions taken by the Parties at New Delhi which may bear directly on the conditions of international trade in CITES controlled specimens, the Service publishes the following as summaries of some of the resolutions adopted by the Conference. Actions taken on proposals to amend the lists of CITES controlled species will not be treated here. For information on such actions, see the Federal Register of April 7, 1981 (46 FR 20713).

1. Harmonization of Permit Forms and Procedures

Each Party should adapt their CITES export permits and re-export certificates both as to content, and layout (to the extent practicable) to the standard format approved by the Conference. One element of the standard format calls for a statement of the country of origin of the specimen concerned, i.e., the country in which the specimen was taken from the wild, captive-bred, etc. This statement can be omitted only where specifically justified.

Parties should see to it that information on units of measurement avoid general descriptions such as "one case" or "one shipment". Where, for example, skins, hides or trophies are being shipped, the number of animals represented by the shipment should appear on the CITES document or, where this is not possible, the weight in kilograms.

The Conference urged Parties to comply with the documentary requirements of Article VI which is designed to assure the validity and authenticity of permits, and to comply with the resolution on the Article VII exemptions for specimens "bred in captivity" or "artificially propagated". That resoluton passed at the Second Regular Meeting of the Conference (San Jose, 1979) limits the availability of these exemptions by the following interpretations:

> * * * [T]hat the term "bred in captivity" be interpreted to refer only to offspring, including eggs, born or otherwise produced in a controlled environment, either of parents that mated or otherwise transferred gametes in a controlled environment, if reproduction is sexual, or of parents that were in a controlled environment when development of the offspring began, if reproduction is asexual. The parental breeding stock must be to the satisfaction of the competent

government authorities of the relevant country:

(i) Established in a manner not detrimental to the survival of the species in the wild;

(ii) Maintained without augmentation from the wild, except for the occasional addition of animals, eggs or gametes from wild populations to prevent deleterious inbreedng, with the magnitude of such addition determined by the need for new genetic material and not by other factors, and

(iii) Managed in a manner designed to maintain the breeding stock indefinitely.

A controlled environment for animals is an environment that is intensively manipulated by man for the purpose of producing the species in question, and that has boundaries designed to prevent animals, eggs or gametes of the selected species from entering or leaving the controlled environment. General characteristics of a controlled environment may include but are not limited to artificial housing, waste removal, health care, protection from predators, and artifically supplied food. A parental breeding stock shall be considered to be "managed in a manner designed to maintain the breeding stock indefinitely" only if it is managed in a manner which has been demonstrated to be capable of reliably producing second-generation offspring in a controlled environment * * *.

** * * That the term "artificially propagated" be interpreted to refer only to plants grown by man from seeds, cuttings, callus tissue, spores or other propagules under controlled conditions. The artificially propagated stock must be:

(i) Established and maintained in a manner not detrimental to the survival of the species in the wild, and

(ii) Managed in a manner designed to maintain the artificially propagated stock indefinitely.

Controlled conditions for plants is under an environment that is intensively manipulated by man for the purpose of producing selected species. General characteristics of controlled conditions may include but are not limited to tillage, fertilization, weed control, irrigation, or nursery operations such as potting, bedding, or protection from weather * * *.

The San Jose resolution also resolved the question of whether captive bred or artificially propagaged specimens of Appendix I species produced for commercial purposes were eligible for certificates of exemption under Article VII.5 by stating:

* * * that the provisions of Article VII, paragraph 4, of the Convention be applied separately from those of Article VII, paragraph 5. Specimens of animal species in Appendix I bred in captivity for commercial purposes or plant species in Appendix I artificially propagated for commercial purposes shall be treated as if they were in Appendix II, and shall not be exempted from the provisions of Article IV by the granting of certificates to the effect that they were bred in captivity or artificially propagated * * *.

2. Security Paper

Parties should affix serially numbered adhesive security stamps to be designed by the Secretariat on CITES permits and certificates. The issuing officer should validate the stamp with his or her signature across the stamp and onto the document.

The Parties should exchange permits and certificates both regularly and whenever irregularities are suspected.

3. Trade With Non-Parties

Parties should not accept documents issued by non-Parties unless they contain:

a. The name, stamp (if any) and signature of a competent issuing authority (nature conservation authorities shall be considered as competent unless another authority is so designated),

b. Sufficient identification of the species concerned for purposes of CITES,

c. The country of origin or justification for its omission,

d. In case of export, certification to the effect that export will not be detrimental to survival of the species concerned and that the specimen was not obtained in contravention to the law,

e. In the case of re-export, certification to the effect that the competent authority of the country of origin has issued an export document which substantially meets the requirements of Article VI,

f. In the case of export or re-export of live specimens, certification to the effect that transport will be in a manner which will minimize the risk of injury, damage to health or cruel treatment,

g. In the case of import by a non-Party of Appendix I specimens from a Party, certification on its import document that import will be for purposes which are not detrimental to the survival of the species concerned, that specimens are not to be used for primarily commercial purposes, and, where the specimens are living, that the proposed recipient is suitably equipped to house and care for them.

4. Shipping Guidelines

The Parties should take measures to promote the full and effective use of the CITES "Guidelines for Transport and Preparation for Shipment of Live Wild Animals and Plants". The guidelines should be brought to the attention of interested Parties inviting comment from them and encouraging their use. The guidelines can be amended. The Technical Expert Committee shall consider recommendations from Parties, circulate them to interested persons and organizations for comment and report its recommendations to a meeting of the Conference. Suggestions for recommendations may be addressed to the Federal Wildlife Permit Office (see "ADDRESS" above).

The Conference limited the applicability of the guidelines to wild animals. It changed a reference to "Rats, Mice and Cavies-Bred for Laboratory Use" to "Rats, Mice and Cavies and other Small Mammals", and eliminated an element in the guideline recommending that pregnant specimens and specimens dependent on their mother not be shipped.

The Service will consider that preparation and shipment plans for live specimens in accordance with the guidelines will satisfy the Service that the specimens will be "so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment", unless other circumstances point to the contrary.

5. Ranching of Appendix I Specimens

Populations of species included in Appendix I which occur within the jurisdiction of Parties, but which are deemed by the Parties to be no longer endangered and to benefit by ranching (the rearing in a controlled environment of specimens taken from the wild) with the intention of trade may be included in Appendix II (and therefore may be commerically traded) provided the following criteria are satisfied:

(a) The ranching operation must be primarily beneficial to the conservation of the local population (contribute to its increase in the wild),

(b) The products of the operation must be adequately identified and documented to ensure that they can be readily distinguished from products of Appendix I populations.

Proposals to list such populations in Appendix II must contain the following information:

(i) Evidence that the taking from the wild shall have no significant detrimental impact on wild populations,

(ii) An assessment of the likelihood of the biological and economic success of the ranching operation,

(iii) Assurance that the operation shall be carried out at all stages in a humane (non-cruel) manner,

(iv) Assurance that the operation will be beneficial to the wild population through reintroduction or in other ways,

(v) A description of the methods to be used to identify the products through marking and/or documentation,

(vi) Assurance that the criteria continue to be met, records to be open to scrutiny by the Secretariat,and that the Management Authority shall incude in its reports to the Secretariat sufficient detail concerning the status of its

population and concerning the performance of any ranching operation to satisfy the Parties that these criteria continue to be met.

Any proposal to include in Appendix II a population of a species incuded in Appendix I under the provisions of this resolution should be received by the Secretariat 330 days (a regular proposal is 150 days) in advance of the meeting of the Conference that will consider the proposal.

6. Trade in African Elephant Ivory

Any imports, exports or re-exports of African elephant ivory by a Party should be authorized only if the Party is satisfied that the ivory was legally acquired in the country of origin. Permits and certificates for trade in raw ivory should be accepted only if they mention the actual country of origin. Each tusk or other piece of raw ivory should be marked by means of punch-dies using the following formula: Country of origin ISO code of two letters, serial number for the year in question/the last two digits of the year and the weight in kilograms (e.g., KE 127/8114). In the case of whole tusks, this mark is to be placed at the "lip mark", and indicated with a flash of color. Parties should not accept raw ivory which is not clearly marked.

Where possible, Parties should adopt domestic measures licensing importers, exporters or re-exporters of raw ivory. (The resolution defined raw ivory to include all whole African elephant tusks, polished or unpolished and in any form whatsoever, and all African elephant ivory in cut pieces, polished or unpolished and howsoever changed from its original form, except for "worked ivory".) The term "worked ivory" shall cover all items made of ivory for jewelry, adornment, art utility or musical instruments (but not including whole tusks in any form except when the whole surface has been carved), provided that such items are clearly recognizable as such and in forms requiring no further carving, crafting or manufacture to effect their purpose. The Service is currently considering the modification of its "special rule" on African elephants so as to ease restrictions on domestic activities and bring the rule more into line with the importation and exportation provisions of CITES. The Service has published a notice of intent to this effect in the Federal Register of April 9, 1981 (46 FR 2209), and a proposed rule in the Federal Register of July 17, 1981 (46 FR 37059).

7. Trade in Whale Products

The Conference called on the Parties to pay particular attention to the documentation requirements for specimens of cetaceans. It called on those CITES Parties which have not adhered to the International Convention for the Regulation of Whaling (IWC) to do so.

8. Trade in Rhinceros Horn

The Secretariat should request non-Parties that have traded in rhinoceros products within the past five years to take measures preventing import or export of such products; and to request both Parties and non-Parties to place a moratorium on the sale of all governmental and semigovernmental stocks of rhinoceros products.

9. International Compliance Controls

The Conference made a general call for strict compliance and control of CITES trade and called on Parties to assure that permits and certificates were issued by competent authorities. Importing Parties in particular should not accept documents other than those issued by Management Authorities officially designated as competent and duly notified as such to the Secretariat.

This notice was prepared by Arthur Lazarowitz, Federal Wildlife Permit Office.

Dated: September 4, 1981.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 81-26830 Filed 9-14-81; 8:45 am]

BILLING CODE 4310-15-M

Geological Survey

Known Geothermal Resources Area; Conda, Idaho; Correction

In FR Doc. 78-30723 appearing on page 50744 in the issue for Tuesday, October 31, 1978, the land description is incorrect. This notice replaces that previously published document.

Pursuant to the authority vested in the Secretary of the Interior by Sec. 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220.2.3, and Conservation Division Supplement (Geological Survey Manual) 220.2.1 G, the following described lands are hereby defined as a known geothermal resources area effective January 1, 1978:

(12) Idaho

Conda Known Geothermal Resources Area

Boise Meridian, Idaho

T. 8 S., R. 42 E.
Secs. 1, 2, 11, 12, 13, and 14.

The area described aggregates 3,846.24 acres, more or less.

Dated: September 9, 1981.

John J. Dragonetti,

Deputy Division Chief, Onshore Minerals Regulation.

[FR Doc. 81-26803 Filed 9-14-81; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 9, 1981. Pursuant to § 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by September 30, 1981.

Carol Shull,

Acting Keeper of the National Register.

LOUISIANA

Orleans Parish

New Orleans, *Bullitt-Longenecker House*, 3627 Carondelet St.

[FR Doc. 26840 Filed 9-14-81; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 4, 1981. Pursuant to § 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by September 30, 1981.

Carol Shull,

Acting Keeper of the National Register.

CALIFORNIA

San Bernardino County

Fort Irwin vicinity, *Bitter Spring Archeological Site* (4-SBr-2659)

CONNECTICUT

Hartford County

Hartford, *U.S. Post Office and Federal Building*, 135-149 High St.

IDAHO

Shoshone County

Avery vicinity, *Arid Peak Fire Lookout*, N of Avery

LOUISIANA

Claiborne Parish

Homer, *Claiborne Parish Courthouse*, Courthouse Sq.

Franklin Parish

Baskin, *Baskin High School Building*, LA 857

Pointe Coupee Parish

New Roads, *Pointe Coupee Parish Courthouse*, Main St.

MONTANA

Granite County

Philipsburg vicinity, *Rock Creek Guard Station (Rock Creek Ranger Station)* W of Philipsburg

OHIO

Cuyahoga County

Parma, *Stearns, Lyman, Farm*, 6975 Ridge Rd.

Greene County

Fairborn, *Mercer Log House*, 41 N. 1st St.

Jefferson County

Smithfield, *Smithfield School*, High St.
Wintersville vicinity, *Bantam Ridge School*, Bantam Ridge Rd.

Lake County

Mentor, *Oliver, John G., House*, 7645 Little Mountain Rd.

VIRGINIA

Fairfax County

Fairfax, *Fairfax County Courthouse and Jail*, 4000 Chain Bridge Rd. (boundary increase)

Prince William County

Manassas Park vicinity, *Conner House*, Conner Dr.
Salem (independent city)
Academy Street School, Academy St.

[FR Doc. 81-26529 Filed 9-14-81; 8:45 am]
BILLING CODE 4310-70-M

National Registry of Natural Landmarks; Request for Comment

AGENCY: National Park Service, Department of the Interior.

ACTION: Public notice and request for comment.

The area listed below appears to qualify for designation as a national natural landmark, in accordance with the provisions of 36 CFR Part 1212. Pursuant to § 1212.4(d)(1) of 36 CFR Part 1212, written comments concerning the potential designation of this area as a natural landmark may be forwarded to the Associate Director, Science and Technology, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or requests for additional time or information should be received no later than November 16, 1981.

Dated: August 28, 1981.

Richard H. Briceland,

Associate Director, Science and Technology.

Maine

Knox County

Appleton Bog: a 560-acre site located 4 miles southeast of Liberty. This relatively undisturbed peatland area contains the northeasternmost extensive, virgin stand of Atlantic White Cedar in the country.

[FR Doc. 81-26794 Filed 9-14-81; 8:45 am]
BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-28 (Sub-No. 3F)]

Central of Georgia Railroad Co.; Abandonment Between Edgefield and Waters, S.C.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission has issued a certificate authorizing Central of Georgia Railroad Company to abandon its rail line between Edgefield (milepost GF-275.95) and Waters (milepost GF-280.3) in Edgefield County, S.C., a total distance of 4.35 miles, subject to certain conditions. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that:

(1) A financially responsible person (or government entity) has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and

(2) It is likely that:

(a) If a subsidy, the assistance would cover the difference between the revenues attributable to the line and the avoidable cost of providing rail freight service on the line, together with a reasonable return on the value of the line, or

(b) If a purchase, the assistance would cover the acquisition cost of all or any portion of the line.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than 10 days from publication of this Notice.

If the Commission makes the findings described above, the effectiveness of the abandonment certificate will be postponed. An offeror may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of an offer, and no request is made for the Commission to set conditions or amount of compensation, the abandonment certificate will become effective. Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96-448) and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-26804 Filed 9-14-81; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: September 10, 1981.

In our recent decisions, an 18.0-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figure set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 17.8 percent. Accordingly, we are authorizing that the surcharge for this traffic remain at 18.0 percent. All owner-operators are to receive compensation at this level.

No change is authorized in the 3.1-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not using owner-operators, the 6.7-percent surcharge for the bus carriers, or the 2.0-percent surcharge for United Parcel Service.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commission or Boards of each State having jurisdiction over transportation by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. for public inspection and by depositing a copy to the Director, Office of the Federal Register, for publication therein.

It is ordered:

This decision shall become effective Friday 12:01 a.m., September 11, 1981.

By the Commission, Chairman Taylor, Vice Chairman Clapp, Commissioners Gresham and Gilliam. Vice Chairman Clapp was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

September 8, 1981.

Appendix.—*Fuel Surcharge*

Base date and price per gallon (including tax)

Jan. 1, 1979 ..... 63.5¢

Date of current price measurement and price per gallon (including tax)

Sept. 8, 1981 ..... 130.6¢

	Transportation performed by—			
	Owner-operators [1]	Other [2]	Bus carrier	UPS
	(1)	(2)	(3)	(4)
Average percent fuel expenses (including taxes) of total revenue	16.9	2.9	6.3	3.3
Percent surcharge developed	17.8	3.1	6.7	[3] 2.8
Percent surcharge allowed	18.0	3.1	6.7	[4] 2.0

[1] Apply to all truckload rated traffic.
[2] Including less-than-truckload traffic.
[3] The percentage surcharge developed for UPS is calculated by applying 81 percent of the percentage increase in the current price per gallon over the base price per gallon to UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).
[4] The developed surcharge is reduced 0.8 percent to reflect fuel-related increases already included in UPS rates.

[FR Doc. 81-26806 Filed 9-14-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931, and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board Number 3, Krock, Joyce, and Dowell.

MC-FC-79234. By decision of June 26, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to MITCHELL & SONS MOVING AND STORAGE of Ashland, OH, of Certificate No. 18222 issued June 5, 1973 to BEST MOVING & STORAGE CO., INC. of Akron, OH, as a motor *common* carrier, in interstate or foreign commerce over irregular routes, transporting *household goods*, between points in Summit County, Ohio, on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia. Representative: James Duvall, P.O. Box 97, 220 West Bridge Street, Dublin, OH 43017, (614) 889-2531.

MC-FC-79024. By decision of August 21, 1981 issued under 49 U.S.C. 10931 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to WHITAKER TRANSPORTATION, INC., of Donie, TX, a portion of Certificate of Registration No. MC-58734 (Sub-No. 1) issued to Ivan Thorne, of Mexia, TX (Etherine Thorne, Successor-In-Interest) authorizing oilfield equipment and pipe; and wading and other named commodities which because of their size and weight require the use of special equipment, between points in Texas. The underlying intrastate rights are in Certificate No. 5432, dated June 6, 1950 issued by the railroad Commission of Texas, and were transfered to transferee as Certificate No. 35989, dated February 2, 1981. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 787678. TA Lease is not sought. Transferee is not a carrier.

MC-FC-79143. By decision of August 21, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to LOOP FLEET SERVICE, INC., of Milwaukee, WI, of Certificate No. MC-148583 (Sub-No. 2), issued August 4, 1981, to LOOP CARTAGE, INC, of Milwaukee, WI, authorizing the transportation of *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), from points in Milwaukee County, WI, to points in Racine, Kenosha, Walworth, Rock, Dane, Jefferson, Columbia, Dodge, Washington, Ozaukee, Sheboygan, Fond du Lac, Winnebago, Calumet, Manitowoc, Outagamie, Brown, Kewaunee, and Waukesha Counties, WI. Representative: James Sernovitz, 1818 N. Commerce Street, Milwaukee, WI 53212. TA application has not been filed. Transferee holds authority under MC-139077 and sub-numbers thereunder.

MC-FC-79206. By decision of September 1, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Truck One, Inc., of Newcomerstown, OH, of Certificates No. MC-123255 (Sub-Nos. 223 and 226) issued to B & L MOTOR FREIGHT, INC., of Newark, OH, authorizing: *General commodities* (except classes A and B explosives), between points in Illinois, Indiana, Kentucky, Michigan, Ohio, Pennsylvania, West Virginia, and Wisconsin; and between points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia. Condition: The operating rights of transferor and transferee, to the extent they duplicate, may not be severed from common ownership by sale or otherwise. Representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, OH 43215. TA lease is not sought. Transferee is not a carrier, but is affiliated with transferor.

MC-FC-79253. By decision of August 21, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to QUAD CITIES EXPRESS, INC. of a portion of certificate No. MC-53752 issued to WESTERN TRANSPORTATION COMPANY authorizing the transportation of general commodities, with exceptions between Moline, IL and Des Moines, IA, over U.S. Highway 6, serving all intermediate points. Representative: Earl H. Soudder, Jr., Attorney, for Transferee, P.O. Box 82028, Lincoln, NE; Carl L. Steiner,

Attorney for Transferor, 39 South La Salle Street.

MC–FC–79284. By decision of August 26, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to WILLETT INTERSTATE SYSTEM, INC. of Chicago, IL 60609 of Permit No. MC–104377 (Sub-No. 1) issued to WILLETT TRANSPORTS, INC. of Chicago IL 60609 authorizing: IRREGULAR ROUTES: (1) *Sulphuric acid,* in bulk in tank vehicle, (a) from Hammond, IN, to Milwaukee, WI, and (b) from Whiting and Hammond, IN, to Chicago Heights and Lockport, IL, and points in the Chicago, IL, commercial zone, as defined by the Commission; (2) *rejected shipments* of sulphuric acid, from Chicago Heights and Lockport, IL, and points in the Chicago, IL, commercial zone, as defined by the Commission, to Whiting and Hammond, IN: and (3) *spent sulphuric acid,* in bulk, in tank vehicles, from Lockport, IL, to Hammond, IN. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. TA lease is not sought. Transferee is not a carrier.

MC–FC–79290. By decision of August 3, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Southwestern Carriers, Inc. of Certificate No. MC–144616 and (Sub-Nos. 2, 4, 8, 9, 10, 11, 12, 13, and 14), issued to Trucks, Inc. authorizing the transportation of (1) *meats, meat products, meat byproducts, and articles distributed by meat packing houses* as described 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 hides and commodities in bulk) (a) from the facilities of John Morrell & Co. at or near Arkansas City and Wichita, KS, and El Paso, TX, to point in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia, (b) from the facilities of John Morrell & Co. at or near Sioux Falls, SD, Estherville and Sioux City, IA, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, (c) from the above named facility at or near Shreveport, LA, to points in Alabama, Florida, Georgia, Maryland, Mississippi, North Carolina, New York, New Jersey, Pennsylvania, South Carolina, Tennessee, and the District of Columbia, (d) from the above named facility at Shreveport, LA, to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Massachusetts, Michigan, Missouri, New Hampshire, Ohio, Rhode Island, Virginia, and West Virginia, (e) from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to those points in the United States in and west of Montana, Wyoming, Colorado, Oklahoma, Arkansas and Louisiana, and (f) from Hereford, TX, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Arizona, California and the District of Columbia, (2) *canned and preserved foodstuffs,* from the facilities of Heinz USA, at or near (a) Fremont and Toledo, OH, (b) Holland, MI, and Pittsburgh, PA, to points in Texas, Oklahoma, and Kansas, (3) *foodstuffs,* from points in Dallas County, TX, to points in Louisiana, Arkansas, Oklahoma, and New Mexico, (4) *foodstuffs* (except in bulk), from points in Adams, Cumberland, Dauphin, and Franklin Counties, PA, to points in Arkansas, Arizona, California, Louisiana, New Mexico, Oklahoma, and Texas and (5) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the United States.

Notes.—(1) Transferee is a non carrier. (2) No application for TA has been filed. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 16112.

MC–FC–79292. By decision of August 13, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Graham Trucking, Inc. of Certificate of Registration No. MC–58856 (Sub-No. 2) issued May 5, 1976 to Star Trucking Company, Inc. authorizing the transportation of to and from all points in Texas located West of U.S. Highways Nos. 61 and 151, from Ringgold to San Antonio and Arkansas Pass: Oilfield equipment and pipe, when moving as oilfield equipment. Pipe when it is to be used in the construction and maintenance of pipe lines of any and every other character or use other than oilfield equipment; except the carrier is prohibited from transporting pipe when not moving as oilfield equipment when such pipe is less than four (4") inches in diameter and is also less than twenty-eight (28') feet in length. Trucking machines, tractors, drag lines, back fillers, caterpillars, road building machinery, batch bins, ditching machinery, bulldozers, heavy mixers, finishing machinery, power hoists, cranes, heavy machinery, pile driving rigs, paving machines and equipment, graders, construction equipment, boilers, scrapers, irrigation and drainage machinery, road maintainers, electric motors, pumps, transformers, circuit breakers, turbines, bridge rotaries, prefabricated houses, bulk station storage tanks, heavy tanks, pump machinery, erection machinery and equipment, refinery machinery and equipment, botas and prefabricated steel girders, threshing machines, sawmill machinery, telephone and telegraph poles, creosote and other pilings, heavy furnaces or ovens, punches, pressers, iron or steel girders, beams, columns, posts, channels and trusses, generators and dynamos, iron or steel castings, sheets, and plates, industrial hammers, industrial machinery, including laundry, ice making, air conditioning, baker, bottling, gin, crushing, dredging, mill, brewery, textile, water plant and wire covering, twisting or laving, derricks, hoists, steam or internal combustion engines, rollers, power shovels, safes, vaults, bank doors, and gasoline, fuel oil and other storage tanks, when said commodities are not moving as oilfield equipment, as follows: The holder of this authority may transport the above named commodities together with its attachments and its detached parts thereof between incorporated cities, towns and villages only when the commodity to be transported weighs 4,000 pounds or more in a simple place or when such commodity, because of physical characteristics other than weight, requires the use of "special devices, facilities or equipment" for the safe and proper loading or unloading thereof. The terms "special services, facilities or equipment" is considered to mean only those operations by motive or mechanical power.

MC–FC–79301. By decision of August 19, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Southern Leasing Company, Inc. of Certificate No. MC–6143 (Sub-No. 4) issued July 15, 1981 to Dunbar Transportation Services, Inc. authorizing the transportation of *general commodities* (except classes A and B explosives), between points in Shelby County, TN, on the one hand, and, on the other, points in the United States. Representative: Kim D. Mann, 7101 Wisconsin Avenue, Washington, DC 20014.

Notes.—(1) Transferee is a non-carrier. (2) No application for temporary authority has been filed.

MC–FC–79304. By decision of 8/25/81 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to BENNETT TRUCKING, INC. of Windom, MN 56101 of Certificate No. MC–143651 (Sub-Nos. 3 and 11) issued to HI–LO TRANSPORT, INC. of Wall Lake, IA 51466 authorizing: Sub-No. 3 over irregular routes, *meats, meat products, meat byproducts, dairy products and articles distributed by meat-packing houses, as described in sections A, B and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766* (except hides and commodities in bulk), from the facilities of John Morrell & Co., at Estherville and Sioux City, IA, and Sioux Falls, SD, to points in AL, AR, CT, DE, FL, PA, GA, LA, ME, MD, MA, MI, MS, NH, NJ, NY, NC, RI, SC, TN, VT, VA, and WV, and DC, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. Sub-No. 11 over irregular routes, *meats, meat products and meat byproducts, and articles distributed by meatpacking houses as described 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 hides and commodities in bulk), from the facilities of John Morrell & Co., at or near (a) Estherville and Sioux City, IA, (b) Sioux Falls, SD, and (c) Worthington, MN, to points in IL, IN, KS, MO, OH, OK, TX, and WI, restricted to traffic originating at the named facilities. Representative: David W. Huey, 603 Second St., Jackson, MN 56143. TA lease is sought. Transferee is not a carrier.

MC–FC–79305. By decision of 8/24/81 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to BMC TRUCKING CO., INC. of Blanco, TX of Certificate No. MC–138322 and Subs thereto, issued to BHY TRUCKING, INC. of South El Monte, CA authorizing general and specified commodities over irregular routes between named points in the United States. The request to transfer transportation of Government traffic is denied. This authority granted cannot be transferable by sale or otherwise. See Ex Parte No. MC–107, *Transportation of Government Traffic*, 131 M.C.C. 845, 870 (1979). Representative: Raymond P. Keigher, 401 E. Jefferson St., Suite 102, Rockville, MD 20850. TA lease is not sought. Transferee is not a carrier.

MC–FC–79307. By decision of August 19, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to Stumps Refrigerated Express, Inc. of Tiro, OH of Certificate Nos. MC–143651 (Sub-Nos. 7 and 13) issued to Blackhawk Express, Inc. known as Hi–Lo Transport Inc. authorizing transportation in No. MC–143651 (Sub-Nos. 7) of *potting soil and agrease compost* from La Porte, IN to points in 18 states and in No. MC–143651 (Sub-No. 13) of Clay (except in bulk) from Ochlocknee, GA and Ripley, MS to points in 9 states. Transferee is a motor common carrier operating under authority contained in No. MC–148831 and subs thereunder. Representative: David A. Turano, Esq., 100 E. Broad Street, Columbus, OH 43215.

MC–FC–79308. By decision of August 19, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to TRANS CONTINENTAL LEASING, LTD., of Permit No. MC–145925F issued April 1, 1980 to Wetterau Transport, Incorporated authorizing the transportation of *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 the United States (except AK and HI), under continuing contract(s) with Wetterau, Incorporated, of Hazelwood, MO, Consolidated Toy Company, of Hazelwood, MO, W. T. Sistrunk, of Lexington, KY, and G. H. Delp Company, of Temple, PA. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105.

Note.—(1) Transferee is a non-carrier. (2) No application for temporary authority has been filed.

MC–FC–79309. By decision of August 28, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to WESTHOFF, INC. of Sioux City, IA, of Certificate No. MC–143651 (Sub-No. 4) issued to HI–LO TRANSPORT, INC. of Lake View, IA, authorizing the transportation of *meats, meat products, meat by-products, and articles distributed by meat packinghouses* (except hides and commodities in bulk), from LeMars, IA, to points in the United States (except Alaska and Hawaii), restricted to traffic originating at the facilities of Dubuque Packing Co. Representative: D. Douglas Titus, 340 Insurance Exchange Bldg., Sioux City, IA 51101. TA lease is sought. Transferee is not a carrier.

MC–FC–79310. By decision of August 20, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to CONLEY TRUCK LINE, INC. of Wood River, NE of Certificate No. MC–120–427 (Sub-No. 32F) issued August 15, 1980 to Williams Transfer, Inc. of Grand Island, NE authorizing the transportation of *iron and steel articles, scaffolding, conveyors and parts* for the foregoing commodities between Yankton, SD, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to traffic originating at or destined to the facilities of Morgen Manufacturing Company, at or near Yankton, SD. Representative: Brain K. Ridenour, P.O. Box 82028, 1200 N Street, 500 The Atrim, Lincoln, NE 68501. TA lease is not sought Transferee is a carrier.

MC–FC–79311. By decision of August 19, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to Speedway Express, Inc. of Certificate Nos. MC–140639 and MC–140639 (Sub-No. 1) issued to Norcon Transportation Company, Inc. authorizing the transportation of *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) in No. MC–140639 between New York, NY, on the one hand, and, on the other, points in Bergen, Essex, Hudson, Possaic, and Union Counties, NY, and (2) in Sub-No. 1(a) from New York, NY to points in Nassau and Suffolk Counties, NY, (n) from points in Suffolk County, NY, to New York, NY and points in Nassau County, NY, and (c) from points in Nassau County, NY to points in Suffolk County, NY. Representative: Arthur J. Piken, 95–25 Queens Blvd., Rego Park, NY 11374.

Notes.—(1) Transferee holds no authority from the Commission; (2) application for temporary authority has not been filed.

MC–FC–79314. By decision of August 20, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to ALL WAYS FREIGHT LINES, INC. of Certificate No. MC–7789 issued March 10, 1941 to John Seybold and Gotthilf Seybold d/b/a Seybold Brothers authorizing the transportation of (1) *livestock*, from Republic, KS, and points within 25 miles of Republic, to Omaha, NE, (2) *livestock, agricultural commodities and feed*, from Omaha, to points in the above-described Kansas territory; (3) *clay products*, from Endicott, NE, to points in the above-described Kansas territory; and (4) *general commodities* (except those of unusual value classes A and B

explosives, household goods, commodities in bulk, and those requiring special equipment), between points in the above-described territory, on the one hand, and, on the other, Geneva, Beatrice, and Lincoln, NE, and those in NE within 25 miles of Republic, KS. Representative: John E. Jandera, P.O. Box 1479, Topeka, KS 66601.

Notes.—(1) Transferee is a motor carrier pursuant to No. MC–138772; (2) application for TA has not been filed.

MC–FC–79315. By decision of August 18, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer of Illiana Motor Services, Inc., of Chicago, IL, from Star West Cartage Company, Inc., of Permit Nos. (1) MC–82044, to transport such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, equipment, materials, and supplies used in the conduct of such business, (a) between points in a described northern portion of Illinois, and a northwestern portion of Indiana, and (b) between points in a described northern portion of Illinois, a northwestern portion of Indiana, a southwestern portion of Michigan, and a southeastern portion of Wisconsin, restricted to a transportation service, as a contract carrier by motor vehicle, in interstate or foreign commerce, under special and individual contracts or agreements with persons who operate retail stores, the business of which is the sale of food, (see Note 1, below); and (2) MC–82044 (Sub-No. 4), to the transport of newsprint in rolls, from Chicago, IL, to Valparaiso, La Porte, Highland, South Bend, and Elkhart, IN, and Niles, MI, under continuing or contract(s), with Wacker Warehouse Company, Inc., of Chicago, IL. Representative is: Harold Tatro, c/o Illiana Motor Service, Inc., 4431 South Halsted Street, Chicago, IL 60609. Temporary authority has been filed.

MC–FC–79320. By decision of August 14, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to RAMSEY'S TRAILWAYS, INC. of Jonesboro, LA, of a portion of Certificate Nos. MC–61616 and MC–61616 (Sub-No. 61), issued to MIDWEST BUSLINES, INC., of Kansas City, MO, as follows: (1) that portion of Certificate No. MC–61616 which authorizes the transportation of *passengers, baggage, express and newspapers* in the same vehicle with passengers, between Monroe, LA, and junction LA Hwy 15 and U.S. Hwy 65, over LA Hwy 15, serving all intermediate points; and (2) that portion of Certificate No. MC–61616 (Sub-No. 61) which authorizes the transportation of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, between junction LA Hwy 15 and U.S. Hwy 65, about 1 mile south of Clayton, LA, and Natchez, MS over U.S. Hwy 65, serving the intermediate points of Ferriday and Vidalia, LA. Representative: Lawrence E. Lindeman, 1032 Pennsylvania Bldg., Pennsylvania Ave., and 13th Street NW., Washington, DC 20004.

Note.—Transferee is a non-carrier. TA has not been filed.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-26807 Filed 9-14-81; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB–55 (Sub-No. 53F)]

Seaboard Coast Line Railroad Co.; Abandonment Between Kimbrough and Dawson, GA; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission has issued a certificate authorizing Seaboard Coast Line Railroad Company to abandon its rail line between Kimbrough, GA (milepost SLB–45.35) and Dawson, GA (milepost SLB–63.52) in Webster and Terrell Counties, GA, a total distance of 18.17 miles, subject to conditions. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that:

(1) A financially responsible person (or government entity) has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and

(2) It is likely that:

(a) If a subsidy, the assistance would cover the difference between the revenues attributable to the line and the avoidable cost of providing rail freight service on the line, together with a reasonable return on the value of the line, or

(b) If a purchase, the assistance would cover the acquisition cost of all or any portion of the line.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than 10 days from publication of this Notice.

If the Commission makes the findings described above, the issuance of the abandonment certificate will be postponed. An offeror may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of an offer, and no request is made for the Commission to set conditions or amount of compensation, the abandonment certificate will be issued. Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96–448) and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-26805 Filed 9-14-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 81–24105, appearing at page 42212, in the issue of Wednesday, August 19, 1981, on page 42214, in the first column, first paragraph, designated as "MC 989 (Sub-43)" for Ideal Truck Lines, line 9, correct "NM" to read "MN".

BILLING CODE 1505-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applicantions may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual

operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OPY-2-171

Decided: September 8, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 157803, filed August 20, 1981. Applicant: WALTER J. BREWER, d.b.a. BREWER TRUCKING COMPANY, P.O. Box 801, Spring, TX 77373. Representative: Walter J. Brewer (same address as applicant), 713-353-2449. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 157903, filed August 24, 1981. Applicant: WICO EXPRESS, INC., P.O. Box 2277, Sandusky, OH 44870. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215, (614) 228-1541. Transporting for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons and munitions), between points in the U.S.

MC 157913, filed August 26, 1981. Applicant: GERALDINE CROSS, d.b.a. CROSSWAYS TRANSPORTATION, 5403 Dreher Lane, Little Rock, AR 72209. Representative: Geraldine Cross (same address as applicant), 501-224-2506. Transporting *general commodities* (except classes A and B explosives), between Hamburg, AR, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor-carrier for abandoned rail-carrier service.

Volume No. OPY-3-316

Decided: September 8, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 157935, filed August 27, 1981. Applicant: GARY M. THOMPSON, d.b.a. CIMARRON, P.O. Box 297, Valley, NE 68064. Representative: Gary M. Thompson (same address as applicant), (402) 289-2242. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 157965, filed August 27, 1981. Applicant: GRIGGS TRUCKING, 2340 Farwell Rd., Des Moines, IA 50317. Representative: Kenneth G. Griggs (same address as applicant), (515) 266-1910. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OPY-4-360

Decided: September 3, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 157907, filed August 25, 1981. Applicant: BYFORD LOWRY, 1802 Rampart St., Cape Girardeau, MO 63701. Representative: Byford Lowry (same address as applicant), (314) 335-3505. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 157927, filed August 26, 1981. Applicant: FRANK D. CLARKE d.b.a. CLARKE TRUCKING, 1231 West 71st Place, Chicago, IL 60636. Representative: Frank D. Clarke (same address as applicant), (312) 924-0763. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agriculture limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-26749 Filed 9-14-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the

Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OPY-2-169

Decided: September 3, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Taylor.

MC 127172 (Sub-8), filed August 7, 1981. Applicant: MARC BAGGAGE LINES, INC., 9033 Hollyberry Ave., Des Plaines, IL 60016. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237, 404-477-1525. Transporting *electrical and electronic products*, between points in IA, IL, IN, MI, MN, OH, WI, and St. Louis, MO.

MC 129712 (Sub-55), filed August 24, 1981. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. Box 569, McDonough, GA 30253. Representative: Guy H. Postell, Suite 713, 3384 Peachtree Road, NE., Atlanta, GA 30326, (404) 237-6472. Transporting *machinery*, between points in the U.S., under continuing contract(s) with Hull Corporation, of Hatboro, PA.

MC 145102 (Sub-79), filed August 24, 1931. Applicant: FREYMILLER TRUCKING, INC., 1400 South Union Ave., Bakersfield, CA 93307. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703, (608) 256-7444. Transporting *food and related products*, between points in Los Angeles, Orange, and Ventura Counties, CA, on the one hand, and, on the other, points in the U.S.

MC 146893 (Sub-13), filed August 27, 1981. Applicant: BROWN TRANSPORT, INC., Box 327A, RR 3, West Alexandria, OH 45381. Representative: Lewis S. Witherspoon, 2455 N. Star Rd., Columbus, OH 43221, 1-614-486-0448. Transporting *commodities in bulk*, between points in IN, KY, MI, and OH.

MC 149133 (Sub-7), filed August 24, 1981. Applicant: DIST/TRANS MULTI-SERVICES, INC., d.b.a. TAHWHEELALEN EXPRESS, INC., 1333 Nevada Blvd., P.O. Box 7191, Charlotte, NC 28217. Representative: Wyatt E. Smith (same address as applicant), 704-588-2109. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Hancock Textile Company, of Tupelo, MS.

MC 151293 (Sub-2), filed August 24, 1981. Applicant: HUTCHENS TRUCKING COMPANY, INC., 615 Rosann Dr., Winston-Salem, NC 27107. Representative: B. G. Martin, 1979 Beach St., Winston-Salem, NC 27103, (919) 723-7970. Transporting *electrical controllers and parts, transformers, switch gear equipment, appliances and electrical switches, and breakers and parts*, between points in the U.S., under continuing contract(s) with General Electric Company, of Fort Wayne, IN.

MC 154103 (Sub-1), filed August 24, 1981. Applicant: MID-SOUTH FREIGHT, INC., P.O. Box 446, Hendersonville, TN 37075. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202, 502-589-5400. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with (1) Shima American Corp., of Elmhurst, IL, (2) Trialco, Incorporated, of Chicago Heights, IL, (3) Metalex, Inc., of Libertyville, IL, (4) Enterprise Paint, Inc., of Wheeling, IL, (5) Tape Coat, Inc., of Evanston, IL, (6) Desa Industries, Inc., of Forrest Park, IL, (7) American Threshold Industries, Inc., of Asheville, NC, (8) Freshlabs, Inc., of Warren, MI, (9) Univertical Corporation, of Detroit, MI, (10) Cupples Company, of St. Louis, MO, (11) Cotswold Industries, Inc., of New York, NY, (12) Reliance Pen and Pencil Corp., of Lewisburg, TN, (13) Silver Manufacturing, Inc., of Knoxville, TN, (14) Camel Manufacturing Co., of Knoxville, TN, (15) Arnold Sub Magnetics and Electronics, Inc., of Sevierville, TN, (16) Steiner-Liff, Inc., of Nashville, TN, (17) Perfection Automotive Products Corp., of Livonia, MI, (18) Temtex Products, Inc., of Nashville, TN, (19) Wholesale Buildings Products Division, Franklin Industries, of Nashville, TN, (20) Central Cumberland Corp., of Nashville, TN, (21) Textile Industries, Inc., of Detroit, MI, (22) Fairway Products, Inc., of Hillsdale, MI, (23) Molo Mills, Inc., of Detroit, MI, (24) Alumax Extrusions, Inc., of Hernando, MS, (25) Dover Corporation, Elevator Division, of Horn Lake, MS, (26) Ferro Corporation, Coatings Division, of Nashville, TN, (27) Reichold Chemicals, Inc., of Nashville, TN, (28) United National Industries, Inc., of Chicago, IL, (29) Pioneer Manufacturing, Inc., of Springhill, TN, and (30) Twitchell Division of Ludlow Corp., of Dothan, AL.

MC 154683 (Sub-1), filed August 20, 1981. Applicant: COASTAL TRANSPORTATION INC., P.O. Box 902, Pensacola, FL 32594. Representative: Ralph B. Matthews, Suite 1200, Gas Light Tower, 235 Peachtree Street NE., Atlanta, GA 30303, 404-522-2322. Transporting *such commodities* as are dealt in or used by manufacturers and distrubutors of soft drinks, between points in Escambia and Santa Rosa Counties, FL, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, MS, NC, SC, TN, and TX.

MC 157842, filed August 24, 1981. Applicant: WEBBER PETROLEUM COMPANY, 93 Kensington St., Portland, ME 04101. Representative: Robert E. Sutcliffe, 84 Harlow St., Bangor, ME 04401, (207) 947-4501. Transporting *petroleum, natural gas and their products*, between points in the U.S. under continuing contract(s) with Sunmark Industries, of Framingham, MA. Condition: to the extent any permit issued in this proceeding authorizes liquified petroleum gasses, it shall be limited to a period expiring 5 years from its date of issuance.

MC 157853, filed August 24, 1981. Applicant: VAN HEUSEN TRANSPORTATION CORPORATION, P.O. Box 307, Schuylkill Haven, PA 17972. Representative: Joseph T. Bambrick, Jr., P.O. Box 216, Douglassville, PA 19518, (215) 385-6086. Transporting *general commodities* (except classes A and B explosives), between points in AL, AR, CT, DE, FL, GA, LA, MA, MD, MS, NJ, NY, NC, PA, RI, SC, TN, TX, VA, WV, and DC.

MC 157942, filed August 27, 1981. Applicant: TRUMAN BARKS d.b.a. BARKS TRUCKING CO., Greenville, MO 63944. Representative: W. R. England, III, P.O. Box 456, Jefferson City, MO 65102, 314–635–7166. Transporting *lumber and wood products,* between points in MO south of Interstate Hwy 70, on the one hand, and, on the other, points in the U.S.

Volumn No. OPY–2–172

Decided: September 8, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 64402 (Sub-1), filed August 26, 1981. Applicant: RAINBOW PIANO & FURNITURE MOVERS, INC., 76 George Levin Drive, North Attleboro, MA 02761. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, D.C. 20036, 202–785–0024. Transporting *household goods,* between those points in MA east of the Connecticut River and RI, on the one hand, and, on the other, points in ME, NH, VT, MA, RI, CT, NY, NJ, PA, MD, DE, OH, WV, VA, KY, TN, NC, SC, MS, AL, GA, FL, and DC.

MC 98562 (Sub-3), filed August 24, 1981. Applicant: SMITHVILLE FREIGHT LINES, INC., Armour Dr., Smithville, TN 37166. Representative: Roland M. Lowell, 681 United American Bank Bldg., Nashville, TN 37219, (615) 244–8100. Transporting *general commodities* (except classes A and B explosives), (I) OVER REGULAR ROUTES: (1) between Smithville and Sparta, TN, over TN Hwy 26, serving all intermediate points, and (2) between Nashville and Cookeville, TN: from Nashville over U.S. Hwy 70 to Smithville, then over TN Hwy 56 to junction TN Hwy U.S. Hwy 70N, then over U.S. Hwy 70N to Cookeville, and return over the same route, serving all intermediate points; and (II) OVER IRREGULAR ROUTES: between points in DeKalb County, TN, on the one hand, and, on the other, points in the U.S.

Note.—Applicant proposes to tack this irregular and regular-route authority and to interline at all points where interchange agreements are established. The purposes of parts (1) and (2) of this application are to remove restrictions and convert existing Certificates of Registration to a Certificate of Public Convenience and Necessity.

MC 107103 (Sub-29), filed August 27, 1981. Applicant: ROBINSON CARTAGE CO., 2712 Chicago Drive SW., Grand Rapids, MI 49509. Representative: Ronald J. Mastej, 900 Guardian Bldg., Detroit, MI 48226, (313) 963–3750. Transporting *those commodities which because of their size or weight require the use of special handling or equipment,* between points in IA, IN, IL, KY, MI, MN, MO, NY, OH, PA, WI, and WV, on the one hand, and, on the other, points in the U.S.

MC 128662 (Sub-5), filed August 28, 1981. Applicant: STICKLEY'S GARAGE, INC., P.O. Box 2842, Winchester, VA 22601. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797–6060. Transporting *foodstuffs,* between points in the U.S., under continuing contract(s) with Globe Products Company, Inc., of Clifton, NJ.

MC 146553 (Sub-23) filed August 24, 1981. Applicant: ADRIAN CARRIERS, INC., 1822 Rockingham Rd., Davenport, IA 52808. Representative: James M. Hodge, 1000 United Central Bank Bldg., Des Moines, IA 50309, (515) 243–6164. Transporting (1) *furniture and fixtures,* between points in Scott County, IA, on the one hand, and, on the other, points in the U.S.; (2) *building materials and metal products,* between points in Whiteside County, IL, on the one hand, and, on the other, points in the U.S., and (3) *Mercer commodities,* between points in Clinton County, IA, on the one hand, and, on the other, points in CA, CO, KS, LA, NM, NV, OK, TX, and UT.

MC 147323 (Sub-36) filed August 24, 1981. Applicant: HADDAD TRANSPORTATION, INC., 5000 Wyoming Ave., Dearborn, MI 48126. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956, 414–722–2848. Transporting *metal products, machinery,* and *rubber and plastic products,* between point in the U.S.

MC 149472 (Sub-9) filed August 27, 1981. Applicant: INTER-COASTAL, INC., 131 Beaverbrook Rd., Lincoln Park, NJ 07035. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110, (215) 561–1030. Transporting *rubber and plastic products,* between points in Spartanburg County, SC, and Wayne County, MI, on the one hand, and, on the other, points in the U.S.

MC 150783 (Sub-18) filed August 28, 1981. Applicant: SCHEDULED TRUCKWAYS, INC., P.O. Box 757, Rogers, AR 72756. Representative: James H. Berry, P.O. Box 32, Wesley, AR 72773, (501) 456–2453. Transporting *food and related products,* between points in the U.S.

MC 151193 (Sub-16) filed August 25, 1981. Applicant: PAULS TRUCKING CORPORATION, 3 Commerce Dr., Cranford, NJ 07016. Representative: Michael A. Beam (same address as applicant), (201) 499–3869. Transporting *pharmaceuticals, chemicals, and drugs,* between points in the U.S., under continuing contract(s) with Hoechst-Roussel Pharmaceuticals, Inc., of Somerville, NJ

MC 157113, filed August 20, 1981. Applicant: DEWEY DAVIS, d.b.a. SUPERIOR SERVICE, 503 Spruce St., Appalachia, VA 24216. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, (703) 629–2818. Transporting, over regular routes, *general commodities* (except classes A and B explosives), (1) between Norton, VA, and Kingsport, TN: from Norton over U.S. Hwy 23 to Big Stone Gap, VA, then over Alt U.S. Hwy 58 to Jonesville, VA, then over U.S. Hwy 58 to junction U.S. 23, then over U.S. Hwy 23 to Kingsport, and return over the same route, (2) between Kingsport, TN, and Norton, VA: from Kingsport over U.S. Hwy 11W to Bristol, TN–VA, then over U.S. Hwy 11 to Abingdon, VA, then over U.S. Hwy 19 to Hansonville, VA, then over Alt U.S. Hwy 58 to Norton, and return over the same route, and (3) serving in connection with routes (1) and (2) above all intermediate points, and serving all points in Lee, Russell, Scott, Washington, and Wise Counties, VA and Sullivan and Washington Counties, TN, as off-route points.

Note.—Applicant proposes to tack the routes sought and interchange.

MC 157713, filed August 14, 1981. Applicant: JOHNNY GOODNOH TRUCKING COMPANY, Route 2, Box 45, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72702, (501) 521–8121. Transporting *lumber and metal products,* between points in AR, AZ, CA, CO, IL, KS, LA, MO, NC, NM, OK, TN, and TX.

MC 157863, filed August 24, 1981. Applicant: YOUNG ENVIRONMENTAL SERVICES, INC., 285 Manning St., P.O. Box 917, Newark, OH 43055. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, 614–889–2531. Transporting *waste or scrap materials not identified by industry producing,* between points in Licking County, OH, on the one hand, and, on the other, those points in the U.S., in and east of MN, IA, MO, AR, and LA.

MC 157983, filed August 28, 1981. Applicant: MILTON L. SPANN, d.b.a. BEARLINE TRANSPORT, Marion Station, P.O. Box 18746, Denver, CO 80218. Representative: Milton L. Spann, 1135 Ogden #9, Denver, CO 80218, 303–861–2318. Transporting (1) *such commodities* as are dealt in by wholesale and retail grocery and food business houses, and (2) *rubber and plastic products* and *metal products,* between points in AR, LA, MS, MO, KS,

OK, TX, WY, CO, UT, AZ, CA, NM, and NV.

Volume No. OPY-3-163

Decided: September 4, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 4024 (Sub-16), filed August 24, 1981. Applicant: HORN TRUCKING CO., 300 Schmetter Rd., Highland, IL 62249. Representative: Edward D. McNamara, Jr., 907 South Fourth St., Springfield, IL 62703, (217) 528-8476. Transporting (1) *metal products,* between points in IL, MO, AR, TN, KY, LA, MI, AL, GA, TX, IN, OH, IA, OK, FL, WI, MS, PA, MN, NE, KS, CO, NC, SC, AZ, NM, NY, VA, and WV, (2) *lumber and wood products,* between points in AR, LA, MS, AL, OK, TX, GA, MO, IL, TN, IA, NE, KS, KY, IN, OH, MI, and WI, (3) *refractory compounds,* between points in OH, on the one hand, and, on the other, points in TX and MO, (4) *machinery,* between points in TX, Al, OK, OH, MI, KY, GA, IL, MO, WI, TN, MS, and LA, (5) *roofing materials,* between points in Pulaski County, AR, on the one hand, and, on the other, points in OK, TX, MS, TN, MO, IN, LA, KS, and IL, and (6) *general commodities,* between points in Madison County, IL, on the one hand, and, on the other, New Orleans, LA, Toledo, OH, McAllen, TX, Little Rock, AR, Kansas City, MO, Chicago, IL, Port Everglades, FL, Shenandoah, GA, Louisville, KY, Granite City, IL, Miami, FL, Galveston, TX, Milwaukee, WI, Orlando, FL, Battle Creek, MI, Cincinnati, OH, Tucson, AZ, and points in Campbell County, KY, Rogers County, OK, IL, MO, AR, TN, KY, LA, MI, AL, GA, TX, IN, OH, IA, OK, FL, WI, and MS.

Note.—The certificate in this proceeding to the extent it authorizes the transportation of classes A and B explosives shall expire 5 years from the date of issuance.

MC 118985 (Sub-3), filed August 21, 1981. Applicant: JOHN AYERS, d.b.a. AYERS TRANSPORT CO., 5912 Westwood Lane, Kansas City, MO 64151. Representative: William B. Barker, 641 Harrison St., P.O. Box 1979, Topeka, KS 66601, (913) 234-0565. Transporting *rubber products,* between points in the U.S., under continuing contracts with Brad Ragan, Inc., and Goodyear Tire & Rubber Company, both of Topeka, KS.

MC 123255 (Sub-233), filed August 27, 1981. Applicant: B & L MOTOR FREIGHT, INC., 1981 Coffman Rd., Newark, OH 43055. Representative: Phillip D. Patterson, (same address as applicant), (614) 522-8111. Transporting *televisions, radios, video recorders, stereos,* and *related products,* between the facilities of Zenith Radio Corporation, at Chicago, IL, Evansville, IN, Springfield, MO, and Watsontown, PA, on the one hand, and, on the other, points in IL, IN, KY, MI, OH, PA, NY, and WV.

MC 135705 (Sub-16), filed August 27, 1981. Applicant: MELROSE TRUCKING CO., INC., 2672 So. Robertson Rd., Casper, WY 82604. Representative: Kim Melrose, (same address as applicant), (307) 265-1277. Transporting *commodities in bulk,* between those points in the U.S. in and west of ND, SD, NE, KS, OK, TX, and LA.

MC 143044 (Sub-8), filed August 27, 1981. Applicant: EQUIPMENT EXPRESS LIMITED, 8105 Woodbine Ave., Markham, Ontario, Canada L3R 2P1. Representative: Thomas E. Acey, Jr., Suite 1100, 1660 L St., N.W., Washington, DC 20036, (202) 452-8732. Transporting *architectural precast concrete products,* between ports of entry on the International Boundary Line, between the U.S. and Canada located on the Niagara River, on the one hand, and, on the other, points in MA, ME, CT and VT.

MC 146404 (Sub-3), filed August 31, 1981. Applicant: C & J TRUCKING, INC., 2200 McKinley Ave., Columbus, OH 43204. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215, (614) 228-1541. Transporting *such commodities* as dealt in or used by manufacturers and distributors of household appliances, between points in Franklin County, OH, on the one hand, and, on the other, points in IN, IL, KY, MI, and WV.

MC 147484 (Sub-2), filed August 27, 1981. Applicant: MYERS TRANSFER, INC., 1241 Haines St., P.O. Box 11033, Jacksonville, FL 32206. Representative: Donald L. Myers (same address as applicant), (904) 353-3906. Transporting *general commodities* (except classes A and B explosives), between Charleston, SC, on the one hand, and, on the other, points in AL, NC, SC, and TN, restricted to traffic having a prior or subsequent movement by water.

MC 157924, filed August 26, 1981. Applicant: FIVE STAR TRANSPORTATION, INC., 7814 Miller Rd., #3, P.O. Box 9670, Houston, TX 77049. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101, (703) 893-3050. Transporting *Mercer Commodities,* between points in TX, on the one hand, and, on the other, points in AR, CO, KS, LA, MS, NM, and OK.

FF 565, filed August 21, 1981. Applicant: TRANS-CANADA AUTO TRAIN TRANSPORT, LTD., 375 Terminal Avenue, Vancouver, British Columbia, Canada V6A2L8. Representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001, (202) 628-9243. As a *freight forwarder,* transporting *transportation equipment,* between points in CA, FL, OR, and WA, on the one hand, and, on the other, points in CT, DE, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC.

Volume No. OPY-3-165

Decided: September 8, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 54534 (Sub-8), filed August 28, 1981. Applicant: GRAND ISLAND TRANSIT CORPORATION, 5355 Junction Rd., Lockport, NY 14094. Representative: Ronald W. Malin, Bankers Trust Bldg., 4th Floor, Jamestown, NY 14701, (716) 664-5210. Transporting *passengers and their baggage,* in special and charter operations, beginning and ending at points in Erie, Niagara, and Orleans Counties, NY, and extending to points in the U.S.

MC 121604 (Sub-2), filed August 28, 1981. Applicant: CENTRAL TRANSFER AND DISTRIBUTION CO., 828 So. 17th St., Omaha, NE 68108. Representative: Carl E. Munson, 469 Fischer Bldg., Dubuque, IA 52001, (319) 557-1320. Transporting *general commodities* (except classes A and B explosives), between points in Douglas County, NE, on the one hand, and, on the other, points in NE.

MC 151504 (Sub-6), filed August 28, 1981. Applicant: PHELCO, INC., 11841 Missouri Bottom Rd., St. Louis, MO 63042. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727-0777. Transporting (1) *general commodities,* between points in the U.S., under continuing contract(s) with Chrysler Corporation, of Highland Park, MI, and (2) *such commodities* as are dealt in or used by manufacturers and distributors of chemicals and plastic products, between points in the U.S., under continuing contract(s) with Dow Chemical U.S.A., of Midland, MI.

MC 154765 (Sub-2), filed August 28, 1981. Applicant: NORTHSTAR TRANSPORTATION, INC., 10951 Lakeview Ave., Lenexa, KS 66219. Representative: Stanley O. Wilson (same address as applicant), (913) 888-9800. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Chloride Industrial Batteries of Kansas City, KS, Robbie Manufacturing Co. of Lenexa,

KS, Seaboard Allied Milling Corp. of Shawnee Mission, KS, and Tobin Lawn & Garden Supply Co. of Kansas City, MO.

MC 157974, filed August 28, 1981. Applicant: KEVIN HOGAN & ROBERT VIUP, d.b.a. SHORE MOVING, 9 Ash Pl., Huntington, NY 11743. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239–4610. Transporting *household goods*, between New York, NY and points in Suffolk County, NY, on the one hand, and, on the other, points in MA, CT, NY, NJ, PA, DE, MD, VA, NC, SC, GA, FL and DC.

MC 157934, filed August 27, 1981. Applicant: JOHN H. TILLOTSON, JR., d.b.a. ITRANS, 18420 South Santa Fe Avenue, Long Beach, CA 90801. Representative: Robert L. McGeorge, 1000 Potomac Street, N.W., 5th Floor, Washington, DC 20007, (202) 965–6670. As a *broker*, transporting *household goods*, between points in the U.S.

Volume No. OPY–4–349

Decided: September 8, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 30446 (Sub-21), filed August 31, 1981. Applicant: BRUCE JOHNSON TRUCKING CO., INC., 3408 North Graham Street, P.O. Box 5647, Charlotte, NC 28225. Representative: Leon Thompson, 3408 North Graham Street, P.O. Box 5647, Charlotte, NC 28225, (704) 376–9101. Transporting *general commodities* (except classes A and B explosives), between points in and east of ND, SD, NE, KS, OK and TX, under continuing contract(s) with the Cato Corporation, of Charlotte, NC.

MC 61396 (Sub-394), filed August 31, 1981, Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, NE 68101. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *cement*, between the facilities of Ideal Basic Industries, Cement Division, in Washington County, TN, on the one hand, and, on the other, points in AL, KY, WV, VA, NC, SC, and GA.

MC 95376 (Sub-20), filed August 31, 1981, Applicant: McVEY TRUCKING, INC., R.R. #1, Box 116, Oakwood, IL 61858. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *coal*, between points in IL and IN.

MC 142096 (Sub-19), filed August 31, 1981, Applicant: MILLER BROTHERS TRUCKING CO., INC., 4100 West Mitchell Street, Milwaukee, WI 53215. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719, (608) 273–1003. Transporting *plastic and rubber products*, between points in Noble County, IN, and the facilities of W. B. Bottle Supply Co., Inc., in Milwaukee County, WI.

MC 155426, filed August 31, 1981, Applicant: JOHN H. GARLAND, d.b.a. GARLAND TRANSPORTATION, 612 23rd St., Richmond, CA 94804. Representative: Arden Riess, 4509 Pacific Ave., Suite A, Stockton, CA 95207, (209) 957–6128. Transporting (1) *confectionery or related products*, and (2) *nuts*, between points in the U.S., under continuing contract(s) with California Peanut Co., of Richmond, CA.

MC 157976, filed August 28, 1981, Applicant: CAROLINA CARRIERS, INC., P.O. Box 338, Durham, NC 27702. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. Transporting *petroleum, natural gas and their products*, between points in NC and SC.

Volume No. OPY–4–350

Decided: September 8, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 61396 (Sub-393), filed August 31, 1981. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, NE 68101. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *fly ash and lime kiln dust*, between Carbo and Saltville, VA, and Luttrell, TN, on the one hand, and, on the other, points in TN, KY, WV, GA, NC, SC, and VA.

MC 123876 (Sub-6), filed August 28, 1981. Applicant: PRATT TRANSPORTATION CO., INC., P.O. Box 1501, Omaha, NE 68101. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *cement*, between points in Washington County, TN, on the one hand, and, on the other, points in AL, KY, VA, NC, SC, and GA.

MC 123876 (Sub-7), filed August 28, 1981. Applicant: PRATT TRANSPORTATION CO., INC., P.O. Box 1501, Omaha, NE 68101. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *fly ash and lime kiln dust*, between Carbo and Saltville, VA, and Luttrell, TN, on the one hand, and, on the other, points in TN, KY, WV, GA, NC, SC, and VA.

MC 123876 (Sub-8), filed August 31, 1981. Applicant: PRATT TRANSPORTATION CO., INC., P.O. Box 1501, Omaha, NE 68101. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *portland and masonry cement*, between Kingsport and Richard City, TN, on the one hand, and, on the other points in WV, VA, NC, SC, GA, AL, and KY.

MC 151566 (Sub-7), filed August 27, 1981. Applicant: PERRY TRANSPORT, INC., 14375 172nd Ave., Grand Haven, MI 49417. Representative: Richard O. Peel (same address as applicant), (616) 842–3550. Transporting *pianos, and material, equipment and supplies* used in the manufacture, sale and distribution thereof, between South Haven, MI, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with Everett Piano co., of South Haven, MI.

MC 152806 (Sub-2) filed August 28, 1981. Applicant: SUR-WAY TRANSPORT, INC., 31414 Ecorse Rd., Romulus, MI 48174. Representative: Robert E. McFarland, 2855 Coolidge, Suite 201A, Troy, MI 48084, (313) 649–6650. Transporting *general commodities* (except classes A and B explosives), between points in the Lower Peninsula of MI, on the one hand, and, on the other, those points in the U.S., in and east of MN, IA, MO, AR, and LA.

MC 153816, filed August 31, 1981. Applicant: WELLS TRUCKING, INC., 108 Zeiler, Paris, AR 72855. Representative: Stephen A. White, P.O. Box 85, Charleston, AR 72933, (501) 965–2226. Transporting *cleaning products and household items*, between points in the U.S., under continuing contract(s) with Amway Corporation, of Arlington, TX.

MC 155256, filed August 27, 1981. Applicant: KASSEL TRANSFER, INC., Route 1, Letts, IA 52754. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515) 282–3525. Transporting (1) *ores and minerals*, between Muscatine County, IA, on the one hand, and, on the other, points in AL, AR, CO, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, ND, OH, OK, SD, TN, TX, and WI, (2) *general commodities* (except classes A and B explosives), between points in IA and IL, restricted to the transportation of traffic having a prior or subsequent movement by rail trailer-on-flatcar service, and (3) *machinery*, between Muscatine and Louisa Counties, IA, on the one hand, and, on the other, points in IL, IN, MO, NE, OH, PA and WI, and (4) *chemicals and clay products* between Muscatine County, IA, on the one hand, and, on the other, points in the U.S.

MC 157966, filed August 28, 1981. Applicant: ROY JEMISON AND DARLEEN JEMISON, d.b.a. R & D JEMISON TRANSPORT, 5674 Ave. Juan

Bautista, Riverside, CA 92509. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306, (805) 872–1106. Transporting *building materials*, between points in the U.S., under continuing contract(s) with Chandler Corporation of Idaho, of Fontana, CA.

MC 155936, filed August 27, 1981. Applicant: GREAT WESTERN TRANSPORTATION CO., INC., 8058 E. Carol Way, Scottsdale, AZ 85260. Representative: Phil B. Hammond, 3003 N. Central, Suite 2201, Phoenix, AZ 85012, (602) 266–2224. Transporting *food and related products*, between points in Los Angeles, Riverside, San Bernardino, Orange, Ventura, Stanislaus, San Francisco, Santa Cruz, San Diego, San Mateo, and Alameda Counties, CA, Sedgwick County, KS, Logan County, AR, Adams, Jefferson, Douglas, Araphahoe Counties, CO, Maricopa, Pima, Coconino Counties, AZ, Bexar and El Paso Counties, TX, and Kitsap, King, Pierce Counties, WA.

MC 157967, filed August 27, 1981. Applicant: CHARLES ROSENBLATT d.b.a. ORWELL-CLEVELAND COACH LINE, 4220 E. 146th St., Cleveland, OH 44128. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215, (614) 224–3161. Transporting *passengers and their baggage*, in special operations, beginning and ending at points in Ashtabula, Cuyahoga, Geauga, and Lake Counties, OH, and extending to points in AL, CT, FL, GA, IL, IN, KY, MD, MI, MO, MS, NJ, NY, NC, PA, SC, TN, VA, WI, WV, and DC.

Volume No. OPY–4–358

Decided: September 3, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 29647 (Sub-50), filed August 24, 1981. Applicant: CHARLTON BROS. TRANSPORTATION COMPANY, INC., 552 Jefferson St., Hagerstown, MD 21740. Representative: John E. Fullerton, 407 N. Front St., Harrisburg, PA 17101, (717) 236–9318. Transporting *ink.*, between Williamsport, MD, on the one hand, and, on the other, points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the International Boundary line between the U.S. and Canada.

MC 59247 (Sub-19), filed August 26, 1981. Applicant: LINDEN MOTOR FREIGHT COMPANY, INC., 1300 Lower Rd., Linden, NJ 07036. Representative: William Biederman, 371 7th Ave., New York, NY 10001, (212) 279–3050. Transporting *chemicals*, between points in the U.S., under continuing contract(s) with American Cyanamid Company, of Wayne, NJ.

MC 97977 (Sub-9), filed August 25, 1981. Applicant: CARTAGE SERVICE, INC., 2437 E. 14th St., Los Angeles, CA 90021. Representative: Robert Fuller, 13215 E. Penn St., Ste. 310, Whittier, CA 90602, (213) 945–3002. Transporting *general commodities* (except classes A and B explosives), between points in AZ, CA, NV, OR, and WA, on the one hand, and, on the other, points in the U.S.

MC 121827 (Sub-2), filed August 24, 1981. Applicant: BLOUNT MOTOR LINES, INC., Route 4, New Topside Rd., Louisville, TN 37777. Representative: James B. Edmondson (same address as applicant), (615) 984–1668. Transporting *general commodities* (except classes A and B explosives), between points in Blount County, TN and Knox County, TN.

MC 144587 (Sub-3), filed August 24, 1981. Applicant: DON E. KEITH, 2990 Pierce Rd., Bakersfield, CA 93308. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306, (805) 872–1106. Transporting *petroleum, natural gas, and their products*, between points in CA, on the one hand, and, on the other, points in NV.

MC 147737 (Sub-1), filed August 25, 1981. Applicant: ABT, INC., d.b.a. ANDREOTTI BROTHERS TRUCKING, P.O. Box 298, Colusa, CA 95932. Representative: Ann M. Pougiales, 100 Bush St., 21st Floor, San Francisco, CA 94104, (415) 986–5778. Transporting *aluminum and copper electric wire and cable*, between points in Colusa County, CA, on the one hand, and, on the other, points in AZ, CA, ID, NV, OR, UT, and WA.

MC 150187 (Sub-4), filed August 24, 1981. Applicant: D & L TRUCKING SERVICES, INC., 1419 South Clark Blvd., Clarksville, IN 47130. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202, (502) 589–5400. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with W.R. Grace & Co., of Reading, PA.

MC 154127 (Sub-1), filed August 24, 1981. Applicant: A. LUURTSEMA PRODUCE, INC., P.O. Box 67, Hudsonville, MI 49426. Representative: Michael D. McCormick, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. Transporting *such commodities* as are dealt in or used by food services distributors, between points in the U.S., under continuing contract(s) with Dykstra Food Services, Incorporated, of Comstock Park, MI, Gordon Food Services, of Grand Rapids, MI, and Sysco Frost Pack–Food Services Incorporated, of Grand Rapids, MI.

MC 155947 (Sub-1), filed August 24, 1981. Applicant: MISSIE, INC., 3400 McIntosh Rd., Port Everglades, Fort Lauderdale, FL 33316. Representative: Richard M. Davis, Suite 710, Barnett Bank Bldg., Tallahassee, FL 32301, (904) 224–4926. Transporting (1) *lumber and wood products*, (2) *clay, concrete, glass, or stone products*, (3) *machinery*, (4) *transportation equipment*, and (5) *rubber and plastic products*, between points in the U.S., under continuing contract(s) with Transit Products, Inc., of College Park, GA.

MC 157857, filed August 24, 1981. Applicant: BAKER RENTAL AND SALES, INC., 1151 Baker Street, Costa Mesa, CA 92627. Representative: Floyd L. Darano, 2555 E. Chapman Ave., Suite 415, Fullerton, CA 92631. Transporting those *commodities which because of size or weight require the use of special handling or equipment., Mercer Commodities, farm machinery, contruction machinery, pipe and steamfitting materials, building materials used in the construction of oil field refineries, water processing plants and pipe line construction*, between points in AZ, CA, CO, ID, GA, KY, MO, MS, NV, OR, TN, TX, WA, WY, VA, UT, and NM, under continuing contract(s) with Brinderson Corp., Irvine, CA., Case Power and Equipment San Diego, CA; Agee Agriculture Equipment Sales, Inc., Escondido, CA.

MC 157877, filed August 24, 1981. Applicant: OMNI TRANSPORTATION, INC., 518 Laskin Road, Virginia Beach, VA 23451. Representative: Micheal A. Inman, Esq., Suite 211, Pembroke Four, Virginia Beach, VA 23462–5483. Transporting *passengers and their baggage in special* or charter operations, between Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, Suffolk and Virginia Beach, VA and points in James City and York Counties, VA on the one hand, and, on the other, points in the U.S.

MC 157887, filed August 24, 1981. Applicant: A. D. WINCH TRUCKING, INC., 1135 Robert St., Pearland, TX 77581. Representative: Damon R. Capps, 1300 Main St., Suite 1230, Houston, TX 77002, (713) 658–8101. Transporting (1) *Mercer commodities*, (2) *pipe*, (3) *metal products*, (4) *plastic products*, and (5) *machinery*, between points in TX, NM, OK, LA, AZ, CA, WY, KS, and CO.

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Decided: September 3, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 105007 (Sub-83), filed August 27, 1981. Applicant: MATSON TRUCK LINES, INC., P.O. Box 328, 1407 St. John Ave., Albert Lea, MN 56007. Representative: Leonard K. Sackson (same address as applicant), (507) 373–1467. Transporting *metal products* between Chicago, IL and Milwaukee, WI on the one hand, and, on the other points in and east of MT, WY, CO and NM.

MC 108207 (Sub-566), filed August 24, 1981. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same address as applicant), (214) 428–7661. Transporting *general commodities* (except classes A and B explosives), between points in the U.S.

MC 155736, filed August 27, 1981. Applicant: WENDT & SONS, INC., 1322 Garfield St., Wabash, IN 46922. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. Transporting (1) *machinery*, and (2) *those commodities which because of their size or weight require the use of special equipment*, between points in IN, on the one hand, and, on the other, points in the U.S.

MC 156736, filed August 27, 1981. Applicant: FOX RIVER TRUCKING, INC., 4942 Elm Island Circle, Waterford, WI 53185. Representative: Richard A. Kerwin, 180 N. La Salle St., Chicago, IL 60601–2897, (312) 332–5106. Transporting *general commodities* (except classes A and B explosives), under continuing contract(s) with Moebius Printing Co., Inc., of Milwaukee, WI.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-26750 Filed 9-14-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 162]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: September 10, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the Federal Register of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 USC 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 5117 (Sub-16)X, filed August 20, 1981. Applicant: VAN SOMEREN TRANSFER, INC., P.O. Box 94, 420 8th Avenue, Baldwin, WI 54002. Representative: Stanley C. Olsen, Jr., 5200 Willson Road, Edina, MN 55424. Applicant seeks to remove restrictions in its lead and Sub-Nos. 10 and 15F certificates to (1) broaden the commodity descriptions from general commodities (with exceptions) to "general commodities (except class A & B explostives)" in its lead and Sub-No. 15F; (2) from feed and grain to "food and related products" from farm machinery and twine to "machinery and textile mill products" from empty containers to "such commodities as are dealt in by manufacturers, and distributors of containers" from livestock to "farm products" from cleansing, scouring, and washing compounds, cooking oil fats, lard compounds, lard substitutes, soap, soap products, vegetable oil shortening, and foodstuffs, and related chemicals, and related products, and food and related products, and from manufactured fertilizer to "chemicals and related products" in its lead; and from refrigerators, coolers, and cooling equipment and equipment materials and supplies used in the manufacture of those commodities to "machinery, metal products, and rubber and plastic products" in Sub-No. 10; (3) replace one-way with radial authority in its lead and Sub-No. 10; (4) authorize service at all intermediate points on its regular route between St. Paul, MN, and Baldwin, WI, in its lead; (5) replace (a) Red Wing and Hastings, MN with Goodhue and Dakota Counties, MN; over Hammond, Woodville, and Spring Valley, WI, with St. Croix and Pierce Counties, WI; Stillwater, MN, with Washington County, MN; Forest, Glenwood, Springfield, Cadey, Eau Galle, Baldwin, Emerald, Cylon, Erin Prairie, Hammond, Rush River, Pleasant Valley, Kinnickinnick, Warren, Richmond, and Hudson, WI (with exceptions) with St. Croix and Dunn Counties, WI; Baldwin and Roberts, WI, with St. Croix County, WI; South St. Paul and Newport, MN, and Dakota and Washington Counties, MN; Baldwin, WI, and points within 25 miles of Baldwin with St. Croix, Pierce, Dunn, Barion, Polk, and Pepin Counties, WI; St. Paul, MN, and points within 25 miles of St. Paul with Ramsey, Hennepin, Anoka, Washington, Dakota, Chisago, Scott, Carver, and Goodhue Counties, MN, Winona, MN, with Winona County, MN; Baldwin, WI, and points within 15 miles of Baldwin, with St. Croix, Pierce, and Dunn Counties, WI, and replace Hammond, Rush River, Pleasant Valley, Warren and Erin Prairie, WI, with St. Croix County, WI, and South St. Paul with Dakota County, MN, in its lead; (6) River Falls and Roberts, WI, with Pierce and St. Croix Counties, WI, in Sub-No. 10; and (c) River Falls and Woodville, WI, with Pierce and St. Croix Counties, WI, in Sub-No. 15F; (6) remove exceptions to St. Croix, County, WI, in its lead.

MC 45764 (Sub-40)X, filed September 4, 1981. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 38, Essington, PA 19029. Representative: Paul F. Sullivan, 711 Washington Bldg. Washington, D.C. 20005. Applicant seeks to remove restrictions in its Sub-No. 31F certificate to (1) broaden the commodity description from general commodities (with exceptions) to "general commodities (except classes A and B explosives)", and (2) remove the special equipment restriction (containers or trailers having immediately prior or subsequent movement by water and empty containers or trailer chassis).

MC 96604 (Sub-2)X, filed August 27, 1981. Applicant: NELSON TRUCKING CO., INC., P.O. Box 80323, Seattle, WA 98108. Representative: George H. Hart, 1100 IBM Building, Seattle, WA 98101. Applicant seeks to remove restrictions in its lead and Sub-No. 1F certificates to (1) broaden the commodity description from lumber to "lumber and wood products," in the lead; (2) remove the restrictions limiting service to (a) shipments moving to U.S. territories and

possessions and Alaska and Hawaii only, in the lead; and (b) traffic having a prior or subsequent movement by water, in Sub-No. 1F; and (3) replace one-way authority with radial authority between 3 named cities in Washington, in the lead.

MC 116400 (Sub-9)X, filed August 26, 1981. Applicant: LAWRENCE TRANSFER & STORAGE CORPORATION, 2727 Hollins Road, NE, P.O. Box 13025, Roanoke, VA 24030. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105. Applicant seeks to remove restrictions in its Sub-Nos. 7F certificate to broaden the commodity description from household goods to "household goods and furniture and fixtures" between points in 25 states.

MC 119631 (Sub-46)X, filed June 30, 1981, noticed in the Federal Register of July 22, 1981, and August 20, 1981, and republished as follows: Applicant: DEIOMA TRUCKING COMPANY, P.O. Box 335, East Sparta, OH 44626. Representative: Lawrence E. Lindeman, 1032 Pennsylvania Building, Pennsylvania Ave. & 13th St. N.W., Washington, DC 20004. As is pertinent here, applicant seeks to broaden its Sub-Nos. 5, 7, 22, 23, 24, 28, 32, 36, 38, and 39 certificates and its E-1, E-3, E-4, E-5, and E-6 letter notices by broadening the commodity description to metal products from refractories and refractory products. The certificate in this proceeding failed to encompass this revision. The purpose of this republication is to correct these inadvertent omissions.

MC 121658 (Sub-39)X, filed August 9, 1981 and published in the Federal Register of August 12, 1981, republished as corrected, this issue. Applicant: STEVE D. THOMPSON TRUCKING, INC., 710 Prairie St., Winnsboro, LA 71295. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. Applicant seeks to remove restrictions in its Sub-Nos. 2, 4, 7, 8, 9, 11F, 12F, 13F, 14F, 17F, 21F, 24F, 30F, 31F, 32F, 33F, 34F, 35F, and 36F certificates as previously published, and to (1) replace the following city with county-wide authority in Sub-No. 24 from Jackson, MS to Hinds, Madison and Rankins Counties, MS (previously published as Hinds County, MS); (2) remove the "originating at" and/or "destined to" named facilities restrictions in Sub-Nos. 17, 21 and 33. The certificate in this proceeding failed to encompass this revision. The purpose of this republication is to correct these inadvert omissions.

MC 133545 (Sub-8)X, filed August 26, 1981. Applicant: LEMONS HOUSE MOVING, INC., 1250 Houston Rd., Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701. Applicant seeks to remove restrictions in its lead and Sub-Nos. 3, 5F and 7F certificates to (1) broaden the commodity description to "buildings, building sections, and buildings materials" from prefabricated buildings, complete, in sections or without fixed under-carriages, in all certificates; (2) authorize county-wide authority to replace existing facilities or city-wide authority: (a) Ada and Bannock Counties, ID, for Meridian and Pocatello, ID, in Sub-No. 3, (b) Bannock County, ID, for facilities at or near Pocatello, ID, in Sub-No. 5F, and (c) Yellowstone County, MT, Salt Lake County, UT, and Bannock County, ID, for facilities at or near Laurel, MT, West Jordan, UT, and Pacatello, ID, in Sub-No. 7F; and, (3) authorize radial authority to replace existing one-way authority between points in various western States, in all certificates.

MC 134286 (Sub-172)X, filed August 21, 1981. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Jack B. Wolfe, 1600 Sherman, #665, Denver, CO 80203. Applicant seeks to remove restrictions in its Sub-Nos. 4, 6, 7, 8, 10, 13, 16, 17, 20, 22, 24, 25, 26, 29, 30, 31, 32, 35, 37, 38, 39, 41, 52F, 53F, 54F, 56F, 58F, 60F, 62F, 63F, 64F, 65F, 66F, 69F, 70F, 71F, 72F, 73F, 81F, 83F, 84F, 86F, 89, 90F, 91F, 92, 93F, 94, 99F, 100F, 101F, 104F, 105, 107F, 113F, 114F, 115F, 116F, 118F, 121F, 122F, 125F, 126F, 129F, 132F, 140F, 141F, 142F, 145F, 146F, 147F, 148F, 149F, 153F, 154F, 155F, 159F, 160F, 161F, 162, 164F, 165F, 166F, 167F, and 169F certificates to (1) broaden its commodity descriptions to (a) "food and related products" from specified commodities such as meats, meat products, meat by-products and/or articles distributed by meat packinghouses, as described in Section A of Appendix 1 in the report in the *Descriptions* case, 61 M.C.C. 209, and 766; frozen foods; foods, food products, food ingredients, animal foods, animal food ingredients, and meat by-products; foodstuffs; frozen, canned and packaged foodstuffs; shortening, edible tallow, cooking oil, and margarine; edible oils; frozen bagels; frozen onion rings; frozen fish and frozen bakery products; dry spaghetti and macaroni products; feed grade; prepared flour mixes and frosting mixes; frozen onion rings and frozen diced onions; canned and bottled apple juice and sweet cider; animal feed; frozen foodstuffs; alcoholic liquors; and corn products in Sub-Nos. 4, 6, 7, 8, 10, 13, 16, 17, 20, 22, 24, 25, 26, 29, 30, 31, 32, 35, 37, 38, 39, 52F, 53F, 54F, 56F, 58F, 60F, 62F, 63F, 65F, 71F, 73F, 81F, 83F, 89, 90F, 91F, 92, 93F, 94, 99F, 101F, 104F, 113F, 115F, 118F, 140F, 141F, 145F, 148F, 159F, 160F, 162, 164F, 165F, 166F, and 169F; (b) "such commodities as are dealt in or used by restaurants" from restaurant materials, equipment and supplies in Sub-No. 17; (c) "instruments and photographic goods" from specified commodities such as pharmaceutical materials, supplies and products; needles, syringes and blood collection tubes; hospital supplies; laboratory equipment and supplies; in Sub-Nos. 26, 41, 69F, 142F and 154F; (d) "chemicals and related products", from chemicals; pharmaceutical materials, supplies and products; chemicals, acids and solvents; ferrous sulfate and fertilizer; zinc oxide, zinc dust and metallic cadmium; chemicals and materials, equipment and supplies used in the manufacture and distribution of chemicals; washing, cleaning, scouring, compounds, soap and soap products and toilet preparations; weed killing compounds; hospital supplies; adhesives; diagnostic chemicals, laboratory chemicals and damaged and refused laboratory chemicals; and textile, softeners lubricants, hypochlorite solutions, deodorants, or disinfectants in Sub-Nos. 17, 41, 54F, 66F, 70F, 72F, 101F, 104F, 107F, 114F, 121F, 122F, 141F, 146F, 147F, 154F, 161F, 166F and 167F; (e) "clay, concrete, glass or stone products" from specified commodities such as laboratory equipment and supplies; glass and glass products; hospital supplies; limestone; laboratory equipment and supplies in Sub-Nos. 41, 125F, 142F, 146F and 154F; (f) "rubber and plastic products" from specified commodities such as plastic, film and plastic articles; heavy thermol plastic covering, materials for cutting boards; and hospital supplies in Sub-Nos. 64F, 100F and 142F; (g) "pulp, paper and related products" from specified commodities such as corrugated boxes; fiber board boxes; toilet preparations; and hospital supplies in Sub-Nos. 64F, 71F, 121F, 142F and 167F; (h) "metal products" from specified commodities such as slab zinc and metallic cadmium; materials and supplies used in the manufacture of cast iron products and nails in Sub-Nos. 70F, 72F, 126F and 147F; (i) "leather and leather products" from boots, shoes and handbags in Sub-Nos. 84F and 86F; (j) "textile mill products" from specified commodities such as cotton bags and carpet strips in Sub-Nos. 100F and 147F; (k) "petroleum, natural gas and their products" from sealants, solvents, stains and wood preservatives; and paints, stains or varnishes in Sub-Nos. 107F and 161F; (l)

"printed matter"" from dated magazine parts in Sub-No. 116F; (m) "such commodities as are dealt in by laboratories" from laboratory equipment, materials and supplies in Sub-No. 153F; (n) "furniture and fixtures" from laboratory furniture in Sub-No. 155F; (2) replace its city-wide and facilities authority with county-wide or city-wide authority: (a) in Sub-Nos. 4 and 6, facilities at Council Bluffs, IA and Omaha, NE with Washington, Douglas and Sarpy Counties, NE and Pottawattamie County, IA; (b) in Sub-Nos. 7 and 92, facilities at Wahoo, NE with Saunders County, NE; (d) in Sub-No. 8, facilities at Cherokee, IA with Cherokee County, IA; (d) in Sub-No. 10, facilities at Lemars, Mason City, Denison and Ft. Dodge, IA, Emporia, KS, Luverne, MN, Dakota City, and West Point, NE with Plymouth, Crawford, Webster and Cerro Gordo Counties, IA; Lyon County, KS; Rock County, MN; Dakota and Cuming County, NE; (e) in Sub-No. 13, facilities at Holton, KS with Jackson County, KS; (f) in Sub-No. 16, facilities at Scranton and Allentown, PA with Lackawanna, Luzerne, Lehigh and Northampton Counties, PA; (g) in Sub-No. 17, facilities at Denver, CO and Albuquerque, NM with Denver, Douglas, Jefferson, Arapahoe, and Adams Counties, CO and Bernalillo and Sandoval Counties, NM; (h) in Sub-No. 20, facilities at St. Louis, MO with St. Charles, St. Louis and Jefferson Counties, MO, St. Louis, MO, and Madison, St. Clair, and Monroe Counties, IL; (i) in Sub-No. 22, facilities at Lexington, KY with Fayette County, KY; (j) in Sub-Nos. 24 and 35, facilities at Archbold, OH with Fulton County, OH; (k) in Sub-No. 25, facilities at Bradley, IL with Kankakee County, IL; (1) in Sub-No. 26, Denver, CO and facilities at Albuquerque, NM, with Denver, Jefferson, Douglas, Arapahoe, and Adams Counties, CO and Bernalillo, and Sandoval Counties, NM; and facilities at Laramie, WY with Albany County, WY; (m) in Sub-No. 29, facilities at Kansas City, KS with Johnson, and Wyandotte Counties, KS and Platte, Clay and Jackson Counties, MO; (n) in Sub-No. 30, facilities at Itasca, IL and St. Louis, MO with DuPage, Madison, St. Clair, and Monroe Counties, IL and St. Charles, St. Louis and Jefferson Counties, MO and St. Louis, MO; (o) In Sub-No. 31, facilities at National Stockyards, IL and St. Louis, MO with Madison, St. Clair and Monroe Counties, IL and St. Charles, St. Louis and Jefferson Counties, MO and St. Louis, MO; (p) in Sub-No. 32, facilities at Grand Island and Omaha, NE, Des Moines, Glenwood, Marshalltown and Sioux City, IA with Hall, Hamilton, Washington, Douglas, Dakota and Sarpy Counties, NE, Pottawattamie, Polk, Warren, Mills, Marshall, Woodbury and Plymouth Counties, IA and Union County, SD (q) in Sub-No. 37, facilities at Estherville, Humboldt, Sioux City, IA and Sioux Falls, SD with Emmet, Humboldt, Plymouth and Woodbury Counties, IA, Dakota County, NE; Union and Minnehaha Counties, SD; (r) in Sub-No. 38, facilities at Sioux Falls, SD and Sioux City, Estherville and Humboldt, IA with Emmet, Humboldt, Plymouth and Woodbury Counties, IA; Dakota County, NE; Union and Minnehaha Counties, SD; (s) in Sub-No. 39, facilities at Denison and Ft. Dodge, IA; Luverne, MN and Dakota City and West Point, NE with Crawford and Webster Counties, IA; Rock County, MN and Dakota and Cuming Counties, NE; (t) in Sub-No. 41, facilities at Bridgewater Township, NJ with Somerset County, NJ; and Atlanta, GA; Chicago, IL; Cincinnati, and Cleveland, OH; Houston, TX; Los Angeles, CA; Orlando, FL; Pittsburgh, PA; St. Louis, MO; and Raleigh, NC; with Cobb, Fulton, DeKalb, and Clayton Counties, GA; Cook, DuPage, Will, and Lake Counties, IL; Hamilton, Butler, Clermont Counties, OH and Campbell, Kenton and Boone Counties, KY; Lake, Cuyahoga, Lorain, Summit, Medina Counties, OH; Harris, Montgomery, Ft. Bend, and Brazoria Counties, TX; Ventura, Los Angeles, Orange Counties, CA; Orange and Seminole Counties, FL; Allegheny and Westmoreland Counties, PA; Jefferson, St. Louis and St. Charles Counties, MO, St. Louis, MO, and Madison, St. Clair and Monroe Counties, IL; and Wake County, NC; (u) in Sub-No. 52F, facilities at Sioux Center and Sioux City, IA with Sioux and Woodbury Counties, IA, Dakota County, NE and Union County, SD; (v) In Sub-No. 53, facilities at Sioux Center, IA with Sioux County, IA; (w) in Sub-No. 54, the facilities in Chicago, IL with Lake, Cook, DuPage and Will Counties, IL; Minneapolis, MN, with Washington, Ramsey, Anoka, Hennepin, and Dakota Counties, MN; Lawrence, KS and Green River, WY with Douglas County, KS and Sweetwater County, WY; Joliett, IL with Will County, IL; Elk Grove Village, IL with Cook and DuPage Counties, IL; St. Louis, MI with Gratiot County, MI; St. Louis, MO with St. Charles, St. Louis and Jefferson Counties, MO; St. Louis, MO; and Madison, St. Clair, and Monroe Counties, IL; Wyandotte, MI with Wayne County, MI; Tulsa, OK with Osage, Tulsa, and Creek Counties, OK; Berkeley Springs, WV and Quincy, FL with Morgan County, WV and Gadsden County, FL; Springfield, MO with Green County, MO; Rapid City, SD with Pennington and Lawrence Counties, SD; Charleston, SD and East Point, GA with Berkeley, Dorchester and Charleston Counties, SD and Fulton County, GA; Columbus, OH with Franklin, Delaware, Union, Licking, Fairfield, Pickaway and Madison Counties, OH; Copperhill, TN with Polk County, TN; Ft. Recovery, OH with Mercer County, OH; West Lafayette, IN with Tippecanoe County, IN; Hammond, IN with Lake County, IN; Dickinson, TX with Galveston County, TX, Gurnee, IL with Lake County, IL; Green River, WY with Sweetwater County, WY; Covington, VA with Allegheny County, VA; Oran, MO with Scott County, MO; Barberton, OH and Natrium, WV with Summit, Wayne, Medina Counties, OH and Wetzel County, WV; Painesville, OH with Lake County, OH; Wilmington and North Claymont, DE, and Syracuse, NY with New Castle County, DE, and Onondaga County, NY; Memphis, TN with Shelby County, TN and Crittenden County, AR; Midland and Ludington, MI with Midland and Mason Counties, MI; Pine Bend, MN with Dakota County, MN; Delaware, OH to Delaware County, OH; Meta, MO with Osage County, MO; and Omaha, NE, Sioux City, IA and Phoenix, AZ with Washington, Douglas and Sarpy Counties, NE, Pottawattamie, Plymouth and Woodbury Counties, IA, Union County, SD and Maricopa and Pina Counties, AZ (x) in Sub-No. 56, facilities at Livonia, MI with Wayne County, MI; (y) in Sub-No. 58, facilities at Buffalo, NY with Niagara and Erie Counties, NY; and Chicago, IL, St. Louis and Kansas City, MO, Minneapolis, MN, Denver, CO, Milwaukee, WI, and Omaha, NE with Lake, DuPage, Cook and Will Counties, IL, St. Charles and St. Louis and Jefferson Counties, MO, St. Louis, MO, and Madison, St. Clair and Monroe Counties, IL; Wyandotte and Johnson Counties, KS and Clay, Platte, and Jackson Counties, MO; Anoka, Ramsey, Washington, Dakota and Hennepin Counties, MN, Denver, Adams, Arapahoe, Douglas, and Jefferson Counties, CO, Milwaukee, Waukesha, Washington and Ozaukee Counties, WI, Washington, Douglas and Sarpy Counties, NE and Pottawattamie County, IA; (z) in Sub-No. 60, facilities at Boston, MA with Essex, Middlesex, Norfolk, Suffolk and Plymouth Counties, MA; (aa) in Sub-No. 62, facilities at Stamford, CT with Fairfield County, CT and Cleveland, OH, Detroit, MI with Macomb, Oakland and Wayne Counties, MI; Lake, Cuyahoga, Summit, Medina and Lorain Counties, OH, (bb) in Sub-

No. 63, facilities at Sioux City, IA with Plymouth and Woodbury Counties, IA, Dakota County, NE and Union County, SD; (cc) in Sub-No. 64F, facilities at North Hanover, MA, Griffin, GA, Illiopolis, and Elk Grove Village, IL, Carson and Oakland, CA, North Bergen and Gloucester City, NJ, Cockeysville, MD, Charlotte, NC, Cleveland, OH, Seattle, WA, Dallas, TX, Tampa, FL, Minneapolis, MN and Yonkers, NY with Essex County, MA; Spaulding County, GA, Sangamon, Cook, and DuPage Counties, IL; Los Angeles, Contra Costa, Alameda, San Francisco, San Mateo Counties, CA, Hudson and Camden Counties, NJ, Baltimore County, MD, Mecklenburg County, NC; Lake, Cuyahoga, Summit, Medina, and Lorain Counties, OH, King and Kitsap Counties, WA, Denton, Collin, Rockwall, Kaufman, Ellis, Dallas, and Tarrant Counties, TX, Hillsboro, Pinellas Counties, FL, Anoka, Ramsey, Washington, Dakota and Hennepin Counties, MN and Winchester County, NY; (dd) in Sub-Nos. 65 and 113 facilities at Jersey City, NJ with Hudson, Essex and Bergen Counties, NJ; (ee) in Sub-No. 66, Quincy, Rock Island and Chicago, IL, Marion, Eldora, Ladora, Sioux City, Council Bluffs and Des Moines, IA, Omaha, NE and Manistee, MI with Adams, Lake, Du Page, Cook, Will and Rock Counties, IL and Scott County, IA; Lynn, Hardin, Iowa, Woodbury, Pottawattamie, Polk and Warren Counties, IA, Dakota, Washington, Douglas and Sarpy Counties, NE, Union County, SD and Manistee County, MI; (ff) in Sub-No. 69F facilities at Norfolk, NE with Madison and Stanton Counties, NE; Atlanta, GA, North Brunswick, NJ, St. Louis, MO, Dallas, TX, Libertyville, IL, Anaheim and Hayward, CA, Boston, MA and Minneapolis, MN with Cobb, De Kalb, Clayton, and Fulton Counties, GA, Middlesex County, NJ, St. Charles, St. Louis and Jefferson Counties, MO, St. Louis, MO and Madison, St. Clair and Monroe Counties, IL, Collin, Rockwall, Dallas, Kaufman, Ellis, Tarrant and Denton Counties, TX, Lake County, IL, Alameda and Orange Counties, CA, Essex, Middlesex, Sulfolk, Norfolk and Plymouth Counties, MA and Anoka, Ramsey, Washington, Dakota and Hennepin, MN; (gg) in Sub-No. 70, Chicago, IL, St. Louis, MO with Lake, Cook, DuPage, Will, Madison, St. Clair, and Monroe Counties, IL and St. Charles, St. Louis and Jefferson Counties, MO and St. Louis, MO; (hh) in Sub-No. 71, facilities at Kenosha, WI and North Chicago, IL with Kenosha County, WI and Lake County, IL; (ii) in Sub-Nos. 73 and 165, facilities at Buffalo, NY with Niagara and Erie Counties, NY and Pittsburgh, PA with Allegheny County, PA; (jj) in Sub-No. 81, facilities at Chelsea, MI with Washtenaw County, MI and New Orleans, LA with Orleans, Jefferson, Plaquemine, St. Bernard and St. Charles Parishes, LA; (kk) in Sub-Nos. 83 and 89, facilities at Nepoleon, OH with Henry County, OH, and Paris, TX and Chicago, IL with Marr County, TX, Lake, DuPage, Cook, and Will Counties, IL; (ll) in Sub-No. 90, facilities at Denison and Sioux City, IA, Emporia and Wichita, KS, Luverne, MN, Dakota City and West Point, NE with Crawford, Plymouth and Woodbury Counties, IA, Dakota County, NE and Union County, SD; Lyon, Butler, and Sedgwick Counties, KS, Rock County, MN and Dakota City and Cuming Counties, NE; and Ft. Dodge, IA with Webster County, IA; (mm) in Sub-No. 91, facilities at Dodge City, KS with Ford County, KS; (nn) in Sub-No. 93, facilities in Dakota City, NE with Dakota County, NE; (oo) in Sub-No. 94, facilities at Memphis, Bridgeport and Imlay City, MI with St. Clair, Macomb, Saginaw, and Laper Counties, MI; (pp) in Sub-No. 99, facilities at Freemont, MI with Newaygo County, MI; and Anaheim and San Francisco, CA, Yakima, WA, Kansas City, MO, Rogers, AR, Minneapolis, MN, Oklahoma City, OK and Paris and Dallas, TX with Orange, San Francisco, Marin, San Mateo, Alameda and Contra Costa Counties, CA, Yakima, WA, Clay, Platte, and Jackson Counties, MO; and Wyandotte and Johnson Counties, KS; Benton County, AR, Anoka, Ramsey, Washington, Dakota and Hennepin, MN; Adams, Arapahoe, Douglas, Denver, and Jefferson Counties, CO; Oklahoma, Cleveland, Canadian, and Logan Counties, OK; Collin, Rockwall, Dallas, Kaufman, Ellis, Johnson, Tarrant and Denton Counties, TX; (qq) in Sub-No. 100, facilities at Reading, PA with Berks County, PA; Bay Village, OH with Cuyahoga County, OH; facilities at Scranton, PA with Lackawanna and Luzerne Counties, PA; Bay Village, OH with Cuyahoga County, OH and Reading, PA with Berks County, PA; (rr) in Sub-No. 101, facilities at Syracuse, NY, Ludington, MI, East Point, GA, Pine Bend, MN, Meta, MO with Onodaga County, NY; Mason County, MI, Dakota County, MN, Osage County, MO; facilities at Sioux City, IA and Omaha, NE with Plymouth, Woodbury and Pottawattamie Counties, IA, Union County, SD and Kakota, Washington, Douglas and Sarpy Counties, NE; (ss) in Sub-No. 105; facilities at Kansas City, MO with Clay, Platte, and Jackson Counties, MO and Wyandotte and Johnson Counties, KS; facilities at Sparks, NV with Washoe and Story Counties, NV; facilities at Kansas City, MO and Chicago, IL with Clay, Platte and Jackson Counties, MO and Wyandotte and Johnson Counties, KS and Lake, DuPage, Cook and Will Counties, IL;, (tt) in Sub-No. 107; facilities at Dayton, OH and Kalamazoo, MI with Montgomery and Greene Counties, OH and Kalamazoo County, MI; (uu) in Sub-No. 114, facilities at Meredosia, IL and Indianapolis, IN with Morgan, Pike and Brown Counties, IL and Hamilton, Hancock, Marianne, Shelby, Johnson, Morgan, Hendricks and Boone Counties, IN; (vv) in Sub-No. 115; facilities at Columbus, OH and Mattoon, IL with Delaware, Licking, Franklin, Fairfield, Pickaway, Madison and Union Counties, OH and Coles County, IL; (ww) in Sub-No. 116; Brookfield, WI and Saybrook, CT with Waukesha County, WI and Middlesex County, CT; (xx) in Sub-No. 118, facilities at Chicago, IL with Lake, DuPage, Cook and Will Counties, IL; (yy) in Sub-No. 121F, facilities at St. Louis, MO with St. Charles, St. Louis, and Jefferson Counties, MO, St. Louis, MO and Madison, St. Clair, Monroe Counties, IL; and Kansas City, MO with Platte, Clay and Jackson Counties, MO and Wyandotte and Johnson Counties, KS; (aaa) in Sub-No. 125, facilities at Evansville, IN with Vanderburgh and Warrick Counties, IN and Henderson County, KY; (bbb) in Sub-No. 126, Council Bluffs, IA with Pottawattamie and Mills Counties, IA and Washington, Douglas and Sarpy Counties, NE; (ccc) in Sub-No. 129; facilities at Kansas City, KS with Wyandotte, and Johnson Counties, KS and Platte, Clay and Jackson Counties, MO; (ddd) in Sub-No. 132, Rialto, CA and Byhalia, MS with San Bernardino County, CA and Marshall County, MS; (eee) in Sub-No. 140, facilities at Buffalo, NY and West Haven, CT with Erie and Niagara Counties, NY and Haven County, CT; (fff) in Sub-No. 141, facilities at Clinton, Lafayette and Indianapolis, IN with Vermillion, Tippecanoe, Marion, Hamilton, Hancock, Shelby, Johnson, Morgan, Hendricks and Boone Counties, IN; (ggg) in Sub-No. 142, facilities at Rocky Mount, NC, North Chicago, IL and Altavista, VA with Nash and Edgecombe Counties, NC, Lake County, IL and Campbell and Pittsylvania Counties, VA; (hhh) in Sub-No. 145; facilities at Elizabeth, NJ with Essex, Union and Middlesex Counties, NJ; (iii) in Sub-No. 146, facilities at Columbus, OH with Franklin, Delaware, Licking, Fairfield, Pickaway, Madison and Union Counties, OH; and Springfield, MA, North Bergon, NJ, Atlanta, GA,

Memphis, TN, Ft. Smith, AR, Denver, CO, Salt Lake City, UT, Anaheim and Hayward, CA, Portland, OR, Seattle, WA, Kansas City, KS and St. Louis, MO with Hampden County, MA, Hudson and Bergen Counties, NJ; Fulton, De Kalb, Clayton, and Cobb Counties, GA; Shelby County, TN and Crittenden County, AR; Crawford and Sebastian Counties, AR and Sequoyah County, OK; Denver, Adams, Arapahoe, Douglas, and Jefferson Counties, CO; Davis Morgan and Salt Lake Counties, UT; Contra Costa, Alameda and Orange Counties, CA; Multnomah, Washington and Clackamas Counties, OR and Clark County, WA; Wyandotte and Johnson Counties, KS and Clay, Platte and Jackson Counties, MO; St. Charles, St. Louis and Jefferson Counties, MO St. Louis, MO and Madison, St. Clair and Monroe Counties, MO; Hunt Valley, MD with Baltimore County, MD, Columbus, OH with Franklin, Delaware, Licking, Fairfield, Pickaway, Madison and Union Counties, OH; (jjj) in Sub-No. 147, facilities at Asheville, ND with Buncombe County, NC; and Savannah, GA with Chatham County, GA and Beaufort County, NC; (kkk) in Sub-No. 148, facilities at Chattanooga, TN with Marion and Hamilton Counties, TN and Dade, Walker and Catoosa Counties, GA; St. Paul, MN, Chicago, IL, Kansas City, MO, Dallas, TX and Des Moines, IA with Anoka, Ramsey, Washington, Dakota, and Hennepin Counties, MN; Lake, Cook, DuPage and Will Counties, IL, Wyandotte and Johnson Counties, KS and Clay Platte, and Jackson Counties, MO; Denton, Collin, Rockwall, Kaufman, Dallas, Ellis, Johnson, and Tarrant Counties, TX; and Polk, Dallas and Warren Counties, IA; (lll) in Sub-No. 149; Brattleboro, VT, Scranton, PA, Binghamton, NY, Dallas, PA, and Kingsport, TN with Windham County, VT and Cheshire County, NJ; Lackawanna and Luzerne Counties, PA; Broome County, NY; Hawkins and Sullivan Counties, TN; (mmm) in Sub-No. 153, Los Angeles, CA and Denver, CO with Ventura, Los Angeles and Orange Counties, CA and Denver, Adams, Arapahoe, Douglas and Jefferson Counties, CO; and facilities at Indiana, PA and Summerville, NJ with Indiana County, PA and Somerset County, NJ; (nnn) in Sub-No. 154, facilities at Orangeburg, NY with Rockland County, NY; facilities at Bridgewater Township, NJ with Somerset County, NJ; Rochester, NY with Monroe County, NY; Atlanta, GA, Chicago, IL, Cincinnati and Cleveland, OH, Houston, TX, Los Angeles, CA, Orlando, FL, Pittsburgh, PA, St. Louis, MO, Raleigh, NC and Rochester, NY with Fulton, DeKalb, Clayton, and Cobb Counties, GA; Lake, Cook, DuPage and Will Counties, IL; Hamilton, Butler, and Clermont Counties, OH and Boone, Kenton and Campbell Counties, KY; Cuyahoga, Lake, Summit, Medina and Lorain Counties, OH; Harris, Ft. Bend, Brazoria, and Chambers Counties, TX, Ventura, Los Angeles and Orange Counties, CA; Orange and Seminole Counties, FL; Allegheny and Westmoreland Counties, PA; St. Charles, St. Louis and Jefferson Counties, MO, St. Louis, MO and Madison, St. Claire and Monroe Counties, IL; Wake County, NC; and Monroe County, NY; (ooo) in Sub-No . 155; facilities at Kansas City, MO with Wyandotte and Johnson Counties, KS and Clay, Platte, and Jackson Counties, MO; and facilities at Indiana, PA and Summerville and Springfield, NJ with Indiana County, PA; and Somerest and Union Counties, NJ; (ppp) in Sub-No. 159; facilities at Albany, GA with Dougherty and Lee Counties, GA; (qqq) in Sub-No. 160, facilities at Tama, IA with Tama County, IA; (rrr) in Sub-No. 161; facilities at Joliet, IL with Will County, IL; Avenel and Woodbridge, NJ with Middlesex County, NJ; (sss) in Sub-No. 162; Ft. Smith, AR with Crawford and Sebastian Counties, AR and Sequoyah County, OK; Bardstown and Louisville, KY with Nelson and Jefferson Counties, KY and Floyd and Clark Counties, IN; New Orleans, LA with St. Tammany, Orleans, St. Bernard, Plaquemines and Jefferson Parishes, LA; (ttt) in Sub-No. 164; Muscatine, IA with Muscatine County, IA and Rock Island County, IL; (uuu) in Sub-No. 167; facilities at Holmdel, NJ with Monmouth County, NJ; and Chicago, IL with Lake, Cook, DuPage, and Will Counties, IL, (vvv) in Sub-No. 169; facilities at Holcomb, KS with Finney County, KS; (3) remove the restriction prohibiting the trnanportation of specified commodities in bulk, in tank vehicles, and vehicles equipped with mechanical refrigeration, hides, except USP grade, in bags, frozen commodities, etc., in all Subs except Sub-Nos. 7, 24, 41, 62F, 71F, 92, 99F, 125F, 129F, and 155F; (4) eliminate the originated at and/or destined to restrictions in Sub-Nos. 4, 6, 7, 8, 10, 13, 16, 17, 20, 22, 24, 25, 26, 31, 32, 35, 37, 38, 52F, 53F, 54F, 64F, 70F, 71F, 72F, 73F, 83F, 84F, 86F, 89, 90F, 91F, 92, 93F, 94, 99F, 113F, 114F, 118F, 126F, 132F, 140F, 147F, 149F, 153F, 155F, 160F, 161F, and 162; (6) eliminate the AK and HI exceptions, in Sub-Nos. 26, 64F, 107F, 142F, and 164F; and (5) replace one-way authority with radial authority in all Subs except Subs 16, 26, 84, 86, 125, 129, 142 and 162.

MC 139837 (Sub-3)X, filed September 3, 1981. Applicant: K & I DISTRIBUTORS, INC., P.O. Box 29, New Haven, IN 46774. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204. Applicant seeks to remove restrictions in its Sub-No. 2 permit to (1) broaden the territorial description to between points in the U.S., under continuing contract(s) with a named shipper.

MC 146724 (Sub-8)X, filed August 31, 1981. Applicant: DEAN RAPPLEYE, INC., 7444 S. 2200 W., West Jordan, UT 84084. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200–A, Park Ridge, IL 60068. Applicant seeks to remove restrictions in its Sub-Nos. 1F, 3F and 6F certificates to: (A) broaden the commodity description to "food and related products" from bananas, in Sub-No. 1F; to "food and related products, table decorations, pulp, paper and related products, and printed matter" from foodstuffs, table decorations, and books, in Sub-No. 3F; and to "pulp, paper and related products and rubber and plastic products" from (1) paper and paper products, and (2) plastic bags in Sub-No. 6F, (B) remove the facilities limitation in Sub-No. 1F, (C) broaden Port Hueneme, CA to Ventura County, CA in Sub-No. 1F, (D) remove the ex-water restriction in Sub-No. 1F, (E) remove the "originating at" restriction in Sub-No. 3F, and (F) change one-way authority to radial authority, between Ventura County, CA, and, 15 states in Sub-No. 1F; between points in CA, and, ports of entry on the international boundary line between the United States and Canada in ID, MT, and WA, in Sub-No. 3F; and between points in CA, OR, and WA, and, ports of entry on the international boundary line between the United States and Canada in ID, MT, and WA in Sub-No. 6F; (G) remove the "except commodities in bulk" restricitons in Sub-Nos. 3F and 6F; (H) eliminate the "mixed load" limitations in Sub-Nos. 1F and 3F.

MC 151485 (Sub-3)X, filed September 1, 1981. Applicant: DOUBLE JAY ENTERPRISES, INC., Route 1, P.O. Box 90, Kearney, MO 64060. Representative: W. H. Sapp, P.O. Box 30010, Kansas City, MO 64112. Applicant seeks to remove restrictions in its Sub-Nos. 1F and 2F certificates to (1) broaden the commodity descriptions from railway car parts, and mounted wheel sets with or without bearings, and materials and supplies used in the manufacture, repair, distribution or sale of railway car parts, "machinery and metal products" and materials, equipment, and supplies used

in the manufacture, repair, distribution or sale of machinery and metal products" in Sub-No. 1F and from foodstuffs in packages to "food and related products" in Sub-No. 2F; (2) remove the facilities limitations at Kansas City, KS, in Sub-No. 1F and at Kansas City, Joplin, and St. Louis, MO, in Sub-No. 2F; and (3) remove the exception of AK and HI in Sub-No. 1F.

[FR Doc. 81-26747 Filed 9-14-81; 8:45 am]
BILLING CODE 7035-01-M

[Volumes No. OPY-4-341; OPY-4-342]

Motor Carriers; Permanent Authority Decisions; Correction

Decided: August 24, 1981.

The following volumes were incorrectly published on September 1, 1981, under the fitness guidelines, and are being republished this issue to reflect that the following applications fall under the non-fitness standards. (See 46 FR 43904 and 43905, 9-1-81, for complete permanent authority description.)

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 2, Members Carleton, Kelly, and Williams.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

MC 67646 (Sub-104), filed August 13, 1981. Applicant: HALL'S MOTOR TRANSIT COMPANY, 6060 Carlisle Pike, Mechanicsburg, Pa 17055. Representative: Edward W. Kelliher, (same address as applicant), (717) 790-8543.

MC 142126 (Sub-16), filed August 12, 1981. Applicant: FOAM TRANSPORT, INC., 201 Ballardvale St., Wilmington, MA 01887. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, (617) 742-3530.

MC 145516 (Sub-29), filed August 13, 1981. Applicant: T. G. STEGALL TRUCKING COMPANY, INC., 8100 E. Independence Blvd., P.O. Box 1286, Matthews, NC 28105. Representative: T. Gene Stegall, Jr., (same address as applicant), (704) 536-1122.

MC 149576 (Sub-4), filed August 12, 1981. Applicant: TRANS-AMERICAN TRUCKING SERVICE, INC., Box 1247, Nixon Station, Edison, NJ 08817. Representative: Morton E. Keil, Suite 1832, 2 World Trade Center, New York, NY 10048, (212) 466-0220.

MC 157686, filed August 13, 1981. Applicant: MATT HUGHEY TRUCKING, INC., 25 Napanee Dr., Carmel, IN 46032. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846-6655.

MC 157696, filed August 13, 1981. Applicant: MARGARET H. NORDQUIST, d.b.a. NORDQUIST TRUCKING, Rt. 1, Amery, WI 540011. Representative: Timothy J. Byrnes, Box 376, Turtle Lake, WI 54889, (715) 986-4151.

MC 4426 (Sub-4), filed August 17, 1981. Applicant: M & T TRANSPORT, INC., 7391 Richmond Rd., P.O. Box 292, East Syracuse, NY 13057. Representative: Herbert M. Canter, 305 Montgomery St., Syracuse, NY 13202, (315) 473-8845.

MC 105636 (Sub-42), filed August 14, 1981. Applicant: ARMELLINI EXPRESS LINES, INC., P.O. Box 2394, Stuart, FL 33494. Representative: Wilmer B. Hill, 805 McLachlen Bank Bldg., 666 11th St., N.W., Washington, DC 20001, (202) 628-9243.

MC 118516 (Sub-7), filed August 17, 1981. Applicant: MAMMOTH OF ALASKA, INC., 1048 Whitney Rd., Anchorage, AK 99501. Representative: Arthur R. Hauver, Suite 200, 750 West 2nd Ave., Anchorage, AK 99501, (907) 276-6354.

MC 148996 (Sub-3), filed August 17, 1981. Applicant: MERCHANTS' DELIVERY SERVICE, INC., 221 Burleson, San Antonio, TX 78204. Representative: William E. Collier, 8918 Tesoro Dr., Suite 215, San Antonio, TX 78217, (512) 826-6496.

MC 150026 (Sub-2), filed August 17, 1981. Applicant: McKINLEY TRUCKING, INC., 1162 Hillview Dr., Salt Lake City, UT 84117. Representative: Patricia S. Woolley (same address as applicant), *801) 268-4474.

MC 150526 (Sub-3), filed August 14, 1981. Applicant: YARMOUTH LUMBER, INC., North St. Box 46, Yarmouth, ME 04096. Representative: Donald E. Martin, 94 Auburn St., Portland, ME 04103, (207) 797-5194.

MC 152906 (Sub-1), filed August 14, 1981. Applicant: BILLIG TRUCKING SERVICE, INC., Box 136, Route 8, Allentown, PA 18104. Representative:

Paul B. Kemmerer, 1620 N. 19th St., Allentown, PA 18104, (215) 432–7946.

[FR Doc. 81-26748 Filed 9-14-81; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-No. 71F)]

Illinois Central Gulf Railroad Co.; Abandonment Between Columbia and Silver Creek, MS; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that on September 10, 1981, the Commission found that the public convenience and necessity require or permit abandonment by Illinois Central Gulf Railroad Company of its line of railroad between Silver Creek and Columbia in Lawrence, Jefferson Davis and Marion Counties, MS, a distance of 28.78 miles, subject to conditions. A certificate of abandonment will be issued permitting this abandonment unless within 15 days from the date of this publication, the Commission also finds that:

(1) A financially responsible person (or government entity) has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and

(2) It is likely that:

(a) If a subsidy, the assistance would cover the difference between the revenues attributable to the line and the avoidable cost of providing rail freight service on the line, together with a reasonable return on the value of the line, or

(b) If a purchase, the assistance would cover the acquisition cost of all or any portion of the line.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than 10 days from publication of this Notice.

If the Commission makes the findings described above, the effectiveness of the abandonment certificate will be postponed. An offeror may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of an offer, and no request is made for the Commission to set conditions or amount of compensation, the abandonment certificate will be issued. Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96–448) and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-26967 Filed 9-14-81; 10:07 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT CORPORATION AGENCY

Agency for International Development

Advisory Committee on Voluntary Foreign Aid; Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a)(2), Pub. L. 92–463, Federal Advisory Committee Act, notice is hereby given of the meeting of the Advisory Committee on Voluntary Foreign Aid which will be held on October 2 (from 9:00 a.m. to 5:00 p.m.), and October 3 (from 9:00 a.m. to 12 noon), 1981, at the Hyatt Arlington at Key Bridge Hotel, 1325 Wilson Boulevard, Arlington, Virginia 22209.

The Committee will discuss implementation of the "Biden-Pell" Amendment, section 316(a) of the International Security and Development Cooperation Act of 1980, Pub. L. 96–533, December 16, 1980. The amendment calls for encouragement of the work of private and voluntary organizations to deal with world hunger problems, and for assistance to facilitate public discussion, analysis and review of issues relating to world hunger and poverty. Sessions will include discussion on: how to initiate programs to facilitate public discussion of hunger and other related issues; and how AID, through its programming, can assist private and voluntary organizations in this action. The meeting, with input from private and voluntary organizations, will seek to identify and clarify the goals and methods of how public discussion may be facilitated on world hunger and related issues (development education). The funding of projects which assist such public discussion will be addressed. Attention will be given, via small workshops, to the theme of development education, and to the methods of communicating it. Following the meeting, the Committee will make recommendations to the Administrator of AID on further steps in implementing the Biden-Pell Amendment.

The meeting will be open to the public. Any interested person may attend, request to appear before, or file statements with the Committee in accordance with procedures established by the Committee. Written statements should be filed prior to the meeting and should be available in twenty copies.

Ms. Kate Semerad will be the AID representative at the meeting. It is suggested that those desiring further information contact Ms. Semerad or Ms. Coss at 703/235–2708, or by mail c/o the Advisory Committee on Voluntary Foreign Aid, Agency for International Development, Washington, D.C. 20523.

Dated: September 3, 1981.

Barry Sidman,

Acting Assistant Administrator, Bureau for Food for Peace and Voluntary Assistance.

[FR Doc. 81-26799 Filed 9-14-81; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Brady Kortland Fleming; Denial of Application for Registration

On July 24, 1981, the Acting Administrator of the Drug Enforcement Administration (DEA) issued an Order to Show Cause as to why the application for registration filed by Brady Kortland Fleming, D.O. should not be denied, for reason that on May 30, 1980, Dr. Fleming (Respondent herein) was convicted of violating 21 U.S.C. 841(a)(1), a controlled substance-related felony. In a letter received on August 10, 1981, Respondent expressly waived his right to a hearing in this matter and provided the Acting Administrator with a short written statement regarding his position on the matters of fact and law involved. Pursuant to 21 CFR 1301.54(c) and (e), the Acting Administrator has considered the entire file in this matter and hereby publishes this Final Order pursuant to 21 CFR 1316.66.

The Acting Administrator finds that on March 11, 1980, in United States District Court for the Southern District of Texas, Brownsville Division, respondent was charged with conspiracy to possess with intent to distribute a quantity of amphetamine and methamphetamine, possession with intent to distribute amphetamine and/or methamphetamine, and two counts of using a communications facility during the commission of a felony. On May 30, 1980, Respondent, represented by legal counsel, pleaded guilty to one count of possessing with intent to distribute amphetamine and/or methamphetamine in violation of 21 U.S.C. 841(a)(1) a controlled substance-related felony. Respondent was placed on probation with supervision for one year, conditioned on good behavior, and fined the sum of $10,000.

Repondent's brief written statement reveals the claim that he is no longer in

a general practice of osteopathy. He states that he is now working for the Texas Department of Corrections and would only need his DEA registration to order medication in case of an emergency.

The Acting Administrator finds that Respondent has been convicted of a felony offense relating to controlled substances and concludes that such a conviction provides a statutory basis for the denial of Respondent's application for registration. The Drug Enforcement Administration has consistently held that where a registration can be revoked pursuant to 21 U.S.C. 824, an application for registration pursuant to 21 U.S.C. 823 can be denied, since the law would not require the useless act of granting an application for registration on on day only to revoke it on the next. See, for example, *Serling Drug company*, Docket No. 74-12, 40 FR 11918 (1975); *Norman Bridge Drug Company, Inc.*, docket No. 74-22, 41 FR 3108 (1976); *Rafael C. Cilento, M.D.*, Docket No. 79-2, 44 FR 30466 (1979); and cases cited therein.

The Acting Administrator notes that Respondent claims to be employed by the Department of Corrections, presumably that of the State of Texas. The Acting Adminstrator finds that the public interest would be served if Respondent is permitted to administer or order the administrtion of controlled substances in the course of an accepted professional osteopathic practice while employed by the State of Texas Department of Corrections and under the supervision of a qualified and properly registered employee of the assigned facility. It is assumed that the facility in which Respondent is employed is registered to handle controlled substances. 21 CFR 1301.76(a) provides that "a registrant shall not employ as an agent or employee who has access to controlled substances any person who has had an application for registration denied * * * at any time." In order that Respondent may be employed by the State of Texas Department of Corrections, the Acting Administrator hereby waives the prohibition of 21 CFR 1301.76(a) with respect to the employment of Brady Kortland Fleming, D.O. by the State of Texas Department of Corrections.

Having determined that legal grounds exist for the denial of Respondent's application for registration and pursuant to the authority vested in the Attorney General by sections 303 and 304 of the Controlled Substances Act, 21 U.S.C. 823 and 924, and redelegated to the Administrator of the Drug Enforcement Administration, the Acing Administrator hereby orders that the application of Brady Kortland Fleming, D.O. be, and it hereby is, denied.

Dated: September 9, 1981.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 81-26744 Filed 9-14-81; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 80-22]

Ray Roya; Denial of Application

On August 11, 1980, the Administrator of the Drug Enforcement Administration (DEA) issued to Respondent, Ray Roya, M.D., an Order to Show Cause proposing to deny Respondent's pending application for registration as a practitioner. Included in the basis for the proposed denial was the fact that Respondent had been convicted in the United States District Court for the Northern District of Illinois, Eastern Division, on twenty-four felony counts of illegal distribution of controlled substances, said conviction having been affirmed by the United States Court of Appeals for the Seventh Circuit, and the fact that Respondent had been prohibited from prescribing, dispensing, or otherwise distributing controlled substances in Illinois by the State of Illinois Department of Registration and Education. Respondent, acting *pro se*, requested a hearing in a letter dated August 22, 1980. Following the completion of many prehearing procedures and rulings, the hearing in this matter was held in Chicago, Illinois on May 12, 1981 with Administrative Law Judge Francis L. Young presiding.

On August 13, 1981, pursuant to 21 CFR 1316.65, as amended, Judge Young certified the entire record of these proceedings to the Acting Administrator of DEA. The record included, *inter alia*, the hearing transcript; the transcript of the criminal trial held in the United States District Court for the Northern District of Illinois, Eastern Division involving Respondent; all exhibits that have been entered into the record, and the Administrative Law Judge's report or opinion, including his recommended rulings, findings of fact, and conclusions of law. In accordance with the provisions of 21 CFR 1316.65(b), copies of the Administrative Law Judge's report were served upon counsel for the Government and upon Respondent. Neither party has filed exceptions or objections to the Administrative Law Judge's report.

After considering the record of these proceedings in its entirety, and pursuant to 21 CFR 1316.67, as amended, the Acting Administrator hereby publishes his final order, based upon the findings of fact and conclusions of law hereinafter set forth.

The Administrative Law Judge found that Respondent has applied to the Drug Enforcement Administration for registration, as a practitioner, to handle controlled substances in Schedules II (narcotic), II (nonnarcotic), III (narcotic), III (nonnarcotic), IV, and V. In his application, Respondent had answered affirmatively the question of whether the applicant had ever been convicted of a felony offense in connection with controlled substances under either State or Federal law. He also answered affirmatively the question of whether the applicant ever surrendered a previous DEA registration or had a CSA registration revoked, suspended or denied.

Pursuant to a twenty-four count indictment, charging violations of 21 U.S.C. 841 and 21 U.S.C. 846, criminal trial was set and held in United States District Court, Northern District of Illinois, Eastern Division, before the Honorable Alfred Y. Kirkland, beginning on February 22, 1977. Each count charged Respondent with unlawfully writing a prescription for a Schedule II controlled substance, Tuinal (containing Amobarbital and Secobarbital) or Preludin (containing Phenmetrazine). At the beginning of the trial, Respondent opted to waive his right to a trial by jury and elected to have his case heard and decided solely by the judge. During the four-day trial, fifteen witnesses, eight of whom were agents from the Illinois Bureau of Investigation, testified concerning the instances of Respondent's prescription writing as set out in the counts of the indictment. Respondent also testified on his own behalf. Two witnesses were called by Respondent; one was a psychiatrist and the other was a person admitted to practice both medicine and law who also held a degree in pharmacology. At the conclusion of the trial, Judge Kirkland found that the Government has proved its case beyond a reasonable doubt on all counts. His verdict was that the defendent was guilty as charged on all twenty-four counts of the indictment. Respondent appealed the verdict and the case was heard by the United States Court of Appeals for the Seventh Circuit on November 4, 1977. On April 14, 1978, the Court of Appeals issued its opinion in *United States of America* v. *Ray Roya*, No. 77-1401, affirming the convictions as found by the District Court. On March 23, 1979, after a hearing was held and the evidence considered by the Medical Disciplinary Board, the Illinois Department of Registration and Education entered an

order that, *inter alia*, prohibited Respondent from prescribing, dispensing, or otherwise distributing any products designated as Controlled Substances by authority of the Federal Government or the State of Illinois. That Order was in effect at the time the Administrator issued the Order to Show Cause in this matter. Subsquent to the date of the hearing, however, the Illinois Department of Registration and Education reconsidered Respondent's case with the result that Respondent's State license or registration to dispense controlled substances was restored, subject to a period of probation to be no less than two years.

The Acting Administrator finds that Respondent has been convicted of felony offenses relating to controlled substances and concludes that such convictions provide a statutory basis for the denial of Respondent's application for a controlled substance registration. The Drug Enforcement Administration has consistently held that where a registration can be revoked pursuant to 21 U.S.C. 824, an application for registration pursuant to 21 U.S.C. 823 can be denied, since the law would not require the useless act of granting an application for registration on one day only to revoke it on the next. See, for example, *Serling Drug Company*, Docket 74–12, 40 FR 11918 (1975); *Norman Bridge Drug Company, Inc.*, Docket 74–22, 41 FR 3108 (1976); *Rafael C. Cilento, M.D.*, Docket No. 79–2, 44 FR 30466 (1979); and cases cited therein.

Having concluded that there is a lawful basis upon which to deny Respondent's application, the question remains as to whether the Acting Administrator should, in the exercise of his discretion, grant or deny the application. Close examination of the record, and specifically the criminal trial transcript, reveals a somewhat indifferent attitude on the part of Respondent towards the professional practice of medicine. The examination room in the doctor's office contained no examination table or weight scale. The "patient" (undercover agents posing as patients relative to the counts as charged in the indictment) was not questioned concerning a medical history; in fact, no physical examination of the "patient" was undertaken. On one occasion, when asked for a prescription specifically for Preludin, Respondent wrote the prescription and gave it to the agent in exchange for ten dollars. On a subsequent visit only three days later, the same agent visited Respondent and requested another prescription for Preludin, expressing no medical need for the drugs. While voicing concern that the authorities were closely monitoring usage of Preludin, Respondent agreed to write the prescription in the name of another individual, one not present or known to Respondent at the time. In consideration of all the facts presented in this matter, the Acting Administrator agrees with the opinion of the Administrative Law Judge that Respondent was ready, willing and, being able, did write prescriptions for abusable drugs in the absence of the slightest scintilla of indication of legitimate medical need. The record herein indicates that Respondent did this twenty-four times for eight different people within the referenced time period of sixty-three days. There is no telling how many other instances occurred in this same manner. The Acting Administrator also agrees with the Administrative Law Judge's conclusion that the record, considered as a whole, gives no reasonable assurance that Respondent would refrain from such acts in the future if the application for registration should be granted.

Accordingly, pursuant to the authority vested in the Attorney General by sections 303 and 304 of the Controlled Substances Act, 21 U.S.C. 823 and 824, and redelegated to the Administrator of the Drug Enforcement Administration, the Acting Administrator hereby orders that the application of Ray Roya, M.D. be, and hereby is, denied.

Dated: September 9, 1981.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 81-26745 Filed 9-14-81; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Anchor Hocking Corp., et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (the "Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 24, 1981.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 24, 1981.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 8th day of September 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: (Union/worker or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Anchor Hocking Corp., Ceramic Products Div. (workers).	Chester, West Va	8/28/81	8/22/81	TA-W-12,954	Dinner ware iron stone pottery.
Cowden Mfg. Co. (ACTWU)	Waverly, Tenn	8/27/81	8/20/81	TA-W-12,955	Jeans—men, women, and children.
Feuer Leather Corp. (ACTWU)	Johnstown, N.Y	9/3/81	8/14/81	TA-W-12,956	Sorting, trimming, and shipping of leather.
Foster Grant Co., Inc. (retail, wholesale and department store union).	Leominster, Mass	8/27/81	8/20/81	TA-W-12,957	Sunglasses.
John DeMolet Lincoln Mercury, Inc. (workers)	Springfield, Pa	9/1/81	8/25/81	TA-W-12,958	Auto dealership.
Marek, Inc. (workers)	New York, N.Y	9/1/81	8/24/81	TA-W-12,959	Ladies' dresses.
Munsingwear, Inc. (ACTWU)	Crossville, Tenn	8/27/81	8/18/81	TA-W-12,960	Men's sportshirts and underwear.
Steve Matson Products, Inc. (ACTWU)	New York, N.Y	8/27/81	8/20/81	TA-W-12,961	Blouses and dresses.
Swan Sportswear Co., Inc. (ILGWU)	Brooklyn, N.Y	8/28/81	8/24/81	TA-W-12,962	Ladies' knit garments.

[FR Doc. 81-26785 Filed 9-14-81; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-10,468]

C. G. Conn, Ltd., Abilene, Tex.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is determined in this case that all of the requirements have been met.

The investigation was initiated on September 2, 1980 in response to a petition which was filed on behalf of workers at C. G. Conn, Limited, Abilene, Texas. The workers produce brass musical instruments.

U.S. imports of brasswinds increased both absolutely and relative to domestic shipments during 1980 compared to 1979.

Prior to 1978 the Abilene plant of C. G. Conn produced all of the component parts it utilized in the production of brass musical instruments. During 1978 C. G. Conn began the transfer of production of certain musical instrument components to its Nogales, Mexico plant. Most of the planned transfers of production were completed by early 1979. The transfer of production of all components for student model cornets and trumpets began in the second quarter of 1980. All production of parts for student model cornets and trumpets at Abilene ceased as of December 31, 1980 when the transfer of production of cornet and trumpet components was completed.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with components of cornets and trumpets produced at C. G. Conn, Limited, Abilene, Texas contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification.

All workers of C. G. Conn, Limited, Abilene, Texas who were engaged in employment related to the production of components of cornets and trumpets who became totally or partially separated from employment on or after June 1, 1980 and before January 1, 1981 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 9th day of September 1981.

Bert Lewis,

Administrator, Unemployment Insurance Service.

[FR Doc. 81-26786 Filed 9-14-81; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-10,892]

Ferry Cap and Set Screw Co., Cleveland, Ohio; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is determined in this case that all of the requirements have been met.

The investigation was initiated on September 15, 1980 in response to a petition which was filed by International Association of Machinists and Aerospace Workers on behalf of workers at Ferry Cap and Set Screw Company, Cleveland, Ohio. The workers produce industrial fasteners.

U.S. imports of threaded industrial fasteners increased relative to the quantity of domestic shipments in 1980 compared to 1979 and increased in the first quarter of 1981 compared to the first quarter of 1980.

The Department of Labor conducted a survey of the customers which represented the majority of the sales declines experienced by Ferry Cap and Set Screw Company during January–September, 1980.

The survey revealed that customers representing a significant portion of the company's sales decline reduced purchased of fasteners from Ferry Cap and Set Screw Company during January–September 1980 while increasing purchases of imported fasteners. The survey further indicated that several large customers, who represented another substantial portion of the company's sales decline, increased their reliance on imported threaded fasteners while decreasing purchases from Ferry in January–September 1980.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with threaded fasteners produced at Ferry Cap and Set Screw Company, Cleveland, Ohio contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Ferry Cap and Set Screw Company, Cleveland, Ohio who became totally or partially separated from employment on or after December 1, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 9th day of September 1981.

Bert Lewis,

Administrator, Unemployment Insurance Service.

[FR Doc. 81-26788 Filed 9-14-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,534; 12,733]

Hyde Athletic Industries, Cambridge, Mass.; Spot-Bilt Factory, Bangor, Maine; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is determined in this case that all of the requirements have been met.

The investigations were initiated on September 2, 1980 and May 29, 1981 in response to petitions which were filed on behalf of workers at Hyde Athletic Industries, Cambridge, Massachusetts and Bangor, Maine. The workers produce athletic footwear.

U.S. imports of athletic footwear increased absolutely and relative to domestic production from 1979 to 1980.

Company imports of athletic footwear increased absolutely and as a proportion of company sales from 1979 to 1980 and in the first quarter of 1981 compared to the first quarter of 1980. Hyde Athletic Industries began importing athletic shoes in July 1979. The increase in company imports corresponds to the declines in employment and production at both the Cambridge and Bangor plant.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with athletic footwear produced at the Cambridge, Massachusetts plant and the Spot-Bilt Factory in Bangor, Maine of Hyde Athletic Industries contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Hyde Athletic Industries, Cambridge, Massachusetts and Spot-Bilt Factory in Bangor, Maine, who became totally or partially separated from employment on or after January 10, 1981 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1971.

Signed at Washington, D.C. this 9th day of September 1981.

Bert Lewis,

Administrator, Unemployment Insurance Service.

[FR Doc. 81-26787 Filed 9-14-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-12,702]

Page Shake, Mineral, Washington; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 18, 1981, in response to a worker petition received on May 12, 1981, which was filed by the company on behalf of the workers at Page Shake, Mineral, Washington.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C. this 9th day of September 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-26789 Filed 9-14-81; 8:45 am]

BILLING CODE 4510-28-M

Occupational Safety and Health Administration

Wyoming State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) 29 CFR 1953.4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On May 3, 1974, notice was published in the **Federal Register** (39 FR 15394) of the approval of the Wyoming Plan and the adoption of Subpart BB to Part 1952 containing the decision.

The Wyoming Plan provides for the adoption of Federal standards as State standards after public hearings. Section 1953.23(a)(2) of 29 CFR provides that whenever a Federal standard is promulgated, the State must adopt or promulgate a standard or standard change which will make the State standard at least as effective as the Federal standard or change within six months of the Federal promulgation or change. In response to Federal standard changes, the State has submitted by letters dated February 14, 1979, May 30, 1979, May 19, 1980 and May 18, 1981 from Donald D. Owsley, Health and Safety Administrator, to Curtis A. Foster, Regional Administrator, and revocated and amended Wyoming Occupational Health and Safety General Rules and Regulations comparable to those published in **Federal Register** (43 FR 49726), Tuesday, October 24, 1978 and (43 FR 51759), Tuesday, November 7, 1978, with the following exceptions: 29 CFR 1910.261—Pulp, Paper, and Paperboard Mills, 29 CFR 1910.264—Laundry Machinery and Operations, 29 CFR 1910.265—Sawmills and 29 CFR 1910.266—Pulpwood Logging.

Those Occupational Health and Safety General Rules and Regulations, which were revoked and amended after hearings on March 16, 1979, and were by resolution vacated by the Wyoming Occupational Health and Safety Commission on March 16, 1979, and the revocation and amendments became effective on April 25, 1980 pursuant to Section 27-278 Wyoming Statute 1957 as amended 1973.

2. *Decision.* Having reviewed the State submission in comparison with the Federal Standards, it has been determined that the State Rules and Regulations are at least as effective as the comparable Federal Standards and the State has retained more stringent than comparable Federal Standards in Subpart R—Special Industries.

3. *Location of supplements for inspection and copying.* A copy of the standards supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 1554, Federal Buiding, 1961 Stout Street, Denver, Colorado 80294; the Occupational Health and Safety Department, 200 East Eighth Avenue, Cheyenne, Wyoming 82001; and Office of State Programs, Occupational Safety and Health Administration, Room N-3613, 3rd and Constitution Ave., NW., Washington, D.C. 20210.

4. *Public Participation.* Under § 1953.2(c) of 29 CFR Part 1953, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with

applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Wyoming State Plan is a proposed change and making the Regional Adminstrator's approval effective upon publication for the following reason:

The standards were adopted in accordance with the procedural requirements of State law, which included public comments, and further public participation would be unnecessary.

This decision is effective September 11, 1981.

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

Signed at Denver, Colorado, this twenty ninth day of May, 1981.

Curtis A. Foster,

Regional Administrator.

[FR Doc. 81-26784 Filed 9-14-81; 8:45 am]

BILLING CODE 4510-26-M

MOTOR CARRIER RATEMAKING STUDY COMMISSION

Commission Procedures, Budget Programs, Schedule, and Other Reports; Public Meeting

DATE: September 29, 1981.

PLACE: Russell Senate Office Bldg., Washington, D.C. 20510.

TIME: 10 a.m.

PURPOSE: To discuss Commission procedures, budget, programs, schedule, and other reports, as appropriate.

Pub. L. 96s-296, the Motor Carrier Act of 1980, directs this Study Commission to make a full and complete investigation and study of the collective ratemaking process for all rates of motor common carriers and of the need or lack of need for continued antitrust immunity. The Commission is specifically directed further to estimate the impact of the elimination of such immunity upon the rate structure and rate levels and to describe the impact on the Interstate Commerce Commission and its staff. Finally, the Commission has been directed to give special consideration to the impact on small communities.

The purpose of this, the second meeting of the Commission, is to discuss and adopt formal Commission procedures; to discuss the Commission's budget, programs, and schedules to review staff reports as appropriate; and, to consider other business.

FOR FURTHER INFORMATION, CONTACT: Gary D. Dunbar, Deputy General Counsel, 202-724-9600.

Submitted this 11th day of September 1981.

Larry F. Darby,

Executive Director.

[FR Doc. 81-26958 Filed 9-14-81; 8:45 am]

BILLING CODE 6820-BD-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-245]

Northeast Nuclear Energy Co., et al.; Issuance of Amendment to Provisional Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 78 to Provisional Operating License No. DPR-21, issued to The Connecticut Light and Power Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, and Northeast Nuclear Energy Company (the licensees), which revised the Technical Specifications for operation of the Millstone Nuclear Power Station, Unit 1 (the facility), located in the Town of Waterford, Connecticut. The amendment is effective as of its date of issuance.

The amendment approves an Appendix A Technical Specification change which reduces the maximum protection system (RPS) response time from 100 milliseconds to 50 milliseconds.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment, dated September 9, 1980, (2) Amendment No. 78 to License No. DPR-21, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this eighth day of September 1981.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors, Branch No. 5, Division of Licensing.

[FR Doc. 81-26796 Filed 9-14-81; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and Opportunity for Hearing

September 9, 1981.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Inter-Regional Financial Group, Common Stock, $.25 Par Value (File No. 7-6035)
Manor Care Incorporated, Common Stock, $.10 Par Value (File No. 7-6036)
Pan American Banks Incorporated, Common Stock, $1 Par Value (File No. 7-6037)
Sun Banks of Florida Incorporated, Common Stock, $2.50 Par Value (File No. 7-6038)
Sundance Oil Company, Common Stock, Class B, $.10 Par Value (File No. 7-6039)
Wang Laboratories Incorporated, Common Stock, Class B, $.50 Par Value (File No. 7-6040)
Warner Communications Incorporated, Stock Purchase Warrants (File No. 7-6041)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 30, 1981 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-26751 Filed 9-14-81; 8:45 am]

BILLING CODE 8010-01-M

Pacific Stock Exchange, Inc.; Application for Unlisted Trading Privileges and Opportunity for Hearing

September 9, 1981.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Nabisco Brands, Inc., Common Stock, $2 Par Value (File No. 7-6025)

This security is listed and registered on one or more other national securities exchanges and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 30, 1981 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-26752 Filed 9-14-81; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Application for Unlisted Trading Privileges and Hearing

September 9, 1981.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Ensource, Inc., Common Stock, $.01 Par Value (File No. 7-6034)

This security is listed and registered on one or more other national securities exchanges and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 30, 1981 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this oppoortunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-26753 Filed 9-14-81; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 09/09-5291]

Compton Investment Corp.; Application for License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by Compton Investment Corporation (Applicant) with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1981).

The officers, directors, and stockholders of the applicant are as follows:

Rodney R. Buck, 717 Paseo Del Mar, Palos Verdes Estates, Ca. 90274—President, Treasurer, Director, 100% Stockholder
Aileen D. Buck, 2530 East 21 Street, Signal Hill, Ca. 90806—Secretary
Charles A. Byler, 22855 Calvert Street, Woodland Hills, Ca. 91367—Director
Alexander Spitzer, 6705 South Holt Avenue, Los Angeles, Ca. 90056—Director

The Applicant, a California corporation, with its principal place of business at 219 East Compton Boulevard, Compton, California 90221, will begin operations with $1,000,000 of private capital derived from the sale of 1,000 shares of common stock.

The Applicant will conduct its activities principally in the State of California.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small busines investment company under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitiating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under this management, including adequate profitability and financial soundness in accordance with the Small Business Investment Act and the SBA rules and regulations.

Notice is hereby given that any person may, no later than September 30, 1981, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Acting Associate Administrator for Investment, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Compton, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 3, 1981.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 81-26709 Filed 9-14-81; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0431]

MRN Capital Co.; Application for a License to Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies

(13 CFR 107.102 (1981)), by MRN Capital Company (Applicant), 111 Great Neck Road, Great Neck, New York 11021, for a license to operate as a limited partnership small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended, (the Act) (15 U.S.C. 661 et Seq.), and the rules and regulations promulgated thereunder.

The formation and licensing of a limited partnership SBIC is subject to the provisions of § 107.4 of the regulations. The application provides for a corporate general partner which must be a corporation, organized under State law solely for the purpose of managing the functions and activities of the limited partnership SBIC. There will be one limited partner.

The initial investors and their percent of ownership of the Applicant are as follows:

MRN Capital Corp., General Partner
All stock owned by Carol Schulman, Trustee under a trust for the benefit of Majorie, Nancy and Richard, children of Robert and Carol Schulman 100% ($80,000)
Carol Schulman, Limited Partner
Will individually own all the limited partnership interests (10). Such units are for investment ($423,500)

The Applicant proposes to commence operations with a partnership capital of $503,500. The Applicant anticipates it will primarily provide venture capital in the form of equity financing and long term debt. It will have a broad financing policy.

The corporate general partner MRN Capital Corp., will consist of the following officers, directors and shareholders:

Robert E. Schulman, 18 Pinetree Drive, Great Neck, N.Y.—President, General Manager, Director
Carol Schulman, 18 Pinetree Drive, Great Neck, N.Y.—Treasurer, Secretary, Investment Advisor, Director, 100%

There will be only one class of common stock with the initial paid-in capital and paid-in surplus being $80,000 which will be contributed to the capital of the partnership for general partners interest in the partnership. Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed officers, directors, and shareholders of the corporate general partner, as well as the limited partner of the Applicant, and the probability of successful operation of the Applicant, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than September 30, 1981, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communication should be addressed to: Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington D.C. 20416. A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Great Neck, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Peter F. McNeish,

Acting Associate Administrator for Investment.

September 4, 1981.

[FR Doc. 29708 Filed 9-14-81; 8:45 am]

BILLING CODE 8025-01-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 178
Tuesday, September 15, 1981

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

CIVIL AERONAUTICS BOARD.

[M-329, Amdt. 1, September 9, 1981]

Notice of Addition of Item

TIME AND DATE: 9:30 a.m., September 15, 1981.

PLACE: Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT: 10a. Dockets 39708 and 39868, Applications of Air Florida, Inc. and Empire Airlines, Inc. for Classification as Local or Feeder Carriers. (Memo 763, BDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1388-81 Filed 9-11-81; 4:02 pm]

BILLING CODE 6320-01-M

2

CIVIL AERONAUTICS BOARD.

[M-329, Amdt. 2, September 11, 1981]

Notice of additions and closure of item

TIME AND DATE: 9:30 a.m., September 15, 1981.

PLACE: Room 1027 (Open), Room 1012 (Closed), 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT:

Addition: 15a. Essential Air Service for Ely and Elko, Nevada, Docket 39992. (BDA, OCCR)

Addition and Closure: 23. Request of World Airways for Designation to Transport Local Traffic Between London and Frankfurt. (BIA)

STATUS: Items 1-22 (Open), Item 23 (Closed).

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1389-81 Filed 9-11-81; 4:02 pm]

BILLING CODE 6320-01-M

3

CIVIL AERONAUTICS BOARD.

[M-329, September 8, 1981]

TIME AND DATE: 9:30 a.m., September 15, 1981.

PLACE: Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items Adopted by Notation.
2. CAB Information Systems and Early Sunset—Solicitation of Comments from Heads of Other Federal Agencies and Departments on a Staff Report. (Memo 760, OC, OGC, BALJ, BCAA, BIA, BDA, OEA, BCCP)
3. Docket 39616, Liberalized Regulation of Wet Lease Agreements. (OGC, BIA, BDA)
4. H.R. 1744, A Bill to Require Operators of Commuter Service Airports and Commuter Carriers to Set Up Passenger Security Programs. (OGC)
5. Dockets 35634, 30332 and 36595, Petition for Reconsideration of Previously Approved IATA Agreements Involving Cargo Agency Matters and Grant of Antitrust Immunity, and Agreements CAB 28485-R-11 through R-13, Application of IATA for Approval and Immunity of Cargo Agreements. (OGC)
6. Docket 39836, Proposed Amendment to Part 221 Permitting Airlines to Use a Tariff Flexibility System for Domestic Passenger Air Fares; and Docket 36595, *Investigation Into the Competitive Marketing of Air Transportation, Pricing Phase.* (OGC)
7. Docket 33363, *Former Large Irregular Air Service Investigation;* and Dockets 39103 and 39104, Applications of Zantop Airlines, Inc. for Interstate and Foreign Charter Authority and Domestic All-Cargo Authority. (Memo 759, OGC)
8. Docket 33363, *Former Large Irregular Air Service Investigation;* and Dockets 39237 and 39238, Applications of International Air Cargo, Inc. for Interstate, Overseas and Foreign Charter Air Transportation of Property and Mail. (Memo 757, OGC)
9. Docket 39412, *Air Berlin USA Fitness Investigation;* and Docket 37031, Application of Lelco, Inc. d.b.a. Air Berlin USA for Authority to Operate Between Orlando, Florida, and Berlin, Germany, via Brussels, Belgium. (Memo 340-A, OGC)
10. Docket 38788, Application of Two Americas Trading Company, Inc. d.b.a. ICB International Airlines for a Certificate of Public Convenience and Necessity; and Docket 39106, *ICB International Airlines Fitness Investigation.* (Memo 183-A, OGC)
11. Fitness Determination of Southern Jersey Airways, Inc. Under Section 419(c)(2) of the Federal Aviation Act. (Memo 758, BDA)
12. Fitness Determination of Rocky Mountain Airways, Inc. Under Section 419(c)(2) of the Federal Aviation Act. (Memo 754, BDA)
13. Fitness Determination of Walker's Cay Air Terminal, Inc. Under Section 419(c)(2) of the Federal Aviation Act. (Memo 746, BDA)
14. Fitness Determination of Princeville Airways, Inc. Under Section 419(c)(2) of the Federal Aviation Act. (Memo 755, BDA)
15. Docket EAS-487 and 39671, Essential Air Service Determination for West Yellowstone, Montana. (Memo 735, BDA, OGC, OCCR)
16. Docket 39162, Notice of Republic Airlines, Inc. of Its Intent to Suspend Service at Beloit/Janesville, Wisconsin. (Memo 326-A, BDA, OGC, OCCR)
17. Dockets 35908 and 36204, Notices of USAir and Pennsylvania Airlines to Suspend Service at Clearfield/Philipsburg, Pennsylvania. (BDA, OGC, OCCR)
18. Docket 39457, *Minnesota Points Case:* Notices of Republic Airlines of Intent to Terminate Service at Fairmont, Mankato, and Worthington, Minnesota. (BDA)
19. Docket 39345, Notice of Frontier Airlines, Inc. to Terminate Service at Gallup, New Mexico. (BDA)
20. Docket 39852, Notice of USAir Under Section 401(j) of Its Intent to Terminate Service at Atlantic City, New Jersey. (Memo 753, BDA)
21. Docket 39497, Petition on Behalf of the Air Transport Association of America to Broaden the Domestic and International Fare Flexibility Zones. (Memos 716 and 716-A, BDA, BIA, OGC)
22. Docket 32660, IATA Agreement Proposing a Five Percent Increase in Colombia-U.S. Passenger Fares. (BIA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1390-81 Filed 9-11-81; 4:02 pm]

BILLING CODE 6320-01-M

4

COMMODITY CREDIT CORPORATION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published September 4, 1981, 46 FR 44549.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:45 a.m., September 14, 1981.

PLACE: Room 104–A Administration Building, U.S. Department of Agriculture, Washington, D.C.

STATUS: Open, except for items 7 and 8 which will be closed to the public.

CHANGE IN MEETING: Revised agenda as follows:

MATTERS TO BE CONSIDERED:

1. Minutes of CCC Board meetings on July 6, 1981 and July 29, 1981.
2. Docket WCP 319 re: Extended storage use guarantees to insure CCC long-term storage for grain and processed commodities.
3. Informational discussion re: FCIC funding.
4. Memorandum re: Review of CCC inventory and sales policies.
5. Memorandum re: Commodities available for sale to foreign governments or their agents, international organizations, and voluntary relief organizations during fiscal years 1981–1982, for restricted use.
6. CCC Board ratification of sale of CCC-owned butter to New Zealand Dairy Board.
7. Discussion re: CCC interest policy.
8. Resolution 19, CZ 266, re: Commodities available for Pub. L. 480 during fiscal year 1982.

CONTACT PERSON FOR MORE INFORMATION: Edward D. Hews, Secretary, Commodity Credit Corporation, Room 3088 South Building, P.O. Box 2415, U.S. Department of Agriculture, Washington, D.C. 20013, telephone (202) 447–7583.

[S-1380-81 Filed 9-11-81; 10:02 am]

BILLING CODE 3410-05-M

5

FEDERAL ENERGY REGULATORY COMMISSION.

September 11, 1981.

TIME AND DATE: 10 a.m., September 18, 1981.

PLACE: Room 9306, 825 North Capitol Street, N.E., Washington, D.C. 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Docket No. CP80–135, *et al.*

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; Telephone (202) 357–8400.

[S-1386-81 Filed 9-11-81; 2:35 pm]

BILLING CODE 6450-85-M

6

FEDERAL ENERGY REGULATORY COMMISSION.

September 9, 1981.

TIME AND DATE: 10 a.m., September 16, 1981.

PLACE: Room 9306, 825 North Capitol Street, NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; Telephone (202) 357–8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda—731st Meeting—September 16, 1981, Regular Meeting (10:00 a.m.)

CAP–1. Project No. 3183, Massachusetts Municipal Wholesale Electric Co. and Connecticut Municipal Energy Cooperative
CAP–2. Project No. 4296–000, Seneca Hydroelectric Co. Inc.
CAP–3. Project Nos. 4307–000 and 4305–000, City of Hibbing, Minn.
CAP–4. Project No. 4937, Modesto Irrigation District
CAP–5. Project No. 2545–004, The Washington Water Power Co.
CAP–6. Project No. 3731, Mitchell Energy Co., Inc.; Project No. 4531, City of Gillette, Wyo.; Project No. 5092, Bridger Valley Electric Association
CAP–7. Docket Nos. ER81–645–000 and ER81–646–000, New England Power Co.
CAP–8. Docket No. ER81–550–000, Duke Power Co.
CAP–9. Docket No. ER81–560–000, Lockhart Power Co.
CAP–10. Docket No. ER81–643–000, Iowa Public Service Co.
CAP–11. Docket No. ER81–392–000, Pennsylvania Power & Light Co.
CAP–12. Docket No. EL81–11–000, Kansas Municipal & Cooperative Electric Systems
CAP–13. Docket No. ER81–95–000, Alabama Power Co.
CAP–14. Docket No. ER80–508, Boston Edison Co.
CAP–15. Docket No. ER81–282–000, Montana Power Co.
CAP–16. Docket Nos. ER80–222, ER81–69–000 and ER80–466, Georgia Power Co.
CAP–17. Docket Nos. ER80–116 and ER80–511, Niagara Mohawk Power Corp.
CAP–18. Docket No. ER80–506, Alabama Power Co.
CAP–19. Docket Nos. ER80–181 and ER81–311–000, Northern States Power Co. (Wisconsin)
CAP–20. Docket No. ES81–65–000, Consumers Power Co.

Consent Miscellaneous Agenda

CAM–1. Docket No. SA80–8, Wallace Energy Corp.; Docket No. GP80–68, Delvan Development Corp. and Ciba-Geigy Corp.
CAM–2. Docket No. GP81–31–000, State of West Virginia, Section 108 NGPA determination, P&S Oil & Gas Corp., Dickinson 7 well, W. V. file No. 790228–108–039–1743, FERC No. JD80–15958
CAM–3. Docket No. GP80–116, Texaco Inc.

Consent Gas Agenda

CAG–1. Docket Nos. RP80–102 and RP81–86, Southern Natural Gas Co.
CAG–2. Docket Nos. RP80–55 and RP80–118, Sea Robin Pipeline Co.
CAG–3. Docket Nos. RP81–41–000 and RP81–66–000, ANR Storage Co.
CAG–4. Docket Nos. G–11980, et al., and RP67–23, et al., Tennessee Gas Pipeline Co.
CAG–5. Docket Nos. RP72–91, et al., Southern Natural Gas Co.
CAG–6. Docket Nos. ST79–16, ST80–10, ST80–78, ST80–263, ST80–279, ST81–146, ST81–277–000 and ST81–311–000, Delhi Gas Pipeline Corp.
CAG–7. Docket No. G–3636, Allied Chemical Corp.
CAG–8. Docket No. RP76–91, Montana-Dakota Utilities Co.
CAG–9. Docket No. CP81–317–000, Columbia Gas Transmission Corp.
CAG–10. Docket No. CP81–267–000, Transwestern Pipeline Co.
CAG–11. Docket No. CP80–487, Chattanooga Gas Co., a Division of Jupiter Industries, Inc.
CAG–12. Docket Nos. CP78–123, et al., Northwest Alaskan Pipeline Co.

Regular Power Agenda

I. Licensed Project Matters

P–1. Project No. 176 San Pasqual Band of Mission Indians, petitioner, v. Escondido Mutual Water Co., the City of Escondido, and Vista Irrigation District, respondents
P–2. Project No. 3238, Marsh Island Hydro Associates; Project No. 3323, Bangor Hydro-Electrict Co.
P–3. Project No. 3137, City of Fayetteville Public Works Commision; Project No. 3066, North Carolina Electric Membership Corp. and the City of Jefferson, North Carolina

II. Electric Rate Matters

ER–1. Docket No. ER81–620–000, Public Service Co. of New Hampshire
ER–2. Docket No. ER81–615–000, Missouri Utilities Co.
ER–3. Docket No. ER81–457–000 and EL81–13–000, Louisiana Power & Light Co.
ER–4. Docket No. ER81–179–000, Arizona Public Service Co.
ER–5. Docket No. ER81–450–000, Union Electric Co.

Regular Miscellaneous Agenda

M–1. (a) Docket No. RM81–41, sales of electric power to the Bonneville Power Administration—Methodology and filing requirements, (b) Docket No. EL81–20, Pacific Northwest Electric Power Planning and Conservation Act—Rates for sales to Bonneville Power Administration
M–2. Reserved
M–3. Reserved
M–4. Docket No. RM80–18, treatment under the incremental pricing program of natural gas used in the manufacturing process for fertilizer, agriculture chemicals, animal feed or food
M–5. Docket No. GP80–12, Consolidated Gas Supply Corp.
M–6. Docket No. GP80–9, Equitable Gas Co.

Regular Gas Agenda

I. Pipeline Rate Matters

RP–1. Docket No. RP81–78, Cities Service Gas Co.

RP-2. Docket No. RP78-62 (reserved issues), Panhandle Eastern Pipe Line Co.
RP-3. Docket No. RP78-78, Natural Gas Pipeline Co. of America
RP-4. Docket No. OR78-1, Trans Alaska Pipeline System; Docket Nos. OR79-1, et al., Williams Pipe Line Co.

II. Producer Matters

CI-1. Reserved

III. Pipeline Certificate Matters

CP-1. Docket Nos. CP81-302-000, CP81-303-000 and CP81-304-000, Natural Gas Pipeline Co. of America; Docket No. CP81-322-000, Texas Gas Transmission Corp.
CP-2. Docket No. CP81-377-000, Northern Natural Gas Co.
CP-3. Docket No. CP81-477-000, Consolidated Gas Supply Co.
CP-4. Docket No. CP81-386-000, Natural Gas Pipeline Co. of America

Kenneth F. Plumb,

Secretary.

[S-1381-81 Filed 9-11-81; 8:45 am]

BILLING CODE 6450-85-M

7

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 46, Issue No. 176, Date of publication should be September 11, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., September 17, 1981.

PLACE: 1700 G Street, N.W., board room, Sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6679).

CHANGES IN THE MEETING: The following item has been added to the open portion of the Bank Board meeting scheduled for Thursday, September 17, 1981:

Equal access to Justice regulations

No. 537, September 10, 1981.

[S-1379-81 Filed 9-11-81; 9:13 am]

BILLING CODE 6720-01-M

8

NATIONAL TRANSPORTATION SAFETY BOARD.

[N-AR-81-33]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 44954, Sept. 8, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Sept. 15, 1981.

CHANGE IN MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below:

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Highway Accident Report:* Continental Trailways, Inc., Scheduled Intercity Bus/Multiple-Vehicle Collision and Fire, Interstate 95, Near Beltsville, Maryland, April 20, 1981, and *Recommendations* to the Federal Highway Administration, the Maryland DOT, and the Automobile Manufacturers Association of America.
2. *Aircraft Accident Report:* McDonnell-Douglas, Inc., DC-9-80, N1002G, Yuma, Arizona, June 8, 1980.
3. *Recommendation* to the Federal Aviation Administration regarding updating of DC-9 series Aircraft Flight Manuals, Training Manuals, and Flight Simulators.
4. *Aircraft Accident Report:* Northeast Jet Company, Gates Learjet 25D, N125NE, Gulf of Mexico, May 19, 1980.
5. *Recommendation* to National Oceanic and Atmospheric Administration to improve clear air turbulence forecasts.
6. *Railroad Accident Report:* Derailment of Southern Pacific Transportation Company Freight Train Extra 9164 West at Surf, California, on May 22, 1981, and *Recommendations* to the Materials Transportation Bureau.
7. *Marine Summary Report.*

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202-382-6525.

September 11, 1981.

[S-1383-81 Filed 9-11-81; 3:03 pm]

BILLING CODE 4910-58-M

9

NATIONAL TRANSPORTATION SAFETY BOARD.

[NM-81-34]

TIME AND DATE: 9 a.m., Tuesday, September 22, 1981.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Safety Effectiveness Evaluation* of the Federal Highway Administration's Non-Interstate Resurfacing, Restoration, and Rehabilitation Program.
2. FY 1982 Safety Objectives Program.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202-382-6525.

September 11, 1981.

[S-1384-81 Filed 9-11-81; 3:03 pm]

BILLING CODE 4910-58-M

10

NUCLEAR REGULATORY COMMISSION.

DATE: Week of September 14, 1981 (revised), and Week of September 21, 1981.

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED: *Tuesday, September 15:*

10:30 a.m.:
1. Discussion and Possible Vote on Revised Licensing Procedures—Proposed Rule Change to Part 2 (closed/portions may be open) (postponed from September 11)

2:00 p.m.:
1. Briefing on Pressurized Thermal Shock (public meeting) (as announced)

Wednesday, September 16:

10:00 a.m.:
1. Discussion of Interim Rule on Hydrogen Control (public meeting) (as announced)

2:00 p.m.:
1. Briefing on Reactor Operator Qualifications (public meeting) (as announced)

Thursday, September 17:

3:00 p.m.:
1. Affirmation/Discussion Session (public meeting)

Items to be affirmed and/or discussed:
a. Protection of Unclassified Safeguards Information
b. San Onofre *Sua Sponte* Issue
c. Comanche Peak *Sua Sponte* Issues
d. Response to Requests for Hearings in the Matter of Proposed Decontamination of Dresden Unit 1 (postponed from September 10)
e. EDO Delegatons of Authority
f. Modifications to Immediate Effectiveness Rule

Friday, September 18:

3:30 p.m.:
1. Discussion of Low-Power Operating License for Diablo Canyon (closed meeting)

Monday, September 21:

2:00 p.m.:
1. Discussion and Vote on Low-Power Operating License for Diablo Canyon (public meeting)

Tuesday, September 22:

10:00 a.m.:
1. Discussion of Management-Organization and Internal Personnel Matters (closed meeting)

Wednesday, September 23:

10:00 a.m.:
1. Discussion of Petition for Extension of Deadline for Environmental Qualification of Class IE Electrical Equipment (public meeting)

2:00 p.m.:
1. Discussion of Revised Licensing Procedures (open/closed status to be determined)

Thursday, September 24:

3:00 p.m.:

1. Briefing by American Nuclear Society on Current Activities (approximately 1½ hours, public meeting)
2. Affirmation/Discussion Session (public meeting)

Items to be affirmed and/or discussed:

a. Delegation of Rulemaking Authority
b. Interim Rule on Hydrogen Control
c. Financial Protection for TMI Units 1 and 2
d. Petition for Extension of Deadline for Environmental Qualification of Class IE Electrical Equipment.

ADDITIONAL INFORMATION: Discussion of Congressional Testimony, scheduled for September 10 has been cancelled.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee,

Office of the Secretary.

September 10, 1981.

[S-1367-81 Filed 9-11-81; 3:55 pm]

BILLING CODE 7590-01-M

11

OVERSEAS PRIVATE INVESTMENT CORPORATION.

Special Meeting of the Board of Directors

TIME AND DATE: Meeting of the OPIC Board of Directors: Thursday, September 24, 1981 at 9:00 a.m.

PLACE: Offices of the Corporation, seventh floor board room; 1129 20th Street N.W., Washington, D.C.

STATUS: The meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Finance/Insurance Project in a Caribbean Country.

CONTACT PERSON FOR INFORMATION: Information with regard to this meeting may be obtained from the Secretary of the Corporation at (202) 653–2949.

Elizabeth A. Burton,

Corporate Secretary.

[S-1382-81 Filed 9-11-81; 12:51 pm]

BILLING CODE 3210-01-M

12

PAROLE COMMISSION.

[0P0401]

TIME AND DATE: Friday, September 11, 1981—12:30 p.m.–2 p.m.

PLACE: Room 420; 5550 Friendship Blvd.; Bethesda, Maryland 20015. Regional Commissioners will participate via a conference telephone circuit.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. The U.S. Parole Commission's budget for fiscal year 1983.
2. Participation in a Sentencing Institute to be held in November 1981.

CONTACT PERSON FOR MORE INFORMATION: James Draley, Budget Officer, U.S. Parole Commission. (301) 492–5974.

[S-1385-81 Filed 9-11-81; 3:12 pm]

BILLING CODE 4410-01-M

13

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 44337 September 3, 1981.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, September 1, 1981.

CHANGES IN THE MEETING: Deletion/ additional items.

The following item will not be considered at a closed meeting scheduled for Thursday, September 10, 1981, following the 10:00 a.m. open meeting.

Regulatory matter bearing enforcement implications.

The following additional item will be considered at a closed meeting scheduled for Thursday, September 10, 1981, following the 10:00 a.m. open meeting.

Institution of injunctive action.

The following item will be considered at a closed meeting scheduled for Thursday, September 17, 1981, following the 10:00 a.m. open meeting.

Regulatory matter regarding financial institution.

Chairman Shad and Commissioners Loomis, Evans, Thomas and Longstreth determined by vote that Commission business required consideration of these matters and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Arthur C. Delibert (202) 272–2467.

September 10, 1981.

[S-1378-81 Filed 9-11-81; 9:10 am]

BILLING CODE 8010-01-M

federal register

Tuesday
September 15, 1981

Part II

Foreign Service Labor Relations Board; Federal Labor Relations Authority; General Counsel of the Federal Labor Relations Authority; and the Foreign Service Impasse Disputes Panel

Processing of Cases; Final Rules and Memorandum Describing the Authority and Assigned Responsibilities of the General Counsel of the Federal Labor Relations Authority Under the Foreign Service Labor-Management Relations Statute

FOREIGN SERVICE LABOR RELATIONS BOARD; FEDERAL LABOR RELATIONS AUTHORITY; GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY; AND THE FOREIGN SERVICE IMPASSE DISPUTES PANEL

22 CFR Ch. XIV

Processing of Cases; Final Rules

AGENCY: Foreign Service Labor Relations Board, Federal Labor Relations Authority (including the General Counsel of the Federal Labor Relations Authority) and the Foreign Service Impasse Disputes Panel.

ACTION: Final rules and regulations.

SUMMARY: These final rules and regulations principally govern the processing of cases by the Foreign Service Labor Relations Board (Board), Federal Labor Relations Authority (Authority), the General Counsel of the Federal Labor Relations Authority (General Counsel), and the Foreign Service Impasse Disputes Panel (Panel) under Chapter 41 of title 22 of the United States Code. These final rules and regulations are required by title 1 of the Foreign Service Act of 1980.

EFFECTIVE DATE: August 1, 1981.

FOR FURTHER INFORMATION CONTACT:

Harold D. Kessler, Deputy Executive Director, Authority (202) 632–3920
Jerome P. Hardiman, Director, Office of Operations, Authority (202) 254–7362
S. Jesse Reuben, Deputy General Counsel, (202) 254–8305
Howard W. Solomon, Executive Director, Panel (202) 653–7078

SUPPLEMENTARY INFORMATION: Effective February 15, 1981, the Board and the Panel issued interim rules and regulations which were to expire on July 30, 1981, or upon the effective date of final rules and regulations prior to July 30, 1981 (46 FR 16058).

The interim rules and regulations renamed Chapter XIV of title 22 of the Code of Federal Regulations. The interim rules and regulations further set forth the balance of the revisions of this chapter, namely, Subchapter B, C, D and Appendix A of this chapter.

The interim rules and regulations also requested written comments from labor organizations, agencies, and other interested persons by June 15, 1981. No proposed modifications were suggested and the interim rules and regulations were adopted without substantive change.

Consistent with 22 U.S.C. 4172, all determinations, authorizations, regulations, orders, agreements, exclusive recognition of an organization, or other actions made, issued, undertaken, entered into, or taken under the authority of the Foreign Service Act of 1946 or any other law including Executive Order 11636, repealed, modified, or affected by this Act shall continue in full force and effect until modified, revoked, or superseded by appropriate authority. Any grievances, claims, or appeals which were filed or made under any such law, including Executive Order 11636, and are pending resolution on the effective date of this Act shall continue to be governed by the provisions repealed, modified, or affected by this Act.

No systems of records, as defined in the Privacy Act, are maintained by the Foreign Service Relations Board or the Foreign Service Impasse Disputes Panel. Accordingly, no regulations pertaining to the Privacy Act are included below. All requests for access to, or amendment or correction of, records maintained by the Federal Labor Relations Authority, the General Counsel of the Federal Labor Relations Authority and the Federal Service Impasse Panel that are contained in a system of records and contain information about an individual, will be processed in accordance with the Rules and Regulations of the Federal Labor Relations Authority, the General Counsel of the Federal Labor Relations Authority and the Federal Service Impasses Panel, Title 5, Code of Federal Regulations, Part 2412 (effective January 28, 1980).

Accordingly, Chapter XIV of Title 22 of the Code of Federal Regulations is revised in its entirety to read as follows:

Chapter XIV—Foreign Service Labor Relations Board; Federal Labor Relations Authority; General Counsel of the Federal Labor Relations Authority; and the Foreign Service Impasse Disputes Panel

Subchapter A—[Reserved]

Subchapter B—General Provisions

Part
1411 Availability of official information.
1413 Open meetings.
1414 Ex parte communications.

Subchapter C—Foreign Service Labor Relations Board and General Counsel of the Federal Labor Relations Authority

1420 Purpose and scope.
1421 Meaning of terms as used in this subchapter.
1422 Representation proceedings.
1423 Unfair labor practice proceedings.
1424 Expedited review of negotiability issues.
1425 Review of implementation dispute actions.
1427 General statements of policy or guidance.
1428 Enforcement of Assistant Secretary standards of conduct decisions and orders.
1429 Miscellaneous and general requirements.

Subchapter D—Foreign Service Impasse Disputes Panel

1470 General.
1471 Procedures of the panel.
Appendix A to Chapter XIV—Current Addresses and Geographic Jurisdictions.
Appendix B to Chapter XIV—Memorandum Describing the Authority and Assigned Responsibilities of the General Counsel of the Federal Labor Relations Authority Under the Foreign Service Labor Management Relations Statute.

SUBCHAPTER A—[RESERVED]

SUBCHAPTER B—GENERAL PROVISIONS

PART 1411—AVAILABILITY OF OFFICIAL INFORMATION

Sec.
1411.1 Purpose and scope.
1411.2 Delegation of authority.
1411.3 Information policy.
1411.4 Procedure for obtaining information.
1411.5 Identification of information requested.
1411.6 Time limits for processing requests.
1411.7 Appeal from denial of request.
1411.8 Extension of time limits.
1411.9 Effect of failure to meet time limits.
1411.10 Fees.
1411.11 Compliance with subpenas.
1411.12 Annual report.

Authority: 5 U.S.C. 552

§ 1411.1 Purpose and scope.

This part contains the regulations of the Foreign Service Labor Relations Board (the Board), the General Counsel of the Federal Labor Relations Authority (the General Counsel) and the Foreign Service Impasse Disputes Panel (the Panel) providing for public access to information from the Board, the General Counsel or the Panel. These regulations implement the Freedom of Information Act, as amended, 5 U.S.C. 552, and the policy of the Board, the General Counsel and the Panel to disseminate information on matters of interest to the public and to disclose to members of the public on request such information contained in records insofar as is compatible with the discharge of their responsibilities, consistent with applicable law.

§ 1411.2 Delegation of authority.

(a) *Foreign Service Labor Relations Board/General Counsel of the Federal Labor Relations Authority.* Regional Directors of the Federal Labor Relations Authority, the Freedom of Information Officer of the Office of the General Counsel, Washington, D.C., and the Solicitor of the Federal Labor Relations

Authority are delegated the exclusive authority to act upon all requests for information, documents and records which are received from any person or organization under § 1411.4(a).

(b) *Foreign Service Impasse Disputes Panel.* The Executive Director of the Federal Service Impasses Panel is delegated the exclusive authority to act upon all requests for information, documents and records which are received from any person or organization under § 1411.4(b).

§ 1411.3 Information policy.

(a) *Foreign Service Labor Relations Board/General Counsel of the Federal Labor Relations Authority.* (1) It is the policy of the Foreign Service Labor Relations Board and the General Counsel of the Federal Labor Relations Authority to make available for public inspection and copying: (i) Final decisions and orders of the Board and administrative rulings of the General Counsel; (ii) statements of policy and interpretations which have been adopted by the Board or by the General Counsel and are not published in the Federal Register; and (iii) administrative staff manuals and instructions to staff that affect a member of the public (except those establishing internal operating rules, guidelines, and procedures for the investigation, trial, and settlement of cases). Any person may examine and copy items in paragraph (a)(1) (i) through (iii) of this section at each regional office of the Authority and at the offices of the Authority and the General Counsel, respectively, in Washington, D.C., under conditions prescribed by the Board and the General Counsel, respectively, and at reasonable times during normal working hours so long as it does not interfere with the efficient operations of the Authority, the Board and the General Counsel. To the extent required to prevent a clearly unwarranted invasion of personal privacy, identifying details may be deleted and, in each case, the justification for the deletion shall be fully explained in writing.

(2) It is the policy of the Board and the General Counsel to make promptly available for public inspection and copying, upon request by any person, other records where the request reasonably describes such records and otherwise conforms with the rules provided herein.

(b) *Foreign Service Impasse Disputes Panel.* (1) It is the policy of the Foreign Service Impasse Disputes Panel to make available for public inspection and copying: (i) Procedural determinations of the Panel; (ii) factfinding and arbitration reports; (iii) final decisions and orders of the Panel; (iv) statements of policy and interpretations which have been adopted by the Panel and are not published in the Federal Register; and (v) administrative staff manuals and instructions to staff that affect a member of the public. Any person may examine and copy items in paragraph (b)(1) (i) through (v) of this section at the offices of the Federal Service Impasses Panel in Washington, D.C., under conditions prescribed by the Panel, and at reasonable times during normal working hours so long as it does not interfere with the efficient operations of the Federal Service Impasses Panel and the Panel. To the extent required to prevent a clearly unwarranted invasion of personal privacy, identifying details may be deleted and, in each case, the justification for the deletion shall be fully explained in writing.

(2) It is the policy of the Panel to make promptly available for public inspection and copying, upon request by any person, other records where the request reasonably describes such records and otherwise conforms with the rules provided herein.

(c) The Board, the General Counsel and the Panel shall maintain and make available for public inspection and copying the current indexes and supplements thereto which are required by 5 U.S.C. 552(a)(2) and, as appropriate, a record of the final votes of each member of the Board and of the Panel in every agency proceeding. Any person may examine and copy such document or record of the Board, the General Counsel or the Panel at the offices of the Authority, the General Counsel, or the Federal Service Impasses Panel, as appropriate, in Washington, D.C., under conditions prescribed by the Board, the General Counsel or the Panel at reasonable times during normal working hours so long as it does not interfere with the efficient operations of the Authority, the Board, the General Counsel, the Federal Service Impasses Panel, or the Panel.

(d) The Board, the General Counsel or the Panel may decline to disclose any matters exempted from the disclosure requirements in 5 U.S.C. 552(b), particularly those that are:

(1)(i) Specifically authorized under criteria established by an executive order to be kept secret in the interest of national defense or foreign policy and (ii) are in fact properly classified pursuant to such executive order;

(2) Related solely to internal personnel rules and practices of the Authority, the General Counsel or the Federal Service Impasses Panel;

(3) Specifically exempted from disclosure by statute (other than 5 U.S.C. 552(b)): *Provided,* That such statute:

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Interagency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or

(7) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would:

(i) Interfere with an enforcement proceeding;

(ii) Deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Constitute an unwarranted invasion of personal privacy;

(iv) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source;

(v) Disclose investigative techniques and procedures; or

(vi) Endanger the life or physical safety of law enforcement personnel.

(e)(1) The formal documents constituting the record in a case or proceeding are matters of official record and, until destroyed pursuant to applicable statutory authority, are available to the public for inspection and copying at the appropriate regional office of the Authority, or the offices of the Authority, the General Counsel or the Federal Service Impasses Panel in Washington, D.C., as appropriate, under conditions prescribed by the Authority, the General Counsel or the Federal Service Impasses Panel at reasonable times during normal working hours so long as it does not interfere with the efficient operations of the Authority, the General Counsel or the Federal Service Impasses Panel.

(2) The Board, the General Counsel or the Panel, as appropriate, shall certify copies of the formal documents upon request made a reasonable time in

advance of need and payment of lawfully prescribed costs.

(f)(1) Copies of forms prescribed by the Board for the filing of charges and petitions may be obtained without charge from any regional office of the Authority.

(2) Copies of forms prescribed by the Panel for the filing of requests may be obtained without charge from the offices of the Federal Service Impasses Panel in Washington, D.C.

§ 1411.4 Procedure for obtaining information.

(a) *Foreign Service Labor Relations Board/General Counsel of the Federal Labor Relations Authority.* Any person who desires to inspect or copy any records, documents or other information of the Board or the General Counsel, covered by this part, other than those specified in paragraphs (a) (1) and (c) of § 1411.3, shall submit a written request to that effect as follows:

(1) If the request is for records, documents or other information in a regional office of the Authority, it should be made to the appropriate Regional Director;

(2) If the request is for records, documents or other information in the Office of the General Counsel and located in Washington, D.C., it should be made to the Freedom of Information Officer, Office of the General Counsel, Washington, D.C.; and

(3) If the request is for records, documents or other information in the offices of the Authority in Washington, D.C., it should be made to the Solicitor of the Authority, Washington, D.C.

(b) *Foreign Service Impasse Disputes Panel.* Any person who desires to inspect or copy any records, documents or other information of the Panel covered by this part, other than those specified in paragraphs (b) (1) and (c) of § 1411.3, shall submit a written request to that effect to the Executive Director, Federal Service Impasses Panel, Washington, D.C.

(c) All requests under this part should be clearly and prominently identified as a request for information under the Freedom of Information Act and, if submitted by mail or otherwise submitted in an envelope or other cover, should be clearly identified as such on the envelope or other cover. If a request does not comply with the provisions of this paragraph, it shall not be deemed received by the appropriate Regional Director, the Freedom of Information Officer of the Office of the General Counsel, the Solicitor of the Authority, or the Executive Director of the Federal Service Impasses Panel, as appropriate, until the time it is actually received by such person.

§ 1411.5 Identification of information requested.

(a) Each request under this part should reasonbaly describe the records being sought in a way that they can be identified and located. A request should include all pertinent details that will help identify the records sought.

(b) If the description is insufficient, the officer processing the request will so notify the person making the request and indicate the additional information needed. Every reasonable effort shall be made to assist in the identification and location of the record sought.

(c) Upon receipt of a request for records, the appropriate Regional Director, the Freedom of Information Officer of the Office of the General Counsel, the Solicitor of the Authority, or the Executive Director of the Federal Service Impasses Panel, as appropriate, shall enter it in a public log. The log shall state the date and time received, the name and address of the person making the request, the nature of the records requested, the action taken on the request, the date of the determination letter sent pursuant to paragraphs (b) and (c) of § 1411.6, the date(s) any records are subsequently furnished, the number of staff-hours and grade levels of persons who spent time responding to the request, and the payment requested and received.

§ 1411.6 Time limits for processing requests.

(a) All time limits established pursuant to this section shall begin as of the time at which a request for records is logged in by the appropriate Regional Director, the Freedom of Information Officer of the Office of the General Counsel, the Solicitor of the Authority, or the Executive Director of the Federal Service Impasses Panel, as appropriate, processing the request pursuant to paragraph (c) of § 1411.5. An oral request for records shall not begin any time requirement. A written request for records sent to other than the appropriate officer will be forwarded to that officer by the receiving officer, but in that event the applicable time limit for response set forth in paragraph (b) of this section shall begin upon the request being logged in as required by paragraph (c) of § 1411.5.

(b) Except as provided in § 1411.8, the appropriate Regional Director, the Freedom of Information Officer of the Office of the General Council, the Solicitor of the Authority, or the Executive Director of the Federal Service Impasses Panel, as appropriate, shall, within ten (10) working days following receipt of the request, respond in writing to the requester, determining whether, or the extent to which, the request shall be complied with.

(1) If all the records requested have been located and a final determination has been made with respect to disclosure of all of the records requested, the response shall so state.

(2) If all of the records have not been located or a final determination has not been made with respect to disclosure of all the records requested, the response shall state the extent to which the records involved shall be disclosed pursuant to the rules established in this part.

(3) If the request is expected to involve an assessed fee in excess of $25.00, the response shall specify or estimate the fee involved and shall require prepayment of any charges in accordance with the provisions of paragraph (a) of § 1411.10 before the records are made available.

(4) Whenever possible, the response relating to a request for records that involves a fee of less than $25.00 shall be accompanied by the requested records. Where this is not possible, the records shall be forwarded as soon as possible thereafter, consistent with other obligations of the Board, the General Counsel or the Panel.

(c) If any request for records is denied in whole or in part, the response required by paragraph (b) of this section shall notify the requester of the denial. Such denial shall specify the reason therefor, set forth the name and title or position of the person responsible for the denial, and notify the person making the request of the right to appeal the denial under the provisions of § 1411.7.

§ 1411.7 Appeal from denial of request.

(a) *Foreign Service Labor Relations Board/General Counsel of the Federal Labor Relations Authority.* (1) Whenever any request for records is denied, a written appeal may be filed within thirty (30) days after the requester receives notification that the request has been denied or after the requester receives any records being made available, in the event of partial denial. If the denial was made by a Regional Director or by the Freedom of Information Officer of the Office of the General Counsel, the appeal shall be filed with the General Counsel in Washington, D.C. If the denial was made by the Solicitor of the Authority, the appeal shall be filed with the Chairperson of the Board in Washington, D.C.

(2) The Chairperson of the Board or the General Counsel, as appropriate, shall, within twenty (20) working days from the time of receipt of the appeal, except as provided in § 1411.8, make a determination on the appeal and respond in writing to the requester, determining whether, or the extent to which, the request shall be complied with.

(i) If the determination is to comply with the request and the request is expected to involve an assessed fee in excess of $25.00, the determination shall specify or estimate the fee involved and shall require prepayment of any charges due in accordance with the provisions of paragraph (a) of § 1411.10 before the records are made available.

(ii) Whenever possible, the determination relating to a request for records that involves a fee of less than $25.00 shall be accompanied by the requested records. Where this is not possible, the records shall be forwarded as soon as possible thereafter, consistent with other obligations of the Board or the General Counsel.

(b) *Foreign Service Impasse Disputes Panel.* (1) Whenever any request for records is denied by the Executive Director of the Federal Service Impasses Panel, a written appeal may be filed with the Chairperson of the Panel within thirty (30) days after the requester receives notification that the request has been denied or after the requester receives any records being made available, in the event of partial denial.

(2) The Chairperson of the Panel, within twenty (20) working days from the time of receipt of the appeal, except as provided in § 1411.8, shall make a determination on the appeal and respond in writing to the requester, determining whether, or the extent to which, the request shall be complied with.

(i) If the determination is to comply with the request and the request is expected to involve an assessed fee in excess of $25.00, the determination shall specify or estimate the fee involved and shall require prepayment of any charges due in accordance with the provisions of paragraph (a) of § 1411.10 before the records are made available.

(ii) Whenever possible, the determination relating to a request for records that involves a fee of less than $25.00 shall be accompanied by the requested records. Where this is not possible, the records shall be forwarded as soon as possible thereafter, consistent with other obligations of the Panel.

(c) If on appeal the denial of the request for records is upheld in whole or in part by the Chairperson of the Board, the General Counsel, or the Chairperson of the Panel, as appropriate, the person making the request shall be notified of the reasons for the determination, the name and title or position of the person responsible for the denial, and the provisions for judicial review of that determination under 5 U.S.C. 552(a)(4). Even though no appeal is filed from a denial in whole or in part of a request for records by the person making the request, the Chairperson of the Board, the General Counsel or the Chairperson of the Panel, as appropriate, may, without regard to the time limit for filing of an appeal, sua sponte initiate consideration of a denial under this appeal procedure by written notification to the person making the request. In such event the time limit for making the determination shall commence with the issuance of such notification.

§ 1411.8 Extension of time limits.

In unusual circumstances as specified in this section, the time limits prescribed with respect to initial determinations or determinations on appeal may be extended by written notice from the officer handling the request (either initial or on appeal) to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in a total extension of more than ten (10) working days. As used in this section, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular request:

(a) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(b) The need to search for, collect and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(c) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

§ 1411.9 Effect of failure to meet time limits.

Failure by the Board, the General Counsel or the Federal Service Impasses Panel either to deny or grant any request under this part within the time limits prescribed by the Freedom of Information Act, as amended, 5 U.S.C. 552, and these regulations shall be deemed to be an exhaustion of the administrative remedies available to the person making this request.

§ 1411.10 Fees.

Persons requesting records from the Board, the General Counsel or the Panel shall be subject to a charge of fees for the direct cost of document search and duplication in accordance with the following schedules, procedures and conditions:

(a) The following fees shall be charged for disclosure of any record pursuant to this part:

(1) *Copying of records.* Ten cents per copy of each page.

(2) *Clerical searches.* $1.25 for each one-quarter hour spent by clerical personnel searching for and producing a requested record, including time spent copying any record.

(3) *Nonclerical searches.* $2.50 for each one-quarter hour spent by professional or managerial personnel searching for and producing a requested record, including time spent copying any record.

(4) *Forwarding material to destination.* Postage, insurance and special fees will be charged on an actual cost basis.

(b) All charges may be waived or reduced whenever it is in the public interest to do so.

(c) Requests for copies of transcripts of hearings should be made to the official hearing reporter. However, a person may request a copy of a transcript of a hearing from the Board, the Panel or the General Counsel, as appropriate. In such instance, the Board, the Panel or the General Counsel, as appropriate, may, by agreement with the person making the request, make arrangements with commercial firms for required services to be charged directly to the requester.

(d) No charge shall be made for the time spent in resolving legal or policy issues or in examining records for the purpose of deleting nondisclosable portions thereof.

(e) Payment of fees shall be made by check or money order payable to the U.S. Treasury.

§ 1411.11 Compliance with subpenas.

No member of the Board or the Panel, or the General Counsel, or employee of the Authority, the Federal Service Impasses Panel, or the General Counsel shall produce or present any files, documents, reports, memoranda, or records of the Board, the Panel or the General Counsel, or testify in behalf of any party to any cause pending in any

arbitration or in any court or before the Board or the Panel, or any other board, commission, or administrative agency of the United States, territory, or the District of Columbia with respect to any information, facts, or other matter to their knowledge in their official capacity or with respect to the contents of any files, documents, reports, memoranda, or records of the Board, the Panel or the General Counsel, whether in answer to a subpena, subpena duces tecum, or otherwise, without the written consent of the Board, the Panel or the General Counsel, as appropriate. Whenever any subpena, the purpose for which is to adduce testimony or require the production of records as described above, shall have been served on any member of the Board or of the Panel or employee of the Authority, the Federal Service Impasses Panel or the General Counsel, such person will, unless otherwise expressly directed by the Board, the Panel or the General Counsel, as appropriate, and as provided by law, move pursuant to the applicable procedure to have such subpena invalidated on the ground that the evidence sought is privileged against disclosure by this rule.

§ 1411.12 Annual report.

On or before March 1 of each calendar year, the Executive Director of the Authority shall submit a report of the activities of the Board, the General Counsel and the Panel with regard to public information requests during the preceding calendar year to the Speaker of the House of Representatives and the President of the Senate for referral to the appropriate committees of the Congress. The report shall include for such calendar year all information required by 5 U.S.C. 552(d) and such other information as indicates the efforts of the Board, the General Counsel and the Panel to administer fully the provisions of the Freedom of Information Act, as amended.

PART 1413—OPEN MEETINGS

Sec.
1413.1 Purpose and scope.
1413.2 Public observation of meetings.
1413.3 Definition of meeting.
1413.4 Closing of meetings; reasons therefor.
1413.5 Action necessary to close meeting; record of votes.
1413.6 Notice of meetings; public announcement and publication.
1413.7 Transcripts, recordings or minutes of closed meeting; public availability; retention.

Authority: 5 U.S.C. 552b.

§ 1413.1 Purpose and scope.

This part contains the regulations of the Foreign Service Labor Relations Board implementing the Government in the Sunshine Act, 5 U.S.C. 552b.

§ 1413.2 Public observation of meetings.

Every portion of every meeting of the Board shall be open to public observation, except as provided in § 1413.4, and Board members shall not jointly conduct or dispose of agency business other than in accordance with the provisions of this part.

§ 1413.3 Definition of meeting.

For purposes of this part, "meeting" shall mean the deliberations of at least two (2) members of the Board where such deliberations determine or result in the joint conduct or disposition of official agency business, but does not include deliberations to determine whether a meeting should be closed to public observation in accordance with the provisions of this part.

§ 1413.4 Closing of meetings; reasons therefor.

(a) Except where the Board determines that the public interest requires otherwise, meetings, or portions thereof, shall not be open to public observation where the deliberations concern the issuance of a subpena, the Board participation in a civil action or proceeding or an arbitration, or the initiation, conduct or disposition by the Board of particular cases of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing, or any court proceedings collateral or ancillary thereto.

(b) Meetings, or portions thereof, may also be closed by the Board, except where it determines that the public interest requires otherwise, when the deliberations concern matters or information falling within the reasons for closing meetings specified in 5 U.S.C. 552b(c)(1) (secret matters concerning national defense or foreign policy); (c)(2) (internal personnel rules and practices); (c)(3) (matters specifically exempted from disclosure by statute); (c)(4) (privileged or confidential trade secrets and commercial or financial information); (c)(5) (matters of alleged criminal conduct or formal censure); (c)(6) (personal information where disclosure would cause a clearly unwarranted invasion of personal privacy); (c)(7) (certain materials or information from investigatory files compiled for law enforcement purposes); or (c)(9)(B) (disclosure would significantly frustrate implementation of a proposed agency action).

§ 1413.5 Action necessary to close meeting; record of votes.

A meeting shall be closed to public observation under § 1413.4, only when a majority of the members of the Board who will participate in the meeting vote to take such action.

(a) When the meeting deliberations concern matters specified in § 1413.4(a), the Board members shall vote at the beginning of the meeting, or portion thereof, on whether to close such meeting, or portion thereof, to public observation and on whether the public interest requires that a meeting which may properly be closed should nevertheless be open to public observation. A record of such vote, reflecting the vote of each member of the Board, shall be kept and made available to the public at the earliest practicable time.

(b) When the meeting deliberations concern matters specified in § 1413.4(b), the Board shall vote on whether to close such meeting, or portion thereof, to public observation, and on whether there is a public interest which requires that a meeting which may properly be closed should nevertheless be open to public observation. The vote shall be taken at a time sufficient to permit inclusion of information concerning the open or closed status of the meeting in the public announcement thereof. A single vote may be taken with respect to a series of meetings at which the deliberations will concern the same particular matters where such subsequent meetings are scheduled to be held within thirty (30) days after the initial meeting. A record of such vote, reflecting the vote of each member of the Board, shall be kept and made available for the public within one (1) day after the vote is taken.

(c) Whenever any person whose interests may be directly affected by deliberations during a meeting, or a portion thereof, requests that the Board close that meeting, or portion thereof, to public observation for any of the reasons specified in 5 U.S.C. 552b(c)(5) (matters of alleged criminal conduct or formal censure), (c)(6) (personal information where disclosure would cause a clearly unwarranted invasion of personal privacy), or (c)(7) (certain materials or information from investigatory files compiled for law enforcement purposes), the Board members participating in the meeting, upon request of any one of its members, shall vote on whether to close such meeting, or a portion thereof, for that reason. A record of such vote, reflecting the vote of each member of the Board participating in the meeting, shall be

kept and made available to the public within one (1) day after the vote is taken.

(d) After public announcement of a meeting as provided in § 1413.6, a meeting, or portion thereof, announced as closed may be opened, or a meeting, or portion thereof, announced as open may be closed only if a majority of the members of the Board who will participate in the meeting determine by a recorded vote that Board business so requires and that an earlier announcement of the change was not possible. The change made and the vote of each member on the change shall be announced publicly at the earliest practicable time.

(e) Before a meeting may be closed pursuant to § 1413.4, the Solicitor of the Authority shall certify that in the Solicitor's opinion the meeting may properly be closed to public observation. The certification shall set forth each applicable exemptive provision for such closing. Such certification shall be retained by the agency and made publicly available as soon as practicable.

§ 1413.6 Notice of meetings; public announcement and publication.

(a) A public announcement setting forth the time, place and subject matter of meetings, or portions thereof, closed to public observation pursuant to the provisions of § 1413.4(a), shall be made at the earliest practicable time.

(b) Except for meetings closed to public observation pursuant to the provisions of § 1413.4(a), the agency shall make public announcement of each meeting to be held at least seven (7) days before the scheduled date of the meeting. The announcement shall specify the time, place and subject matter of the meeting, whether it is to be open to public observation or closed, and the name, address, and phone number of an agency official designated to respond to requests for information about the meeting. The seven (7) day period for advance notice may be shortened only upon a determination by a majority of the members of the Board who will participate in the meeting that agency business requires that such meeting be called at an earlier date, in which event the public announcements shall be made at the earliest practicable time. A record of the vote to schedule a meeting at an earlier date shall be kept and made available to the public.

(c) Within one (1) day after a vote to close a meeting, or any portion thereof, pursuant to the provisions of § 1413.4(b), the agency shall make publicly available a full written explanation of its action closing the meeting, or portion thereof, together with a list of all persons expected to attend the meeting and their affiliation.

(d) If after public announcement required by paragraph (b) of this section has been made, the time and place of the meeting are changed, a public announcement shall be made at the earliest practicable time. The subject matter of the meeting may be changed after the public announcement only if a majority of the members of the Board who will participate in the meeting determine that agency business so requires and that no earlier announcement of the change was possible. When such a change in subject matter is approved, a public announcement of the change shall be made at the earliest practicable time. A record of the vote to change the subject matter of the meeting shall be kept and made available to the public.

(e) All announcements or changes thereto issued pursuant to the provisions of paragraphs (b) and (d) of this section or pursuant to the provisions of § 1413.5(d) shall be submitted for publication in the **Federal Register** immediately following their release to the public.

(f) Announcements of meetings made pursuant to the provisions of this section shall be made publicly available by the Executive Director of the Authority.

§ 1413.7 Transcripts, recordings or minutes of closed meeting; public availability; retention.

(a) For every meeting, or portion thereof, closed under the provisions of § 1413.4, the presiding officer shall prepare a statement setting forth the time and place of the meeting and the persons present, which statement shall be retained by the agency. For each such meeting, or portion thereof, there shall also be maintained a complete transcript or electronic recording of the proceedings, except that for meetings closed pursuant to § 1413.4(a), the Board may, in lieu of a transcript or electronic recording, maintain a set of minutes fully and accurately summarizing any action taken, the reasons therefor and views thereon, documents considered and the members' vote on each rollcall vote.

(b) The agency shall make promptly available to the public copies of transcripts, recordings or minutes maintained as provided in accordance with paragraph (a) of this section, except to the extent the items therein contain information which the agency determines may be withheld pursuant to the provisions of 5 U.S.C. 552b(c). Copies of transcripts or minutes, or transcriptions of electronic recordings including the indentification of speakers, shall to the extent determined to be publicly available, be furnished to any person, subject to the payment of duplication costs in accordance with the schedule of fees set forth in § 1411.10 of this subchapter and the actual cost of transcription.

(c) The agency shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two (2) years after such meeting or until one (1) year after the conclusion of any agency proceeding with respect to which the meeting or portion was held whichever occurs later.

PART 1414—EX PARTE COMMUNICATIONS

Sec.

1414.1 Purpose and scope.
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1414.4 Duration of prohibition.
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1414.7 Solicitation of prohibited communications.
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Authority: 22 U.S.C. 4107(c).

§ 1414.1 Purpose and scope.

This part contains the regulations of the Foreign Service Labor Relations Board relating to ex parte communications.

§ 1414.2 Unauthorized communications.

(a) No interested person outside this agency shall, in any Board proceeding subject to 5 U.S.C. 557(a), make or knowingly cause to be made any prohibited ex parte communication to any Board member or Authority employee who is or may reasonably be expected to be involved in the decisional process of the proceeding.

(b) No Board member or Authority employee who is or may reasonably be expected to be involved in the decisional process of the proceeding relevant to the merits of the proceeding shall: (1) Request any prohibited ex parte communications; or (2) make or knowingly cause to be made any prohibited ex parte communications about the proceeding to any interested person outside this agency relevant to the merits of the proceeding.

§ 1414.3 Definitions.

When used in this part:

(a) The term "person outside this agency," to whom the prohibitions

apply, shall include any individual outside the Board or the Authority, labor organization, agency, or other entity, or an agent thereof, and the General Counsel or his representative when prosecuting an unfair labor practice proceeding before the Board pursuant to 22 U.S.C. 4116.

(b) The term "ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, subject however, to the provisions of §§ 1414.5 and 1414.6.

§ 1414.4 Duration of prohibition.

Unless otherwise provided by specific order of the Board entered in the proceeding, the prohibition of § 1414.2 shall be applicable in any Board proceeding subject to 5 U.S.C. 557(a) beginning at the time of which the proceeding is noticed for hearing, unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibitions shall apply beginning at the time of such person's acquisition of such knowledge.

§ 1414.5 Communications prohibited.

Except as provided in § 1414.6, ex parte communications prohibited by § 1414.2 shall include:

(a) Such communications, when written, if copies thereof are not contemporaneously served by the communicator on all parties to the proceeding in accordance with the provisions of Part 1429 of this chapter; and

(b) Such communications, when oral, unless advance notice thereof is given by the communicator to all parties in the proceeding and adequate opportunity afforded to them to be present.

§ 1414.6 Communications not prohibited.

Ex parte communications prohibited by § 1414.2 shall not include:

(a) Oral or written communications which relate solely to matters which the Hearing Officer, Regional Director, Administrative Law Judge, General Counsel or member of the Board is authorized by law or Board rules to entertain or dispose of on an ex parte basis;

(b) Oral or written requests for information solely with respect to the status of a proceeding;

(c) Oral or written communications which all the parties to the proceeding agree, or which the responsible official formally rules, may be made on an ex parte basis;

(d) Oral or written communications proposing settlement or an agreement for disposition of any or all issues in the proceeding;

(e) Oral or written communications which concern matters of general significance to the field of labor-management relations or administrative practice and which are not specifically related to any agency proceeding subject to 5 U.S.C. 557(a); or

(f) Oral or written communications from the General Counsel to the Board when the General Counsel is acting on behalf of the Board under 22 U.S.C. 4109(d).

§ 1414.7 Solicitation of prohibited communications.

No person shall knowingly and willfully solicit the making of an unauthorized ex parte communication by any other person.

§ 1414.8 Reporting of prohibited communications; penalties.

Any Board member or Authority employee who is or may reasonably be expected to be involved in the decisional process of the proceeding relevant to the merits of the proceeding to whom a prohibited oral ex parte communication is attempted to be made, shall refuse to listen to the communicaton, inform the communicator of this rule, and advise such person that if the person has anything to say it should be said in writing with copies to all parties. Any such Board member or Authority employee who is or may reasonably be expected to be involved in the decisional process of the proceeding relevant to the merits of the proceeding who receives, or who makes or knowlingly causes to be made, an unauthorized ex parte communication, shall place or cause to be placed on the public record of the proceeding: (a) The communication, if it was written; (b) a memorandum stating the substance of the communication, if it was oral; (c) all written responses to the prohibited communication; and (d) memoranda stating the substance of all oral responses to the prohibited communication. The Executive Director of the Authority, if the proceeding is then pending before the Board, the Administrative Law Judge, if the proceeding is then pending before any such judge, or the Regional Director, if the proceeding is then pending before a Hearing Officer or the Regional Director, shall serve copies of all such materials placed on the public record of the proceeding on all other parties to the proceeding and on the attorneys of record for the parties. Within ten (10) days after the mailing of such copies, any party may file with the Executive Director of the Authority, Administrative Law Judge, or Regional Director serving the communication, as appropriate, and serve on all other parties, a statement setting forth facts or contentions to rebut those contained in the prohibited communication. All such responses shall be placed in the public record of the proceeding, and provision may be made for any further action, including reopening of the record, which may be required under the circumstances. No action taken pursuant to this provision shall constitute a waiver of the power of the Board to impose an appropriate penalty under § 1414.9

§ 1414.9 Penalties and enforcement.

(a) Where the nature and circumstances of a prohibited communication made by or caused to be made by a party to the proceeding are such that the interests of justice and statutory policy may require remedial action, the Board, Administrative Law Judge, or Regional Director, as appropriate, may issue to the party making the communication a notice to show cause, returnable before the Board, Administrative Law Judge, or Regional Director, within a stated period not less than seven (7) days from the date thereof, why the Board, Administrative Law Judge, or Regional Director should not determine that the interests of justice and statutory policy require that the claim or interest in the proceeding of a party who knowingly makes a prohibited communication or knowingly causes a phohibited communication to be made, should be dismissed, denied, disregarded or otherwise adversely affected on account of such violation.

(b) Upon notice and hearing, the Board may censure, suspend or revoke the privilege of practice before the agency of any person who knowingly and willfully makes or solicits the making of a prohibited ex parte communication. However, before the Board institutes formal proceedings under this subsection, it shall first advise the person or persons concerned in writing that it proposes to take such action and that they may show cause, within a period to be stated in such written advice, but not less than seven (7) days from the date thereof, why it should not take such action.

(c) The Board may censure, or, to the extent permitted by law, suspend, dismiss, or institute proceedings for the dismissal of, any Board agent who knowingly and willfully violates the prohibitions and requirements of this rule.

SUBCHAPTER C—FOREIGN SERVICE LABOR RELATIONS BOARD AND GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY

PART 1420—PURPOSE AND SCOPE

§ 1420.1 Purpose and scope.

The regulations contained in this subchapter are designed to implement the provisions of the Foreign Service Labor-Management Relations Statute. They prescribe the procedures and basic principles or criteria under which the Foreign Service Labor Relations Board or the General Counsel of the Federal Labor Relations Authority, as applicable, will:

(a) Supervise or conduct elections and determine whether a labor organization has been selected as an exclusive representative by a majority of the employees who cast valid ballots and otherwise administer the provisions of the Statute relating to the according of exclusive recognition to a labor organization;

(b) Resolve complaints of alleged unfair labor practices;

(c) Resolve issues relating to the obligation to bargain in good faith;

(d) Resolve disputes concerning the effects, the interpretation, or a claim of breach of collective bargaining agreement, in accord with 22 U.S.C. 4114; and

(e) Take any action considered necessary to administer effectively the provisions of the Foreign Service Labor-Management Relations Statute.

(22 U.S.C. 4107(c))

PART 1421—MEANING OF TERMS AS USED IN THIS SUBCHAPTER

Sec.

1421.1 Foreign Service Labor-Management Relations Statute.
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1421.16 Showing of interest.
1421.17 Grievance Board.
1421.18 Regular and substantially equivalent employment.

Authority: 22 U.S.C. 4107(c).

§ 1421.1 Foreign Service Labor-Management Relations Statute.

The term "Foreign Service Labor-Management Relations Statute" means chapter 10 of title 1 of the Foreign Service Act of 1980, codified as chapter 41 of title 22 of United States Code.

§ 1421.2 Terms defined in section 1002 of the Foreign Service Act of 1980 (22 U.S.C. 4102).

(a) The terms "Authority," "Board," "collective bargaining," "collective bargaining agreement" "conditions of employment," "confidential employee," "dues," "exclusive representative," "General Counsel," "labor organization," "management official," "Panel," and "person," as used herein shall have the meaning set forth in 22 U.S.C. 4102.

(b) The term "Assistant Secretary" means the Assistant Secretary of Labor for Labor-Management Relations.

§ 1421.3 Exclusive Recognition; Unfair Labor Practices.

(a) "Exclusive Recognition" has the meaning as set forth in 22 U.S.C. 4111; and

(b) "Unfair Labor Practices" has the meaning as set forth in 22 U.S.C. 4115.

§ 1421.4 Department.

"Department" means the Department of State, except that with reference to the exercise of functions under this Act with respect to another agency authorized by law to utilize the Foreign Service personnel system, such term means that other agency.

§ 1421.5 Regional Director.

"Regional Director" means the Director of a region of the Authority with geographical boundaries as fixed by the Authority.

§ 1421.6 Executive Director.

"Executive Director" means the Executive Director of the Authority.

§ 1421.7 Hearing Officer.

"Hearing Officer" means the individual designated to conduct a hearing involving a question concerning the appropriateness of a unit or such other matters as may be assigned.

§ 1421.8 Administrative Law Judge.

"Administrative Law Judge" means the Chief Administrative Law Judge or any Administrative Law Judge designated by the Chief Administrative Law Judge to conduct a hearing in cases under 22 U.S.C. 4115, and such other matters as may be assigned.

§ 1421.9 Chief Administrative Law Judge.

"Chief Administrative Law Judge" means the Chief Administrative Law Judge of the Authority.

§ 1421.10 Secretary.

"Secretary" means the Secretary of State, except that (subject to 22 U.S.C. 3921) with reference to the exercise of functions under the Foreign Service Act of 1980 with respect to any agency authorized by law to utilize the Foreign Service personnel system, such term means the head of that agency.

§ 1421.11 Party.

"Party" means (a) any person: (1) Filing a charge, petition, or request; (2) named in a charge, complaint, petition, or request; (3) whose intervention in a proceeding has been permitted or directed by the Board; (4) who participated as a party (i) in a matter that was decided by an agency head under 22 U.S.C. 4105 or (ii) in a matter where action by the Grievance Board was taken; and (b) the General Counsel, or the General Counsel's designated representative, in appropriate proceedings.

§ 1421.12 Intervenor.

"Intervenor" means a party in a proceeding whose intervention has been permitted or directed by the Authority, its agents or representatives.

§ 1421.13 Certification.

"Certification" means the determination by the Board, its agents or representatives, of the results of an election.

§ 1421.14 Bargaining unit.

"Bargaining unit" has the meaning as set forth in 22 U.S.C. 4112 for the purpose of exclusive recognition under 22 U.S.C. 4111, and for purposes of allotments to representatives under 22 U.S.C. 4118.

§ 1421.15 Secret ballot.

"Secret ballot" means the expression by ballot, voting machine or otherwise, but in no event by proxy, of a choice with respect to any election or vote taken upon any matter, which is cast in such a manner that the person expressing such choice cannot be identified with the choice expressed, except in that instance in which any determinative challenged ballot is opened.

§ 1421.16 Showing of interest.

"Showing of interest" means evidence of membership in a labor organization; employees' signed and dated authorization cards or petitions

authorizing a labor organization to represent them for purposes of exclusive recognition; allotment of dues forms executed by an employee and the labor organization's authorized official; current dues records; and existing or recently expired agreement; current exclusive recognition or certification; employees' signed and dated petitions or cards indicating that they no longer desire to be represented for the purposes of exclusive recognition by the currently recognized or certified labor organization; or other evidence approved by the Authority.

§ 1421.17 Grievance Board.

"Grievance Board" means the Foreign Service Grievance Board established under 22 U.S.C. 4135.

§ 1421.18 Regular and substantially equivalent employment.

"Regular and substantially equivalent employment" means employment that entails substantially the same amount of work, rate of pay, hours, working conditions, location of work, and seniority rights if any, of an employee prior to the cessation of employment in a Department because of any unfair labor practice under 22 U.S.C. 4115.

PART 1422—REPRESENTATION PROCEEDINGS

Sec.

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1422.21 Preferential Voting.
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Authority: 22 U.S.C. 4107.

§ 1422.1 Who may file petitions.

(a) A petition for exclusive recognition may be filed by a labor organization requesting an election to determine whether it should be recognized as the exclusive representative of employees of the Department in the unit described in 22 U.S.C. 4112 or should replace another labor organization as the exclusive representative of employees in such unit.

(b) A petition for any election to determine if a labor organization should cease to be the exclusive representative because it does not represent a majority of employees in the unit described in 22 U.S.C. 4112 may be filed by an employee or employees or an individual acting on behalf of any employee(s).

(c) A petition seeking to clarify a matter relating to representation may be filed by the Department where the Department has a good faith doubt, based on objective considerations, that the currently recognized or certified labor organization represents a majority of the employees in the unit described in 22 U.S.C. 4112.

(d) A petition for clarification of the unit described in 22 U.S.C. 4112 or for amendment of recognition or certification may be filed by the Department or by a labor organization which is currently recognized by the Department as the exclusive representative.

(e) A petition for determination of eligibility for dues allotment may be filed by a labor organization in accordance with 22 U.S.C. 4118(c).

§ 1422.2 Contents of petition; filing and service of petition; challenges to petition.

(a) *Petition for exclusive recognition.* A petition by a labor organization for exclusive recognition shall be submitted on a form prescribed by the Board and shall contain the following:

(1) The name of the Department, its address, telephone number, and the persons to contact and their titles, if known;

(2) A description of the unit described in 22 U.S.C. 4112. Such description shall indicate the classifications of employees sought to be included and those sought to be excluded and the approximate number of employees in the unit;

(3) Name, address, and telephone number of the recognized or certified representative, if any, and the date of such recognition or certification and the expiration date of any applicable agreement, if known to the peititioner;

(4) Names, addresses, and telephone numbers of any other interested labor organizations, if known to the petitioner;

(5) Name and affiliation, if any, of the petitioner and its address and telephone number;

(6) A statement that the petitioner has submitted to the Department and to the Assistant Secretary a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives;

(7) A declaration by such person signing the petition, under the penalties of the Criminal Code (18 U.S.C. 1001), that its contents are true and correct to the best of such person's knowledge and belief;

(8) The signature of the petitioner's representative, including such person's title and telephone number; and

(9) The petition shall be accompanied by a showing of interest of not less than thirty percent (30%) of the employees in the unit described in 22 U.S.C. 4112 and an alphabetical list of names constituting such showing.

(b) *Department petition seeking clarification of a matter relating to representation; employee petition for an election to determine whether a labor organization should cease to be an exclusive representative.* (1) A petition by the Department shall be submitted on a form prescribed by the Board and shall contain the information set forth in paragraph (a) of this section, except paragraphs (a) (6), and (9), and a statement that the Department has a good faith doubt, based on objective considerations, that the currently recognized or certified labor organization represents a majority of the employees in the unit described in 22 U.S.C. 4112. Attached to the petition shall be a detailed explanation of the reasons supporting the good faith doubt.

(2) A petition by any employee or employees or an individual acting on behalf of any employee(s) shall contain the information set forth in paragraph (a) of this section, except paragraphs (a) (6) and (9), and it shall be accompanied by a showing of interest of not less than thirty percent (30%) of the employees in the unit indicating that the employees no longer desire to be represented for the purposes of exclusive recognition by the currently recognized or certified labor organization and an alphabetical list of names constituting such showing.

(c) *Petition for clarification of unit or for amendment of recognition or certification.* A petition for clarification of unit or for amendment of recognition or certification shall be submitted on a form prescribed by the Board and shall contain the information required by paragraph (a) of this section, except paragraphs (a) (2), (6) and (9), and shall set forth:

(1) A description of the unit and the date of recognition or certification;

(2) The proposed clarification or amendment of the recognition or certification; and

(3) A statement of reasons why the proposed clarification or amendment is requested.

(d) *Petition for determination of eligibility for dues allotment.* A petition for determination of eligibility for dues allotment in the unit may be filed if there is no exclusive representative. The petition shall be submitted on a form prescribed by the Board and shall contain the information required in paragraphs (a) (1), (4), (5), (6), (7), and (8) of this section, and shall set forth:

(1) A description of the unit described in 22 U.S.C. 4112. Such description shall indicate the classifications of employees sought to be included and those sought to be excluded and the approximate number of employees in the unit; and

(2) The petition shall be accompanied by a showing of membership in the petitioner of not less than ten percent (10%) of the employees in the unit and an alphabetical list of names constituting such showing.

(e) *Filing and service of petition and copies.* (1) A petition for exclusive recognition, for an election to determine if a labor organization should cease to be the exclusive representative, for clarification of unit, for amendment of recognition or certification, or for determination of eligibility for dues allotment, filed pursuant to paragraphs (a), (b), (c), or (d) of this section respectively, shall be filed with the Regional Director for the region in which the unit exists, or, if the claimed unit exists in two or more regions, the petition shall be filed with the Regional Director for the region in which the affected employees are located.

(2) An original and four (4) copies of a petition shall be filed, together with a statement of any other relevant facts and of all correspondence relating to the question concerning representation.

(3) Copies of the petition together with any attachments shall be served by the petitioner on all known interested parties, and a written statement of such service shall be filed with the Regional Director: *Provided, however,* That the showing of interest or the showing of membership submitted with a petition filed pursuant to paragraphs (a), (b)(2), (d), or (h) of this section shall not furnished to any other person.

(f) *Adequacy and validity of showing of interest or showing of membership.* (1) The Regional Director shall determine the adequacy of the showing of interest or the showing of membership administratively, and such determination shall not be subject to collateral attack at a unit or representation hearing. If the petition is dismissed or the intervention sought pursuant to § 1422.5 is denied, a request for review of such dismissal or denial may be filed with the Board in accordance with the procedures set forth in § 1422.6(d).

(2) Any party challenging the validity of any showing of interest or showing of membership of a petitioner, or a cross-petitioner filing pursuant to § 1422.5(b), or of a labor organization seeking to intervene pursuant to § 1422.5, must file its challenge with the Regional Director, with respect to the petitioner or a cross-petitioner, within twenty (20) days after the initial date of posting of the notice of petition as provided in § 1422.4(a), and with respect to any labor organization seeking to intervene, within twenty (20) days of service of a copy of the request for intervention on the challenging party. The challenge shall be supported with evidence including signed statements of employees and any other written evidence. The Regional Director shall investigate the challenge and thereafter shall take such action as the Regional Director deems appropriate which shall be final and not subject to review by the Board, unless the petition is dismissed or the intervention is denied on the basis of the challenge. Such request for review shall be filed with the Board in accordance with the procedures set forth in § 1422.6(d).

(g) *Challenge to status of a labor organization.* Any party challenging the status of a labor organization under chapter 41 of title 22 of the United States Code must file its challenge with the Regional Director and support the challenge with evidence. With respect to the petitioner or a cross-petitioner filing pursuant to § 1422.5(b), such a challenge must be filed within twenty (20) days after the initial date of posting of the notice of petition as provided in § 1422.4(a), and with respect to a labor organization seeking to intervene pursuant to § 1422.5, within twenty (20) days after service of a copy of the request for intervention on the challenging party. The Regional Director shall investigate the challenge and thereafter shall take such action as the Regional Director deems appropriate, which shall be subject to review by the Board. Such request for review shall be filed with the Board in accordance with the procedures set forth in § 1422.6(d).

§ 1422.3 Timeliness of petition.

(a) When there is no certified exclusive representative of the employees, a petition will be considered timely filed provided a valid election has not been held within the preceding twelve (12) month period in the unit described in 22 U.S.C. 4112.

(b) When there is a certified exclusive representative of the employees, a petition will not be considered timely if filed within twenty-four (24) months after the certification as the exclusive representative of employees in unit described in 22 U.S.C. 4112, unless a signed and dated collective bargaining agreement covering the unit has been entered into in which case paragraphs (c) and (d) of this section shall be applicable.

(c) When a collective bargaining agreement covering the unit described in 22 U.S.C. 4112 has been signed and dated by the Department and the incumbent exclusive representative, a petition for exclusive recognition or other election petition will not be considered timely if filed during the period of review by the Secretary as set forth in 22 U.S.C. 4113(f), absent unusual circumstances.

(d) A petition for exclusive recognition or other election petition will be considered timely when filed as follows:

(1) Not more than one hundred and five (105) days and not less than (60) days prior to the expiration date of a collective bargaining agreement having a term of three (3) years or less from the date it became effective.

(2) Not more than one hundred and five (105) days and not less than sixty (60) days prior to the expiration of the initial three (3) year period of a collective bargaining agreement having a term of more than three (3) years from the date it became effective, and any time after the expiration of the initial three (3) year period of such a collective bargaining agreement; and

(3) Any time when unusual circumstances exist which substantially affect the unit or the majority representation.

(e) When a collective bargaining agreement having a term of three (3) years or less is in effect between the Department and the incumbent exclusive representative, and a petition has been filed challenging the representation status of the incumbent exclusive representative and the petition is subsequently withdrawn or dismissed less than sixty (60) days prior to the expiration date of that collective bargaining agreement, or any time thereafter, the Department and incumbent exclusive representative shall be afforded a ninety (90) day period from the date the withdrawal is approved or the petition is dismissed free from rival claim within which to

consummate a collective bargaining agreement: *Provided, however,* That the provisions of this paragraph shall not be applicable when any other petition is pending which has been filed pursuant to paragraph (d)(1) of this section.

(f) When an extension of a collective bargaining agreement having a term of three (3) years or less has been signed more than sixty (60) days before its expiration date, such extension shall not serve as a basis for the denial of a petition submitted in accordance with the time limitations provided herein.

(g) Collective bargaining agreements which go into effect automatically pursuant to 22 U.S.C. 4113(f) and which do not contain the date on which the agreement became effective shall not constitute a bar to an election petition.

(h) A petitioner who withdraws a petition after the issuance of a notice of hearing or after the approval of an agreement for an election, shall be barred from filing another petition for the unit described in 22 U.S.C. 4112 for six (6) months, unless a withdrawal request has been received by the Regional Director not later than three (3) days before the date of the hearing.

(i) The time limits set forth in this section shall not apply to a petition for clarification of unit or for amendment of recognition or certification, or to a petition for dues allotment.

§ 1422.4 Investigation of petition and posting of notice of petition; action by Regional Director.

(a) Upon the request of the Regional Director, after the filing of a petition, the Department shall post copies of a notice to all employees in places where notices are normally posted affecting the employees in the unit described in 22 U.S.C. 4112.

(b) Such notice shall set forth:

(1) The name of the petitioner;

(2) The description of the unit;

(3) If appropriate, the proposed clarification of unit or the proposed amendment of recognition or certification; and

(4) A statement that all interested parties are to advise the Regional Director in writing of their interest and position within twenty (20) days after the date of posting of such notice: *Provided, however,* That the notice in a petition for determination of eligibility for dues allotment shall contain the information required in paragraphs (a) (1), (2), and (4) of this section.

(c) The notice shall remain posted for a period of twenty (20) days. The notice shall be posted conspicuously and shall not be covered by other material, altered or defaced.

(d) The Department shall furnish the Regional Director and all known interested parties with the following:

(1) Names, addresses and telephone numbers of all labor organizations known to represent any of the employees in the unit described in 22 U.S.C. 4112;

(2) A copy of all relevant correspondence;

(3) A copy of existing or recently expired agreement(s) covering any of the employees described in the petition;

(4) A current alphabetized list of employees included in the unit, together with their job classifications; and

(5) A current alphabetized list of employees described in the petition as excluded from the unit, together with their job classifications.

(e) The parties are expected to meet as soon as possible after the expiration of the twenty (20) day posting period of the notice of petition as provided in paragraph (a) of this section and use their best efforts to secure agreement on the unit.

(f) The Regional Director shall make such investigation as the Regional Director deems necessary and thereafter shall take action which may consist of the following, as appropriate:

(1) Approve an agreement for consent election in the unit as provided under § 1422.7;

(2) Approve a withdrawal request;

(3) Dismiss the petition; or

(4) Issue a notice of hearing.

(g) In processing a petition for clarification of unit or for amendment of recognition or certification, or dues allotment, where appropriate, the Regional Director shall prepare and serve a report and findings upon all parties to the proceedings and shall state therein, among other pertinent matters, the Regional Director's conclusions and the action contemplated. A party may file with the Board a request for review of such action of the Regional Director in accordance with the procedures set forth in § 1422.6(d). If no request for review is filed, or if one is filed and denied, the Regional Director shall take such action as may be appropriate, which may include issuing a clarification of unit or an amendment of recognition or certification, or determination of eligibility for dues allotment.

(h) A determination by the Regional Director to issue a notice of hearing shall not be subject to review by the Board.

§ 1422.5 Intervention.

(a) No labor organization will be permitted to intervene in any proceeding involving a petition filed pursuant to § 1422.2 (a) or (b) unless it has submitted to the Regional Director a showing of interest of ten percent (10%) or more of the employees in the unit described in 22 U.S.C. 4112 together with an alphabetical list of names constituting such showing, or has submitted a current or recently expired agreement with the Department covering any of the employees involved, or has submitted evidence that it is currently recognized or certified exclusive representative of any of the employees involved: *Provided, however,* That an incumbent exclusive representative shall be deemed to be an intervenor in the proceeding unless it serves on the Regional Director a written disclaimer of any representation interest for the employees involved: *Provided, further,* That any such incumbent exclusive representative that declines to sign an agreement for consent election because of a disagreement on the matters contained in § 1422.7(c) as decided by the Regional Director, or fails to appear at a hearing held pursuant to § 1422.9, shall be denied its status as an intervenor.

(b) No labor organization may participate to any extent in any representation proceeding unless it has notified the Regional Director in writing, accompanied by its showing of interest as specified in paragraph (a) of this section, of its desire to intervene within twenty (20) days after the initial date of posting of the notice of petition as provided in § 1422.4(a), unless good cause is shown for extending the period. A copy of the request for intervention filed with the Regional Director, excluding the showing of interest, shall be served on all known interested parties, and a written statement of such service should be filed with the Regional Director: *Provided, however,* That an incumbent exclusive representative shall be deemed to be an intervenor in the proceeding in accordance with paragraph (a) of this section.

(c) Any labor organization seeking to intervene in a proceeding involving a petition for determination of eligibility for dues allotment filed pursuant to § 1422.2(d) may intervene solely on the basis it claims to be the exclusive representative of some or all the employees specified in the petition and shall submit to the Regional Director a current or recently expired agreement with the Department covering any of the employees involved, or evidence that it is the currently recognized or certified exclusive representative of any of the employees involved.

(d) Any labor organization seeking to intervene must submit to the Regional Director a statement that it has submitted to the Department and to the Assistant Secretary a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives.

(e) The Regional Director may grant intervention to a labor organization in a proceeding involving a petition for clarification of unit or a petition for amendment of recognition or certification filed pursuant to § 1422.2(c), or a petition for determination of eligibility for dues allotment filed pursuant to § 1422.2(d), based on a showing that the proposed clarification, amendment or dues allotment affects that labor organizations's existing exclusively recognized unit(s) in that it would cover one or more employees who are included in such unit(s).

§ 1422.6 Withdrawal, dismissal or deferral of petitions; consolidation of cases; denial of intervention; review of action by Regional Director.

(a) If the Regional Director determines, after such investigation as the Regional Director deems necessary, that the petition has not been timely filed, the unit is not as described in 22 U.S.C. 4114, the petitioner has not made a sufficient showing of interest, the petition is not otherwise actionable, or an intervention is not appropriate, the Regional Director may request the petitioner or intervenor to withdraw the petition or the request for intervention. In the absence of such withdrawal within a reasonable period of time, the Regional Director may dismiss the petition or deny the request for intervention.

(b) If the Regional Director determines, after investigation, that a valid issue has been raised by a challenge under § 1422.2 (f) or (g), the Regional Director may take action which may consist of the following, as appropriate:

(1) Request the petitioner or intervenor to withdraw the petition or the request for intervention;

(2) Dismiss the petition and/or deny the request for intervention if a withdrawal request is not submitted within a reasonable period of time;

(3) Defer action on the petition or request for intervention until such time as issues raised by the challenges have been resolved pursuant to this part; or

(4) Consolidate such issues with the representation matter for resolution of all issues.

(c) If the Regional Director dismisses the petition and/or denies the request for intervention, the Regional Director shall serve on the petitioner or the party requesting intervention a written statement of the grounds for the dismissal or the denial, and serve a copy of such statement on the Department, and on the petitioner and any intervenors, as appropriate.

(d) The petitioner or party requesting intervention may obtain a review of such dismissal and/or denial by filing a request for review with the Board within twenty-five (25) days after service of the notice of such action. Copies of the request for review shall be served on the Regional Director and the other parties, and a statement of service shall be filed with the request for review. Requests for extensions of time shall be in writing and received by the Board not later than five (5) days before the date the request for review is due. The request for review shall contain a complete statement setting forth facts and reasons upon which the request is based. Any party may file an opposition to a request for review with the Board within ten (10) days after service of the request for review. Copies of the opposition to the request for review shall be served on the Regional Director and the other parties, and a statement of service shall be filed with the opposition to the request for review. The Board may issue a decision or ruling affirming or reversing the Regional Director in whole or in part or making any other disposition of the matter as it deems appropriate.

§ 1422.7 Agreement for consent election.

(a) All parties desiring to participate in an election being conducted pursuant to this section or § 1422.16, including intervenors who have met the requirements of § 1422.5, must sign an agreement providing for such an election on a form prescribed by the Board. An original and one (1) copy of the agreement shall be filed with the Regional Director.

(b) The Department, a petitioner, and any intervenors who have complied with the requirements set forth in § 1422.5 may agree that a secret ballot election shall be conducted among the employees in the unit to determine whether the employees desire to be represented for purposes of exclusive recognition by any or none of the labor organizations involved.

(c) The parties shall agree on the eligibility period for participation in the election, the date(s), hour(s), and place(s) of the election, the designations on the ballot and other related election procedures.

(d) In the event that the parties cannot agree on the matters contained in paragraph (c) of this section, the Regional Director, acting on behalf of the Board, shall decide these matters without prejudice to the right of a party to file objections to the procedural conduct of the election under § 1422.20(b).

(e) If the Regional Director approves the agreement, the election shall be conducted by the Department, as appropriate, under the supervision of the Regional Director, in accordance with § 1422.17.

(f) Any qualified intervenor who refuses to sign an agreement for an election may express its objections to the agreement in writing to the Regional Director. The Regional Director, after careful consideration of such objections, may approve the agreement or take such other action as the Regional Director deems appropriate.

§ 1422.8 Notice of hearing; contents; attachments; procedures.

(a) The Regional Director may cause a notice of hearing to be issued involving any matters related to the petition.

(b) The notice of hearing shall be served on all interested parties and shall include:

(1) The name of the Department, petitioner, and intervenors, if any;

(2) A statement of the time and place of the hearing, which shall be not less than twenty (20) days after service of the notice of hearing, except in extraordinary circumstances;

(3) A statement of the nature of the hearing; and

(4) A statement of the authority and jurisdiction under which the hearing is to be held.

(c) A copy of the petition shall be attached to the notice of hearing.

(d) Hearings on matters related to the petition pursuant to paragraph (a) of this section shall be conducted by a Hearing Officer in accordance with §§ 1422.9 through 1422.15.

§ 1422.9 Conduct of hearing.

(a) Hearings shall be conducted by a Hearing Officer and shall be open to the public unless otherwise ordered by the Hearing Officer. At any time another Hearing Officer may be substituted for the Hearing Officer previously presiding. It shall be the duty of the Hearing Officer to inquire fully into all matters in issue and the Hearing Officer shall obtain a full and complete record upon which the Board can make an appropriate decision. An official reporter shall make the only official transcript of such proceedings. Copies of the official transcript may be examined in the appropriate regional office during normal working hours. Requests by

parties for copies of transcripts should be made to the official hearing reporter.

(b) Hearings under this section are considered investigatory and not adversary. Their purpose is to develop a full and complete factual record. The rules of relevancy and materiality are paramount; there are no burdens of proof and the technical rules of evidence do not apply.

§ 1422.10 Motions.

(a) *General.* (1) A motion shall state briefly the order or relief sought and the grounds for the motion: *Provided, however,* That a motion to intervene will not be entertained by the Hearing Officer. Intervention will be permitted only to those who have met the requirements of § 1422.5.

(2) A motion prior to, and after a hearing and any response thereto, shall be made in writing. A response shall be filed within five (5) days after service of the motion. An original and two (2) copies of such motion and any response thereto shall be filed and copies shall be served on the parties and the Regional Director. A statement of such service shall be filed with the original.

(3) During a hearing a motion may be made and responded to orally on the record.

(4) The right to make motions, or to make objections to rulings on motions, shall not be deemed waived by participation in the proceeding.

(5) All motions, rulings, and orders shall become part of the record.

(b) *Filing of motions.* (1) Motions and responses thereto prior to a hearing shall be filed with the Regional Director. During the hearing motions shall be made to the Hearing Officer.

(2) After the transfer of the case to the Board, except as otherwise provided, motions and responses thereto shall be filed with the Board: *Provided,* That following the close of a hearing, motions to correct the transcript should be filed with the Hearing Officer within ten (10) days after the transcript is received in the regional office.

(c) *Rulings on motions.* (1) Regional Directors may rule on all motions filed with them, or they may refer them to the Hearing Officer. A ruling by a Regional Director granting a motion to dismiss a petition may be reviewed by the Board upon the filing by the petitioner of a request for review pursuant to § 1422.6(d).

(2) Hearing Officers shall rule, either orally on the record or in writing, on all motions made at the hearing or referred to them, except that a motion to dismiss a petition shall be referred for appropriate action at such time as the record is considered by the Regional Director or the Board. Rulings by a Hearing Officer reduced to writing shall be served on the parties.

(3) The Board shall consider the rulings by the Regional Director and the Hearing Officer when the case is transferred to it for decision.

§ 1422.11 Rights of the parties.

(a) A party shall have the right to appear at any hearing in person, by counsel, or by other representative, and to examine and cross-examine witnesses, and to introduce into the record documentary or other relevant evidence. Two (2) copies of documentary evidence shall be submitted and a copy furnished to each of the other parties. Stipulations of fact may be introduced in evidence with respect to any issue.

(b) A party shall be entitled, upon request, to a reasonable period at the close of the hearing for oral argument, which shall be included in the stenographic report of the hearing. Such oral argument shall not preclude a party from filing a brief under § 1422.14.

§ 1422.12 Duties and powers of the Hearing Officer.

It shall be the duty of Hearing Officers to inquire fully into the facts as they relate to the matters before them. With respect to cases assigned to them between the time they are designated and the transfer of the case to the Board, Hearing Officers shall have the authority to:

(a) Grant requests for subpenas pursuant to § 1429.7 of this subchapter;

(b) Rule upon offers of proof and receive relevant evidence and stipulations of fact;

(c) Take or cause depositions or interrogatories to be taken whenever the ends of justice would be served thereby;

(d) Limit lines of questioning or testimony which are immaterial, irrelevant or unduly repetitious;

(e) Regulate the course of the hearing and, if appropriate, exclude from the hearing persons who engage in misconduct;

(f) Strike all related testimony of witnesses refusing to answer any questions ruled to be proper;

(g) Hold conferences for the settlement or simplification of the issues by consent of the parties or upon the Hearing Officer's own motion;

(h) Dispose of procedural requests, motions, or similar matters, which shall be made part of the record of the proceedings, including motions referred to the Hearing Officer by the Regional Director and motions to amend petitions;

(i) Call and examine and cross-examine witnesses and introduce into the record documentary or other evidence;

(j) Request the parties at any time during the hearing to state their respective positions concerning any issue in the case or theory in support thereof;

(k) Continue the hearing from day-to-day, or adjourn it to a later date or to a different place, by announcement thereof at the hearing or by other appropriate notice;

(l) Rule on motions to correct the transcript which are received within ten (10) days after the transcript is received in the regional office; and

(m) Take any other action necessary under this section and not prohibited by the regulations in this subchapter.

§ 1422.13 Objections to conduct of hearing.

Any objection to the introduction of evidence may be stated orally or in writing and shall be accompanied by a short statement of the grounds of such objection, and be included in the record. No such objection shall be deemed waived by further participation in the hearing. Automatic exceptions will be allowed to all adverse rulings.

§ 1422.14 Filing of briefs.

A party desiring to file a brief with the Board shall file the original and three (3) copies within thirty (30) days from the close of the hearing. Copies thereof shall be served on all other parties to the proceeding. Requests for additional time in which to file a brief under authority of this section shall be made to the Regional Director, in writing, and copies thereof shall be served on the other parties and a statement of such service shall be filed with the Regional Director. Requests for extension of time shall be in writing and received not later than five (5) days before the date such briefs are due. No reply brief may be filed in any proceeding except by special permission of the Board.

§ 1422.15 Transfer of case to the Board; contents of record.

Upon the close of the hearing the case is transferred automatically to the Board. The record of the proceeding shall include the petition, notice of hearing, service sheet, motions, rulings, orders, official transcript of the hearing with any corrections thereto, stipulations, objections, depositions, interrogatories, exhibits, documentary evidence, and any briefs or other documents submitted by the parties.

§ 1422.16 Decision.

The Board will issue a decision directing an election or dismissing the petition, or making other disposition of the matters before it.

§ 1422.17 Election procedure; request for authorized representation election observers.

This section governs all elections conducted under the supervision of the Regional Director pursuant to § 1422.7 or § 1422.16. The Regional Director may conduct elections in unusual circumstances in accordance with terms and conditions set forth in the notice of election.

(a) Appropriate notices of election shall be posted by the Department. Such notices shall set forth the details and procedures for the election, the unit described in 22 U.S.C. 4112, the eligibility period, the date(s), hour(s) and place(s) of the election and shall contain a sample ballot.

(b) The reproduction of any document purporting to be a copy of the official ballot, other than one completely unaltered in form and content and clearly marked "sample" on its face, which suggests either directly or indirectly to employees that the Board endorses a particular choice, may constitute grounds for setting aside an election upon objections properly filed.

(c) All elections shall be by secret ballot. An exclusive representative shall be chosen by a majority of the valid ballots cast.

(d) Whenever two or more labor organizations are included as choices in an election, any intervening labor organization may request the Regional Director to remove its name from the ballot. The request must be in writing and received not later than seven (7) days before the date of the election. Such request shall be subject to the approval of the Regional Director whose decision shall be final.

(e) In a proceeding involving an election to determine if a labor organization should cease to be the exclusive representative filed by the Department or any employee or employees or an individual acting on behalf of any employee(s) under § 1422.2(b), an organization currently recognized or certified may not have its name removed from the ballot without having served the written request submitted pursuant to paragraph (d) of this section on all parties. Such request shall contain an express disclaimer of any representation interest among the employees in the unit.

(f) Any party may be represented at the polling place(s) by observers of its own selection, subject to such limitations as the Regional Director may prescribe.

(g) A party's request to the Regional Director for named observers shall be in writing and filed with the Regional Director not less than fifteen (15) days prior to an election to be supervised or conducted pursuant to this part. The request shall name and identify the authorized representation election observers sought, and state the reasons therefor. Copies thereof shall be served on the other parties and a written statement of such service shall be filed with the Regional Director. Within five (5) days after service of a copy of the request, a party may file objections to the request with the Regional Director and state the reasons therefor. Copies thereof shall be served on the other parties and a written statement of such service shall be filed with the Regional Director. The Regional Director shall rule upon the request not later than five (5) days prior to the date of the election. However, for good cause shown by a party, or on the Regional Director's own motion, the Regional Director may vary the time limits prescribed in this paragraph.

§ 1422.18 Challenged ballots.

Any party or the representative of the Board may challenge, for good cause, the eligibility of any person to participate in the election. The ballots of such challenged persons shall be impounded.

§ 1422.19 Tally of ballots.

Upon the conclusion of the election, the Regional Director shall cause to be furnished to the parties a tally of ballots.

§ 1422.20 Certification; objections to election; determination on objections and challenged ballots.

(a) The Regional Director shall issue to the parties a certification of results of the election or a certification of representative, where appropriate: *Provided, however,* That no objections are filed within the time limit set forth below; the challenged ballots are insufficient in number to affect the results of the election; and no rerun election is to be held.

(b) Within twenty (20) days after the tally of ballots has been furnished, a party may file objections to the procedural conduct of the election, or to conduct which may have improperly affected the results of the election, setting forth a clear and concise statement of the reasons therefor. The objecting party shall bear the burden of proof at all stages of the proceeding regarding all matters raised in its objections. An original and two (2) copies of the objections shall be filed with the Regional Director and copies shall be served on the parties. A statement of such service shall be filed with the Regional Director. Such filing must be timely whether or not the challenged ballots are sufficient in number to affect the results of the election. Within ten (10) days after the filing of the objections, unless an extension of time has been granted by the Regional Director, the objecting party shall file with the Regional Director evidence, including signed statements, documents and other material supporting the objections.

(c) If objections are filed or challenged ballots are sufficient in number to affect the results of the election, the Regional Director shall investigate the objections or challenged ballots, or both.

(d) When the Regional Director determines that no relevant question of fact exists, the Regional Director (1) shall find whether improper conduct occurred of such a nature as to warrant the setting aside of the election and, if so, indicate an intention to set aside the election, or (2) shall rule on determinative challenged ballots, if any, or both. The Regional Director shall issue a report and findings on objections and/or challenged ballots which shall be served upon all parties to the proceeding. Such report and findings shall state therein any additional pertinent matters such as an intent to rerun the election or count ballots at a specified date, time, and place, and if appropriate, that the Regional Director will cause to be issued a revised tally of ballots.

(e) When the Regional Director determines that no relevant question of fact exists, but that a substantial question of interpretation or policy exists, the Regional Director shall notify the parties in the report and findings and transfer the case to the Board in accordance with of this subchapter.

(f) Any party aggrieved by the findings of a Regional Director with respect to objections to an election or challenged ballots may obtain a review of such action by the Board by following the procedure set forth in § 1422.6(d) of this subchapter: *Provided, however,* That a determination by the Regional Director to issue a notice of hearing shall not be subject to review by the Board.

(g) Where it appears to the Regional Director that the objections or challenged ballots raise any relevant question of fact which may have affected the results of the election, the Regional Director shall cause to be issued a notice of hearing. Hearings

shall be conducted and decisions issued by Administrative Law Judges and exceptions and related submissions filed with the Board in accordance with §§ 1423.14 through 1423.28 of this subchapter excluding § 1423.18 and § 1423.19(j), with the following exceptions:

(1) The Administrative Law Judge may not recommend remedial action to be taken or notices to be posted, as provided under § 1423.26(a); and

(2) Reference to "charge, complaint" in § 1423.26(b) shall be read as "report and findings of the Regional Director."

(h) At a hearing conducted pursuant to paragraph (g) of this section the party filing the objections shall have the burden of proving all matters alleged in its objections by a preponderance of the evidence. With respect to challenged ballots, no burden of proof is imposed on any party.

(i) The Board shall take action which may consist of the following, as appropriate:

(1) Issue a decision adopting, modifying, or rejecting the Administrative Law Judge's decision;

(2) Issue a decision in any case involving a substantial question of interpretation or policy transferred pursuant to paragraph (e) of this section; or

(3) Issue a ruling with respect to a request for review filed pursuant to paragraph (f) of this section affirming or reversing, in whole or in part, the Regional Director's findings, or make such other disposition as may be appropriate.

§ 1422.21 Preferential voting.

In any election in which more than two choices are on the ballot and no choice receives a majority of first preferences the Board shall distribute to the two choices having the most first preferences the preferences as between those two of the other valid ballots cast. The choice receiving a majority of preferences shall be declared the winner. A labor organization which is declared the winner of the election shall be certified by the Board as the exclusive representative.

§ 1422.22 Inconclusive elections.

(a) An inconclusive election is one in which none of the choices on the ballot is declared the winner. If there are no challenged ballots that would affect the results of the election, the Regional Director may declare the election a nullity and may order another election providing for a selection from among the choices afforded in the previous ballot.

(b) Only one further election pursuant to this section may be held.

PART 1423—UNFAIR LABOR PRACTICE PROCEEDINGS

Sec.

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Authority: 22 U.S.C. 4107.

§ 1423.1 Applicability of this part.

This part is applicable to any charge of alleged unfair labor practices filed with the Board on or after February 15, 1981.

§ 1423.2 Informal proceedings.

(a) The purposes and policies of the Foreign Service Labor-Management Relations Statute can best be achieved by the cooperative efforts of all persons covered by the program. To this end, it shall be the policy of the Board and the General Counsel to encourage all persons alleging unfair labor practices and persons against whom such allegations are made to meet and, in good faith, attempt to resolve such matters prior to the filing of unfair labor practice charges with the Board.

(b) In furtherance of the policy referred to in paragraph (a) of this section, and noting the six (6) month period of limitation set forth in 22 U.S.C. 4116(d), it shall be the policy of the Board and the General Counsel to encourage the informal resolution of unfair labor practice allegations subsequent to the filing of a charge and prior to the issuance of a complaint by the Regional Director.

§ 1423.3 Who may file charges.

The Department or labor organization may be charged by any person with having engaged in or engaging in any unfair labor practice prohibited under 22 U.S.C. 4115.

§ 1423.4 Contents of the charge; supporting evidence and documents.

(a) A charge alleging a violation of 22 U.S.C. 4115 shall be submitted on forms prescribed by the Board and shall contain the following:

(1) The name, address and telephone number of the person(s) making the charge;

(2) The name, address and telephone number of the Department or labor organization against whom the charge is made;

(3) A clear and concise statement of the facts constituting the alleged unfair labor practice, a statement of the section(s) and subsection(s) of chapter 41 of title 22 of the United States Code alleged to have been violated, and the date and place of occurrence of the particular acts; and

(4) A statement of any other procedure invoked involving the subject matter of the charge and the results, if any, including whether the subject matter raised in the charge (i) has been raised previously in a grievance procedure; (ii) has been referred to the Foreign Service Impasse Disputes Panel or the Foreign Service Grievance Board for consideration or action; or (iii) involves a negotiability issue raised by the charging party in a petition pending before the Board pursuant to Part 1424 of this subchapter.

(b) Such charge shall be in writing and signed and shall contain a declaration by the person signing the charge, under the penalties of the Criminal Code (18 U.S.C. 1001), that its contents are true and correct to the best of that person's knowledge and belief.

(c) When filing a charge, the charging party shall submit to the Regional Director any supporting evidence and documents.

§ 1423.5 Selection of the unfair labor practice procedure or the negotiability procedure.

(a) Where a labor organization files an unfair labor practice charge pursuant

to this part which involves a negotiability issue, and the labor organization also files pursuant to Part 1424 of this subchapter a petition for review of the same negotiability issue, the Board and the General Counsel ordinarily will not process the unfair labor practice charge and the petition for review simultaneously.

(b) Under such circumstances, the labor organization must select under which procedure to proceed. Upon selection of one procedure, further action under the other procedure will ordinarily be suspended. Such selection must be made regardless of whether the unfair labor practice charge or the petition for review of a negotiability issue is filed first. Notification of this selection must be made in writing at the time that both procedures have been invoked, and must be served on the Board, the appropriate Regional Director and all parties to both the unfair labor practice case and the negotiability case.

(c) Cases which solely involve an agency's allegation that the duty to bargain in good faith does not extend to the matter proposed to be bargained and which do not involve actual or contemplated changes in conditions of employment may only be filed under Part 1424 of this subchapter.

§ 1423.6 Filing and service of copies.

(a) An original and four (4) copies of the charge together with one copy for each additional charged party named shall be filed with the Regional Director for the region in which the alleged unfair labor practice has occurred or is occurring. A charge alleging that an unfair labor practice has occurred or is occurring in two or more regions may be filed with the Regional Director for any such region.

(b) Upon the filing of a charge, the charging party shall be responsible for the service of a copy of the charge (without the supporting evidence and documents) upon the person(s) against whom the charge is made, and for filing a written statement of such service with the Regional Director. The Regional Director will, as a matter of course, cause a copy of such charge to be served on the person(s) against whom the charge is made, but shall not be deemed to assume responsibility for such service.

§ 1423.7 Investigation of charges.

(a) The Regional Director, on behalf of the General Counsel, shall conduct such investigation of the charge as the Regional Director deems necessary.

(b) During the course of the investigation all parties involved will have an opportunity to present their evidence and views to the Regional Director.

(c) In connection with the investigation of charges, all persons are expected to cooperate fully with the Regional Director.

(d) The purposes and policies of the Foreign Service Labor-Management Relations Statute can best be achieved by the full cooperation of all parties involved and the voluntary submission of all potentially relevant information from all potential sources during the course of the investigation. To this end, it shall be the policy of the Board and the General Counsel to protect the identity of individuals and the substance of the statements and information they submit or which is obtained during the investigation as a means of assuring the Board's and the General Counsel's continuing ability to obtain all relevant information.

§ 1423.8 Amendment of charges.

Prior to the issuance of a complaint, the charging party may amend the charge in accordance with the requirements set forth in § 1423.6.

§ 1423.9 Action by the Regional Director.

(a) The Regional Director shall take action which may consist of the following, as appropriate:

(1) Approve a request to withdraw a charge;

(2) Refuse to issue a complaint;

(3) Approve a written settlement agreement in accordance with the provisions of § 1423.11;

(4) Issue a complaint;

(5) Upon agreement of all parties, transfer to the Board for decision, after issuance of a complaint, a stipulation of facts in accordance with the provisions of § 1429.1(a) this subchapter; or

(6) Withdraw a complaint.

(b) Parties may request the General Counsel to seek appropriate temporary relief (including a restraining order) under 22 U.S.C. 4109(d). The General Counsel will initiate and prosecute injunctive proceedings under 22 U.S.C. 4109(d) only upon approval of the Board. A determination by the General Counsel not to seek approval of the Board for such temporary relief is final and may not be applied to the Board.

(c) Upon a determination to issue a complaint, whenever it is deemed advisable by the Board to seek appropriate temporary relief (including a restraining order) under 22 U.S.C. 4109(d), the Regional Attorney or other designated agent of the Board to whom the matter has been referred will make application for appropriate temporary relief (including a restraining order) in the United States District Court for the District of Columbia. Such temporary relief will not be sought unless the record establishes probable cause that an unfair labor practice is being committed, or if such temporary relief will interfere with the ability of the Department to carry out its essential functions.

(d) Whenever temporary relief has been obtained pursuant to 22 U.S.C. 4109(d) and thereafter the Administrative Law Judge hearing the complaint, upon which the determination to seek such temporary relief was predicated, recommends dismissal of such complaint, in whole or in part, the Regional Attorney or other designated agent of the Board handling the case for the Board shall inform the United States District Court for the District of Columbia of the possible change in circumstances arising out of the decision of the Administrative Law Judge.

§ 1423.10 Determination not to issue complaint; review of action by the Regional Director.

(a) If the Regional Director determines that the charge has not been timely filed, that the charge fails to state an unfair labor practice, or for other appropriate reasons, the Regional Director may request the charging party to withdraw the charge, and in the absence of such withdrawal within a reasonable time, decline to issue a complaint.

(b) If the Regional Director determines not to issue a complaint on a charge which is not withdrawn, the Regional Director shall provide the parties with a written statement of the reasons for not issuing a complaint.

(c) The charging party may obtain a review of the Regional Director's decision not to issue a complaint by filing an appeal with the General Counsel within twenty-five (25) days after service of the Regional Director's decision. The appeal shall contain a complete statement setting forth the facts and reasons upon which it is based. A copy of the appeal shall also be filed with the Regional Director. In addition, the charging party should notify all other parties of the fact that an appeal has been taken, but any failure to give such notice shall not affect the validity of the appeal.

(d) A request for extension of time to file an appeal shall be in writing and received by the General Counsel not later than five (5) days before the date the appeal is due. The charging party should notify the Regional Director and all other parties that it has requested an extension of time in which to file an appeal, but any failure to give such

notice shall not affect the validity of its request for an extension of time to file an appeal.

(e) The General Counsel may sustain the Regional Director's refusal to issue or re-issue a complaint, stating the grounds of affirmance, or may direct the Regional Director to take further action. The General Counsel's decision shall be served on all the parties. The decision of the General Counsel shall be final.

§ 1423.11 Settlement or adjustment of issues.

General settlement policy

(a) At any stage of a proceeding prior to hearing, where time, the nature of the proceeding, and the public interest permit, all interested parties shall have the opportunity to submit to the Regional Director with whom the charge was filed, for consideration, all facts and arguments concerning offers of settlement, or proposals of adjustment.

Precomplaint informal settlements

(b)(1) Prior to the issuance of any complaint or the taking of other formal action, the Regional Director will afford the charging party and the respondent a reasonable period of time in which to enter into an informal settlement agreement to be approved by the Regional Director. Upon approval by the Regional Director and compliance with the terms of the informal settlement agreement, no further action shall be taken in the case. If the respondent fails to perform its obligations under the informal settlement agreement, the Regional Director may determine to institute further proceedings.

(2) In the event that the charging party fails or refuses to become a party to an informal settlement agreement offered by the respondent, if the Regional Director concludes that the offered settlement will effectuate the policies of the Foreign Service Labor-Management Relations Statute, the agreement shall be between the respondent and the Regional Director and the latter shall decline to issue a complaint. The charging party may obtain a review of the Regional Director's action by filing an appeal with the General Counsel in accordance with § 1423.10(c). The General Counsel shall take action on such appeal as set forth in § 1423.10(e).

Post complaint settlement policy

(c) Consistent with the policy reflected in paragraph (a) of this section, even after the issuance of a complaint, the Board favors the settlement of issues. Such settlements may be either informal or formal. Informal settlement agreements shall be accomplished as provided in paragraph (b) of this section. Formal settlement agreements are subject to the approval of the Board. In such formal settlement agreements, the parties shall agree to waive their right to a hearing and agree further that the Board may issue an order requiring the respondent to take action appropriate to the terms of the settlement. Ordinarily the formal settlement agreement also contains the respondent's consent to the Board application for the entry of a decree by the United States Court of Appeals for the District of Columbia enforcing the Board's order.

Post complaint—prehearing formal settlements

(d)(1) If, after issuance of a complaint but before opening of the hearing, the charging party and the respondent enter into a formal settlement agreement, and such agreement is accepted by the Regional Director, the formal settlement agreement shall be submitted to the Board for approval.

(2) If, after issuance of a complaint but before opening of the hearing, the charging party fails or refuses to become a party to a formal settlement agreement offered by the respondent, and the Regional Director concludes that the offered settlement will effectuate the policies of the Foreign Service Labor-Management Relations Statute, the agreement shall be between the respondent and the Regional Director. The charging party will be so informed and provided a brief written statement by the Regional Director of the reasons therefor. The formal settlement agreement together with the charging party's objections, if any, and the Regional Director's written statements, shall be submitted to the Board for approval. The Board may approve or disapprove any formal settlement agreement or return the case to the Regional Director for other appropriate action.

Post complaint—prehearing informal settlements

(3) After the issuance of a complaint but before opening of the hearing, if the Regional Director concludes that it will effectuate the policies of the Foreign Service Labor-Management Relations Statute, the Regional Director may withdraw the complaint and approve an informal settlement agreement pursuant to paragraph (b) of this section.

Informal settlements after the opening of the hearing

(e)(1) After issuance of a complaint and after opening of the hearing, if the Regional Director concludes that it will effectuate the policies of the Foreign Service Labor-Management Relations Statute, the Regional Director may request the Administrative Law Judge for permission to withdraw the complaint and, having been granted such permission to withdraw the complaint, may approve an informal settlement pursuant to paragraph (b) of this section.

Formal settlements after the opening of the hearing

(2) If, after issuance of a complaint and after opening of the hearing, the parties enter into a formal settlement agreement, the Regional Director may request the Administrative Law Judge to approve such formal settlement agreement, and upon such approval, to transmit the agreement to the Board for approval.

(3) If the charging party fails or refuses to become a party to a formal settlement agreement offered by the respondent, and the Regional Director concludes that the offered settlement will effectuate the policies of the Foreign Service Labor-Management Relations Statute, the agreement shall be between the respondent and the Regional Director. After the charging party is given an opportunity to state on the record or in writing the reasons for opposing the formal settlement, the Regional Director may request the Administrative Law Judge to approve such formal settlement agreement, and upon such approval, to transmit the agreement to the Board for approval. The Board may approve or disapprove any formal settlement agreement or return the case to the Administrative Law Judge for another appropriate action.

§ 1423.12 Issuance and contents of the complaint.

(a) After a charge is filed, if it appears to the Regional Director that formal proceedings in respect thereto should be instituted, the Regional Director shall issue and cause to be served on all other parties a formal complaint: *Provided, however,* That a determination by a Regional Director to issue a complaint shall not be subject to review.

(b) The complaint shall include:

(1) Notice of the charge;

(2) Notice that a hearing will be held before an Adminsitrative Law Judge;

(3) Notice of the time and place fixed for the hearing which shall not be earlier than five (5) days after service of the complaint;

(4) A statement of the nature of the hearing;

(5) A clear and concise statement of the facts upon which assertion of jurisdiction by the Board is predicated;

(6) A reference to the particular sections of chapter 41 of title 22 of the

United States Code and the rules and regulations involved; and

(7) A clear and concise description of the acts which are claimed to constitute unfair labor practices, including, where known, the approximate dates and places of such acts and the names of respondent's agents or other representatives by whom committed.

(c) The Chief Administrative Law Judge may, upon such judge's own motion or upon proper cause shown by any other party, extend the date of the hearing or may change the place at which it is to be held.

(d) A complaint may be amended, upon such terms as may be deemed just, prior to the hearing, by the Regional Director issuing the complaint; at the hearing and until the case has been transmitted to the Board pursuant to § 1423.26, upon motion by the Administrative Law Judge designated to conduct the hearing; and after the case has been transmitted to the Board pursuant to § 1423.26, upon motion by the Board at any time prior to the issuance of an order based thereon by the Board.

(e) Any such complaint may be withdrawn before the hearing by the Regional Director.

§ 1423.13 Answer to the complaint; extension of time for filing; amendment.

(a) Except in extraordinary circumstances as determined by the Regional Director, within twenty (20) days after the complaint is served upon the respondent, the respondent shall file the original and four (4) copies of the answer thereto, signed by the respondent or its representative, with the Regional Director who issued the complaint. The respondent shall serve a copy of the answer on the Chief Administrative Law Judge and on all other parties.

(b) The answer: (1) Shall specifically admit, deny, or explain each of the allegations of the complaint unless the respondent is without knowledge, in which case the answer shall so state; or (2) Shall state that the respondent admits all of the allegations in the complaint. Failure to file an answer or to plead specifically to or explain any allegation shall constitute an admission of such allegation and shall be so found by the Board, unless good cause to the contrary is shown.

(c) Upon the Regional Director's own motion or upon proper cause shown by any other party, the Regional Director issuing the complaint may by written order extend the time within which the answer shall be filed.

(d) The answer may be amended by the respondent at any time prior to the hearing. During the hearing or subsequent thereto, the answer may be amended in any case where the complaint has been amended, within such period as may be fixed by the Administrative Law Judge or the Board. Whether or not the complaint has been amended, the answer may, in the discretion of the Administrative Law Judge or the Board, upon motion, be amended upon such terms and within such periods as may be fixed by the Administrative Law Judge or the Board.

§ 1423.14 Conduct of hearing.

(a) Hearings shall be conducted not earlier than five (5) days after the date on which the complaint is served. The hearing shall be open to the public unless otherwise ordered by the Administrative Law Judge. A substitute Administrative Law Judge may be designated at any time to take the place of the Administrative Law Judge previously designated to conduct the hearing. Such hearing shall, to the extent practicable, be conducted in accordance with the provisions of subchapter II of chapter 5 of title 5 of the United States Code, except that the parties shall not be bound by the rules of evidence, whether statutory, common law, or adopted by a court.

(b) An official reporter shall make the only official transcript of such proceedings. Copies of the official transcript may be examined in the appropriate regional office during normal working hours. Requests by parties for copies of transcripts should be made to the official hearing reporter.

§ 1423.15 Intervention.

Any person involved and desiring to intervene in any proceeding pursuant to this part shall file a motion in accordance with the procedures set forth in § 1423.22. The motion shall state the grounds upon which such person claims involvement.

§ 1423.16 Rights of parties.

A party shall have the right to appear at any hearing in person, by counsel, or by other representative, and to examine and cross-examine witnesses, and to introduce into the record documentary or other relevant evidence, and to submit rebuttal evidence, except that the participation of any party shall be limited to the extent prescribed by the Administrative Law Judge. Two (2) copies of documentary evidence shall be submitted and a copy furnished to each of the other parties. Stipulations of fact may be introduced in evidence with respect to any issue.

§ 1423.17 Rules of evidence.

The parties shall not be bound by the rules of evidence, whether statutory, common law, or adopted by court. Any evidence may be received, except that an Administrative Law Judge may exclude any evidence which is immaterial, irrelevant, unduly repetitious or customarily privileged.

§ 1423.18 Burden of proof before the Administrative Law Judge.

The General Counsel shall have the responsibility of presenting the evidence in support of the complaint and shall have the burden of proving the allegations of the complaint by a preponderance of the evidence.

§ 1423.19 Duties and powers of the Administrative Law Judge.

It shall be the duty of the Administrative Law Judge to inquire fully into the facts as they relate to the matter before such judge. Subject to the rules and regulations of the Board and the General Counsel, an Administrative Law Judge presiding at a hearing may:

(a) Grant requests for subpenas pursuant to § 1429.7 of this subchapter;

(b) Rule upon petitions to revoke subpenas pursuant to § 1429.7 of this subchapter;

(c) Administer oaths and affirmations;

(d) Take or order the taking of a deposition whenever the ends of justice would be served thereby;

(e) Order responses to written interrogatories whenever the ends of justice would be served thereby unless it would interfere with the Board's and the General Counsel's policy of protecting the personal privacy and confidentiality of sources of information as set forth in § 1423.7(d);

(f) Call, examine and cross-examine witnesses and introduce into the record documentary or other evidence;

(g) Rule upon offers of proof and receive relevant evidence and stipulations of fact with respect to any issue;

(h) Limit lines of questioning or testimony which are immaterial, irrelevant, unduly repetitious, or customarily privileged;

(i) Regulate the course of the hearing and, if appropriate, exclude from the hearing persons who engage in contemptuous conduct and strike all related testimony of witnesses refusing to answer any questions ruled to be proper;

(j) Hold conferences for the settlement or simplification of the issues by consent of the parties or upon the judge's own motion;

(k) Dispose of procedural requests, motions, or similar matters, including motions referred to the Administrative Law Judge by the Regional Director and motions for summary judgment or to amend pleadings; dismiss complaints or portions thereof; order hearings reopened; and, upon motion, order proceedings consolidated or severed prior to issuance of the Administrative Law Judge's decision;

(l) Request the parties at any time during the hearing to state their respective positions concerning any issue in the case or theory in support thereof;

(m) Continue the hearing from day-to-day or adjourn it to a later date or to a different place, by announcement thereof at the hearing or by other appropriate notice;

(n) Prepare, serve and transmit the decision pursuant to § 1423.26;

(o) Take official notice of any material fact not appearing in evidence in the record, which is among the traditional matters of judicial notice: *Provided, however,* That the parties shall be given adequate notice, at the hearing or by reference in the Administrative Law Judge's decision of the matters so noticed, and shall be given adequate opportunity to show the contrary;

(p) Approve requests for withdrawal of complaints based on informal settlements occurring after the opening of the hearing pursuant to § 1423.11(e)(1), and transmit formal settlement agreements to the Board for approval pursuant to § 1423.11(e) (2) and (3);

(q) Grant or deny requests made at the hearing to intervene and to present testimony;

(r) Correct or approve proposed corrections of the official transcript when deemed necessary;

(s) Sequester witnesses where appropriate; and

(t) Take any other action deemed necessary under the foregoing and not prohibited by the regulations in this subchapter.

§ 1423.20 Unavailability of Administrative Law Judges.

In the event the Administrative Law Judge designated to conduct the hearing becomes unavailable, the Chief Administrative Law Judge shall designate another Administrative Law Judge for the purpose of further hearing or issuance of a decision on the record as made, or both.

§ 1423.21 Objection to conduct of hearing.

(a) Any objection with respect to the conduct of the hearing, including any objection to the introduction of evidence, may be stated orally or in writing accompanied by a short statement of the grounds for such objection, and included in the record. No such objection shall be deemed waived by further participation in the hearing. Such objection shall not stay the conduct of the hearing.

(b) Formal exceptions to adverse rulings are unnecessary. Automatic exceptions will be allowed to all adverse rulings. Except by special permission of the Board, and in view of § 1429.11 of this subchapter, rulings by the Administrative Law Judge shall not be appealed prior to the transmittal of the case to the Board, but shall be considered by the Board only upon the filing of exceptions to the Administrative Law Judge's decision in accordance with § 1423.27. In the discretion of the Administrative Law Judge, the hearing may be continued or adjourned pending any such request for special permission to appeal.

§ 1423.22 Motions.

(a) *Filing of Motions.* (1) Motions made prior to a hearing and any response thereto shall be made in writing and filed with the Regional Director: *Provided, however,* That after the issuance of a complaint by the Regional Director any motion to postpone the hearing should be filed with the Chief Administrative Law Judge at least five (5) days prior to the opening of the scheduled hearing. Motions made after the hearing opens and prior to the transmittal of the case to the Board shall be made in writing to the Administrative Law Judge or orally on the record. After the transmittal of the case to the Board, motions and any response thereto shall be filed in writing with the Board: *Provided, however,* That a motion to correct the transcript shall be filed with the Administrative Law Judge.

(2) A response to a motion shall be filed within five (5) days after service of the motion, unless otherwise directed.

(3) An original and two (2) copies of the motions and responses shall be filed, and copies shall be served on the parties. A statement of such service shall accompany the original.

(b) *Rulings on motions.* (1) Regional Directors may rule on all motions filed with them before the hearing, or they may refer them to the Chief Administrative Law Judge.

(2) Except by special permission of the Board, and in view of § 1429.11 of this subchapter, rulings by the Regional Director shall not be appealed prior to the transmittal of the case to the Board, but shall be considered by the Board when the case is transmitted to it for decision.

(3) Administrative Law Judges may rule on motions referred to them prior to the hearing and on motions filed after the beginning of the hearing and before the transmittal of the case to the Board. Such motions may be ruled upon by the Chief Administrative Law Judge in the absence of an Administrative Law Judge.

(4) Except by special permission of the Board, and in view of § 1429.11 of this subchapter, rulings by Administrative Law Judges shall not be appealed prior to the transmittal of the case to the Board, but shall be considered by the Board when the case is transmitted to it for decision. In the discretion of the Administrative Law Judge, the hearing may be continued or adjourned pending any such request for special permission to appeal.

§ 1423.23 Waiver of objections.

Any objection not made before an Administrative Law Judge shall be deemed waived.

§ 1423.24 Oral argument at the hearing.

Any party shall be entitled, upon request, to a reasonable period prior to the close of the hearing for oral argument, which shall be included in the official transcript of the hearing.

§ 1423.25 Filing of brief.

Any party desiring to submit a brief to the Administrative Law Judge shall file the original and two (2) copies within a reasonable time fixed by the Administrative Law Judge, but not in excess of thirty (30) days from the close of the hearing. Copies of any brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the Administrative Law Judge. Requests for additional time to file a brief shall be made to the Chief Administrative Law Judge, in writing, and copies thereof shall be served on the other parties. A statement of such service shall be furnished. Requests for extension of time shall be received not later than five (5) days before the date such briefs are due. No reply brief may be filed except by special permission of the Administrative Law Judge.

§ 1423.26 Transmittal of the Administrative Law Judge's decision to the Board; exceptions.

(a) After the close of the hearing, and the receipt of brief, if any, the Administrative Law Judge shall prepare the decision expeditiously. The Administrative Law Judge shall prepare a decision even when the parties enter into a stipulation of fact at the hearing. The decision shall contain findings of

fact, conclusions, and the reasons or basis therefor including credibility determinations, and conclusions as to the disposition of the case including, where appropriate, the remedial action to be taken and notices to be posted.

(b) The Administrative Law Judge shall cause the decision to be served promptly on all parties to the proceeding. Thereafter, the Administrative Law Judge shall transmit the case to the Board including the judge's decision and the record. The record shall include the charge, complaint, service sheet, answer, motions, rulings, orders, official transcript of the hearing, stipulations, objections, depositions, interrogatories, exhibits, documentary evidence and any briefs or other documents submitted by the parties.

(c) An original and three (3) copies of any exception to the Administrative Law Judge's decision and briefs in support of exceptions may be filed by any party with the Board within twenty-five (25) days after service of the decision: *Provided, however,* That the Board may for good cause shown extend the time for filing such exceptions. Requests for additional time in which to file exceptions shall be in writing, and copies thereof shall be served on the other parties. Requests for extension of time must be received no later than five (5) days before the date the exceptions are due. Copies of such exceptions and any supporting briefs shall be served on all other parties, and a statement of such service shall be furnished to the Board.

§ 1423.27 Contents of exceptions to the Administrative Law Judge's decision.

(a) Exceptions to an Administrative Law Judge's decision shall:

(1) Set forth specifically the questions upon which exceptions are taken;

(2) Identify that part of the Administrative Law Judge's decision to which objection is made; and

(3) Designate by precise citation of page the portions of the record relied on, state the grounds for the exceptions, and include the citation of authorities unless set forth in a supporting brief.

(b) Any exception to a ruling, finding or conclusion which is not specifically urged shall be deemed to have been waived. Any exception which fails to comply with the foregoing requirements may be disregarded.

§ 1423.28 Briefs in support of exceptions; oppositions to exceptions; cross-exceptions.

(a) Any brief in support of exceptions shall contain only matters included within the scope of the exceptions and shall contain, in the order indicated, the following:

(1) A concise statement of the case containing all that is material to the consideration of the questions presented;

(2) A specification of the questions involved and to be argued; and

(3) The argument, presenting clearly the points of fact and law relied on in support of the position taken on each question, with specific page reference to the transcript and the legal or other material relied on.

(b) Any party may file an opposition to exceptions and cross-exceptions and a supporting brief with the Board within ten (10) days after service of any exceptions to an Administrative Law Judge's decision. Copies of the opposition to exceptions and the cross-exceptions and any supporting briefs shall be served on all other parties, and a statement of service shall be filed with the opposition to exceptions and cross-exceptions and any supporting briefs.

§ 1423.29 Action by the Board.

(a) After considering the Administrative Law Judge's decision, the record, and any exceptions and related submissions filed, the Board shall issue its decision affirming or reversing the Administrative Law Judge, in whole, or in part, or making such other disposition of the matter as it deems appropriate: *Provided, however,* That unless exceptions are filed which are timely and in accordance with § 1423.27, the Board may, at its discretion, adopt without discussion the decision of the Administrative Law Judge, in which event the findings and conclusions of the Administrative Law Judge, as contained in such decision shall, upon appropriate notice to the parties, automatically become the decision of the Board.

(b) Upon finding a violation, the Board shall issue an order:

(1) To cease and desist from any such unfair labor practice in which the Department or labor organization is engaged;

(2) Requiring the parties to renegotiate a collective bargaining agreement in accordance with the order of the Board and requiring that the agreement, as amended, be given retroactive effect;

(3) Requiring reinstatement of an employee with backpay in accordance with 5 U.S.C. 5596; or

(4) Including any combination of the actions described in paragraphs (b) (1) through (3) of this section or such other action as will carry out the purpose of the Foreign Service Labor-Management Relations Statute.

(c) Upon finding no violation, the Board shall dismiss the complaint.

§ 1423.30 Compliance with decisions and orders of the Board.

When remedial action is ordered, the respondent shall report to the appropriate Regional Director within a specified period that the required remedial action has been effected. When the General Counsel finds that the required remedial action has not been effected, the General Counsel shall take such action as may be appropriate, including referral to the Board for enforcement.

§ 1423.31 Backpay proceedings.

After the entry of a Board order directing payment of backpay, or the entry of a court decree enforcing such order, if it appears to the Regional Director that a controversy exists between the Board and a respondent which cannot be resolved without a formal proceeding, the Regional Director may issue and serve on all parties a backpay specification accompanied by a notice of hearing or a notice of hearing without a specification. The respondent shall, within twenty (20) days after the service of a backpay specification accompanied by a notice of hearing, file an answer thereto in accordance with § 1423.13 with the Regional Director issuing such specification. No answer need be filed by the respondent to a notice of hearing issued without a specification. After the issuance of a notice of hearing, with or without a backpay specification, the procedures provided in §§ 1423.14 to 1423.29, inclusive, shall be followed insofar as applicable.

PART 1424—EXPEDITED REVIEW OF NEGOTIABILITY ISSUES

Sec.

1424.1 Conditions governing review.
1424.2 Who may file a petition.
1424.3 Time limits for filing.
1424.4 Content of petition; service.
1424.5 Selection of the unfair labor practice procedure or the negotiability procedure.
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1424.8 Additional submissions to the Board.
1424.9 Hearing.
1424.10 Board decision and order; compliance.

Authority: 22 U.S.C. 4107(c).

§ 1424.1 Conditions governing review.

Pursuant to the authority contained in 22 U.S.C. 4107 (a)(3) and (c)(1) the Board will consider a direct appeal concerning

whether a matter proposed to be bargained is within the obligation to bargain under the Foreign Service Act of 1980 as follows: If the Department is involved in collective bargaining with an exclusive representative and alleges that the duty to bargain in good faith does not extend to any matter proposed to be bargained because, as proposed, the matter is inconsistent with applicable law, rule or regulation the exclusive representative may appeal the allegation to the Board when it disagrees with Department's allegation that the matter as proposed to be bargained is inconsistent with applicable law, rule or regulation.

§ 1424.2 Who may file a petition.

A petition for review of a negotiability issue may be filed by the exclusive representative which is a party to the negotiations.

§ 1424.3 Time limits for filing.

(a) The time limit for filing an appeal under this Part is fifteen (15) days from the Department's allegation, which was requested in writing by the exclusive representative, is served on the exclusive representative. The Department shall make the allegation in writing and serve a copy on the exclusive representative: *Provided, however,* That review of a negotiability issue may be requested by the exclusive representative under this part without a prior written allegation by the Department if a written allegation has not been served upon the exclusive representative within ten (10) days after the date of receipt by any Department bargaining representative at the negotiations of a written request for such allegation.

§ 1424.4 Content of petition; service.

(a) A petition for review shall be dated and shall contain the following:

(1) A statement setting forth the matter proposed to be bargained as submitted to the Department;

(2) A copy of all pertinent material, including the Department's allegation in writing that the matter, as proposed, is not within the duty to bargain in good faith, and other relevant documentary material; and

(3) Notification by the petitioning labor organization whether the negotiability issue is also involved in an unfair labor parctice charge filed by such labor organization under part 1423 of this subchapter and pending before the General Counsel.

(b) A copy of the petition including all attachments thereto shall be served on the Secretary and on the principal Department bargaining representative at the negotiations.

§ 1424.5 Selection of the unfair labor practice procedure or the negotiability procedure.

Where a labor organization files an unfair labor practice charge pursuant to Part 1423 of this subchapter which involves a negotiability issue, and the labor organization also files pursuant to this part a petition for review of the same negotiability issue, the Board and the General Counsel ordinarily will not process the unfair labor practice charge and the petition for review simultaneously. Under such circumstances, the labor organization must select under which procedure to proceed. Upon selection of one procedure, further action under the other procedure will ordinarily be suspended. Such selection must be made regardless of whether the unfair labor practice charge or the petition for review of a negotiability issue is filed first. Notification of this selection must be made in writing at the time that both procedures have been invoked, and must be served on the Board, the appropriate Regional Director and all parties to both the unfair labor practice case and the negotiability case. Cases which solely involve the Department's allegation that the duty bargain in good faith does not extend to the matter proposed to be bargained and which do not involve actual or contemplated changes in conditions of employment may only be filed under this part.

§ 1424.6 Position of the Department; time limits for filing; service.

(a) Within thirty (30) days after the date of receipt by the Secretary of a copy of the petition for review of a negotiability issue the Department shall file a statement—

(1) Withdrawing the allegation that the duty to bargain in good faith does not extend to the matter proposed to be bargained; or

(2) Setting forth in full its position on any matters relevant to the petition which it wishes the Board to consider in reaching its decision, including a full and detailed statement of its reasons supporting the allegation. The statement shall cite the section of any law, rule or regulation relied upon as a basis for the allegation.

(b) A copy of the Department's statement of position including all attachments thereto shall be served on the exclusive representative.

§ 1424.7 Response of the exclusive representative; time limits for filing; service.

(a) Within fifteen (15) days after the date of receipt by an exclusive representative of a copy of the Department's statement of position the exclusive representative shall file a full and detailed response stating its position and reasons for disagreeing with the Department's allegation that the matter, as proposed to be bargained, is inconsistent with applicable law or rule or regulation.

(b) A copy of the response of the exclusive representative including all attachments thereto shall be served on the Secretary and on the Department's representative of record in the proceedings before the Board.

§ 1424.8 Additional submissions to the Board.

The Board will not consider any submission filed by any party, whether supplemental or responsive in nature, other than those authorized under §§ 1424.2 through 1424.7 unless such submission is requested by the Board; or unless, upon written request by any party, a copy of which is served on all other parties, the Board in its discretion grants permission to file such submission.

§ 1424.9 Hearing.

A hearing may be held, in the discretion of the Board, before a determination is made under 22 U.S.C. 4107(a)(3). If a hearing is held, it shall be expedited to the extent practicable and shall not include the General Counsel as a party.

§ 1424.10 Board decision and order; compliance.

(a) Subject to the requirements of this part the Board shall expedite proceedings under this part to the extent practicable and shall issue to the exclusive representative and to the Department a written decision on the allegation and specific reasons therefor at the earliest practicable date.

(b) If the Board finds that the duty to bargain extends to the matter proposed to be bargained, the decision of the Board shall include an order that the Department shall upon request (or as otherwise agreed to by the parties) bargain concerning such matter. If the Board finds that the duty to bargain does not extend to the matter proposed to be bargained, the Board shall so state and issue an order dismissing the petition for review of the negotiability issue. If the Board finds that the duty to bargain extends to the matter proposed to be bargained only at the election of

the Department, the Board shall so state and issue an order dismissing the petition for review of the negotiability issue.

(c) When an order is issued as provided in paragraph (b) of this section, the Department or exclusive representative shall report to the appropriate Regional Director within a specified period failure to comply with an order that the Department shall upon request (or as otherwise agreed to by the parties) bargain concerning the disputed matter. If the Board finds such a failure to comply with its order, the Board shall take whatever action it deems necessary, including enforcement under 22 U.S.C. 4109(b).

PART 1425—REVIEW OF IMPLEMENTATION DISPUTE ACTIONS

Sec.
1425.1 Who may file an exception; time limits for filing; opposition; service.
1425.2 Content of exception.
1425.3 Grounds for review.
1425.4 Board decision.

Authority: 22 U.S.C. 4107(c).

§ 1425.1 Who may file an exception; time limits for filing; opposition; service.

(a) Either party to an appeal to the Foreign Service Grievance Board under the provisions of 22 U.S.C. 4114 may file an exception to the action of the Foreign Service Grievance Board taken pursuant to the appeal.

(b) The time limit for filing an exception to a Foreign Service Grievance Board action is thirty (30) days after such action is communicated to the parties.

(c) An opposition to the exception may be filed by a party within thirty (30) days after the date of service of the exception.

(d) A copy of the exception and any opposition shall be served on the other party.

§ 1425.2 Content of exception.

An exception must be a dated, self-contained document which sets forth in full:

(a) A statement of the grounds on which review is requested;

(b) Evidence or rulings bearing on the issues before the Board;

(c) Arguments in support of the stated grounds, together with specific reference to the pertinent documents and citations of authorities; and

(d) A legible copy of the decision or other document representing the action taken by the Foreign Service Grievance Board, together with legible copies of other pertinent documents pertaining to the action.

§ 1425.3 Grounds for review.

The Board will review an action of the Foreign Service Grievance Board to which an exception has been filed to determine if it is deficient—

(a) Because it is contrary to any law, rule, or regulation; or

(b) On other grounds similar to those applied by Federal courts in private sector labor-managment relations.

§ 1425.4 Board decision.

The Board shall issue its decision taking such action and making such recommendations concerning the Foreign Service Grievance Board action as it considers necessary, consistent with applicable laws, rules, and regulations.

PART 1427—GENERAL STATEMENTS OF POLICY OR GUIDANCE

Sec.
1427.1 Scope.
1427.2 Requests for general statements of policy or guidance.
1427.3 Content of request.
1427.4 Submissions from interested parties.
1427.5 Standards governing issuance of general statements of policy or guidance.

Authority: 22 U.S.C. 4107(c).

§ 1427.1 Scope.

This part sets forth procedures under which requests may be submitted to the Board seeking the issuance of general statements of policy or guidance under 22 U.S.C. 4107(c)(2)(F).

§ 1427.2 Requests for general statements of policy or guidance.

(a) The head of the Department (or designee), the national president of a labor organization (or designee), or the president of a labor organization not affiliated with a national organization (or designee) may separately or jointly ask the Board for a general statement of policy or guidance. The head of any lawful association not qualified as a labor organization may also ask the Board for such a statement provided the request is not in conflict with the provisions of the Foreign Service Labor-Management Relations Statute.

(b) The Board ordinarily will not consider a request related to any matter pending before the Board, General Counsel, Panel or Assistant Secretary.

§ 1427.3 Content of request.

(a) A request for a general statement of policy or guidance shall be in writing and must contain:

(1) A concise statement of the question with respect to which a general statement of policy or guidance is requested together with background information necessary to an understanding of the question;

(2) A statement of the standards under § 1427.5 upon which the request is based;

(3) A full and detailed statement of the position or positions of the requesting party or parties

(4) Identification of any cases or other proceedings known to bear on the question which are pending under the Foreign Service Labor-Management Statute.

(5) Identification of other known interested parties.

(b) A copy of each document also shall be served on all known interested parties, including the General Counsel, the Panel, and the Assistant Secretary, where appropriate.

§ 1427.4 Submissions from interested parties.

Prior to issuance of a general statement of policy or guidance the Board, as it deems appropriate, will afford an opportunity to interested parties to express their views orally or in writing.

§ 1427.5 Standards governing issuance of general statements of policy or guidance.

In deciding whether to issue a general statement of policy or guidance, the Board shall consider:

(a) Whether the question presented can more appropriately be resolved by other means;

(b) Where other means are available, whether a Board statement would prevent the proliferation of cases involving the same or similar question;

(c) Whether the resolution of the question presented would have general applicability under the Foreign Service Labor-Management Relations Statute.

(d) Whether the question currently confronts parties in the context of a labor-management relationship;

(e) Whether the question is presented jointly by the parties involved; and

(f) Whether the issuance by the Board of a general statement of policy or guidance on the question would promote constructive and cooperative labor-management relationships in the Foreign Service and would otherwise promote the purposes of the Foreign Service Labor-Management Relations Statute.

PART 1428—ENFORCEMENT OF ASSISTANT SECRETARY STANDARDS OF CONDUCT DECISIONS AND ORDERS

Sec.
1428.1 Scope.
1428.2 Petitions for enforcement.
1428.3 Board decision.

Authority: 22 U.S.C. 4107(c).

§ 1428.1 Scope.

This part sets forth procedures under which the Board, pursuant to 22 U.S.C. 4107(a)(5) enforce decisions and orders of the Assistant Secretary in standards of conduct matters arising under 5 U.S.C. 7120.

§ 1428.2 Petitions for enforcement.

(a) The Assistant Secretary may petition the Board to enforce any Assistant Secretary decision and order in a standards of conduct case arising under 22 U.S.C. 4117. The Assistant Secretary shall transfer to the Board the record in the case, including a copy of the transcript if any, exhibits, briefs, and other documents filed with the Assistant Secretary. A copy of the petition for enforcement shall be served on the labor organization against which such order applies.

(b) An opposition to Board enforcement of any such Assistant Secretary decision and order may be filed by the labor organization against which such order applies twenty (20) days from the date of service of the petition, unless the Board, upon good cause shown by the Assistant Secretary, sets a shorter time for filing such position. A copy of the opposition to enforcement shall be served on the Assistant Secretary.

§ 1428.3 Board decision.

(a) A decision and order of the Assistant Secretary shall be enforced unless it is arbitrary and capricious or based upon manifest disregard of the law.

(b) The Board shall issue its decision on the case enforcing, enforcing as modified, refusing to enforce, or remanding the decision and order of the Assistant Secretary.

PART 1429—MISCELLANEOUS AND GENERAL REQUIREMENTS

Subpart A—Miscellaneous

Sec.

1429.1 Transfer of cases to the Board.
1429.2 Transfer and consolidation of cases.
1429.3 Transfer of record.
1429.4 Referral of policy questions to the Board.
1429.5 Matters not previously presented; official notice.
1429.6 Oral argument.
1429.7 Subpenas.
1429.8 Stay of action taken by Grievance Board; requests.
1429.9 Amicus curiae.
1429.10 Advisory opinions.
1429.11 Interlocutory appeals.
1429.12 Service of process and papers by the Board.
1429.13 Official time.
1429.14 Witness fees.
1429.15 Board requests for advisory opinions.
1429.16 General remedial authority.

Subpart B—General Requirements

1429.21 Computation of time for filing papers.
1429.22 Additional time after service by mail.
1429.23 Extension; waiver.
1429.24 Place and method of filing; acknowledgement.
1429.25 Number of copies.
1429.26 Other documents.
1429.27 Service; statement of service.
1429.28 Petitions for amendment of regulations.

Authority: 22 U.S.C. 4107(c).

Subpart A—Miscellaneous

§ 1429.1 Transfer of cases to the Board.

(a) In any representation case under Part 1422 of this subchapter in which the Regional Director determines, based upon a stipulation by the parties, that no material issue of fact exists, the Regional Director may transfer the case to the Board; and the Board may decide the case on the basis of the papers alone after having allowed twenty-five (25) days for the filing of briefs. In any unfair labor practice case under Part 1423 of this subchapter in which, after the issuance of a complaint, the Regional Director determines, based upon a stipulation by the parties, that no material issue of fact exists, the Regional Director may upon agreement of all parties transfer the case to the Board; and the Board shall decide the case on the basis of the case papers alone after having allowed twenty-five (25) days for the filing of briefs. The Board may remand any such case to the Regional Director if it determines that a material question of fact does exist. Orders of transfer and remand shall be served on all parties.

(b) In any case under Parts 1422 and 1423 of this subchapter in which it appears to the Regional Director that the proceedings raise questions which should be decided by the Board, the Regional Director may, at any time, issue an order transferring the case to the Board for decision or other appropriate action. Such an order shall be served on the parties.

§ 1429.2 Transfer and consolidation of cases.

In any matter arising pursuant to Parts 1422 and 1423 of this subchapter, whenever it appears necessary in order to effectuate the purposes of the Foreign Service Labor-Management Relations Statute or to avoid unnecessary costs or delay, Regional Directors may consolidate cases within their own region or may transfer such cases to any other region, for the purpose of investigation or consolidation with any proceedings which may have been instituted in, or transferred to, such region.

§ 1429.3 Transfer of record.

In any case under Part 1425 of this subchapter, upon request by the Board, the parties jointly shall transfer the record in the case, including a copy of the transcript, if any, exhibits, briefs and other documents filed with the Grievance Board, to the Board.

§ 1429.4 Referral of policy questions to the Board.

Notwithstanding the procedures set forth in this subchapter, the General Counsel, the Assistant Secretary, or the Panel may refer for review and decision or general ruling by the Board any case involving a major policy issue that arises in a proceeding before any of them. Any such referral shall be in writing and a copy of such referral shall be served on all parties to the proceeding. Before decision or general ruling, the Board shall obtain the views of the parties and other interested persons, orally or in writing, as it deems necessary and appropriate.

§ 1429.5 Matters not previously presented; official notice.

The Board will not consider evidence offered by a party, or any issue, which was not presented in the proceedings before the Regional Director, Hearing Officer, Administrative Law Judge, or Grievance Board. The Board may, however, take official notice of such matters as would be proper.

§ 1429.6 Oral argument.

The Board or the General Counsel, in their discretion, may request or permit oral argument in any matter arising under this subchapter under such circumstances and conditions as they deem appropriate.

§ 1429.7 Subpenas.

(a) Any member of the Board, the General Counsel, any Administrative Law Judge appointed by the Board under 5 U.S.C. 3105, and any Regional Director, Hearing Officer, or other employee of the Board designated by the Board may issue subpenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence. However, no subpena shall be issued under this section which requires the disclosure of intramanagement guidance, advice, counsel, or training within an agency or between an agency and the Office of Personnel Management.

(b) Where the parties are in agreement that the appearance of witnesses or the production of documents is necessary, and such witnesses agree to appear, no such subpena need be sought.

(c) A request for a subpena by any person, as defined in 22 U.S.C. 4102 shall be in writing and filed with the Regional Director, in proceedings arising under Parts 1422 and 1423 of this subchapter, or filed with the Board, in proceedings arising under Parts 1424 and 1425 of this subchapter, not less than fifteen (15) days prior to the opening of a hearing, or with the appropriate presiding official(s) during the hearing.

(d) All requests shall name and identify the witnesses or documents sought, and state the reasons therefor. The Board, General Counsel, Administrative Law Judge, Regional Director, Hearing Officer, or any other employee of the Board designated by the Board, as appropriate, shall grant the request upon the determination that the testimony or documents appear to be necessary to the matters under investigation and the request describes with sufficient particularity the documents sought. Service of an approved subpena is the responsibility of the party on whose behalf the subpena was issued. The subpena shall show on its face the name and address of the party on whose behalf the subpena was issued.

(e) Any person served with a subpena who does not intend to comply, shall, within five (5) days after the date of service of the subpena upon such person, petition in writing to revoke the subpena. A copy of any petition to revoke a subpena shall be served on the party on whose behalf the subpena was issued. Such petition to revoke, if made prior to the hearing, and a written statement of service, shall be filed with the Regional Director, who may refer the petition to the Board, General Counsel, Administrative Law Judge, Hearing Officer, or any other employee of the Board designated by the Board, as appropriate, for ruling. A petition to revoke a subpena filed during the hearing, and a written statement of service, shall be filed with the appropriate presiding official(s). The Regional Director, or the appropriate presiding official(s) will, as a matter of course, cause a copy of the petition to revoke to be served on the party on whose behalf the subpena was issued, but shall not be deemed to assume responsibility for such service. The Board, General Counsel, Administrative Law Judge, Regional Director, Hearing Officer, or any other employee of the Board designated by the Board, as appropriate, shall revoke the subpena if the evidence the production of which is required does not relate to any matter under investigation or in question in the proceedings, or the subpena does not describe with sufficient particularity the evidence the production of which is required, or if for any other reason sufficient in law the subpena is invalid. The Board, General Counsel, Administrative Law Judge, Regional Director, Hearing Officer, or any other employee of the Board designated by the Board, as appropriate, shall make a simple statement of procedural or other ground for the ruling on the petition to revoke. The petition to revoke, any answer thereto, and any ruling thereon shall not become part of the official record except upon the request of the party aggrieved by the ruling.

(f) Upon the failure of any person to comply with a subpena issued, upon the request of the party on whose behalf the subpena was issued, the General Counsel shall, on behalf of such party, institute proceedings in the appropriate district court for the enforcement thereof, unless, in the judgment of the General Counsel, the enforcement of such subpena would be inconsistent with law and the policies of the Foreign Service Labor-Management Relations Statute. The General Counsel shall not be deemed thereby to have assumed responsibility for the effective prosecution of the same before the court thereafter.

§ 1429.8 Stay of action taken by Grievance Board; requests.

(a) A request for a stay shall be entertained only in conjunction with and as a part of an exception to an action taken by the Grievance Board under Part 1425 of this subchapter. The filing of an exception shall not itself operate as a stay of the action involved in the proceedings.

(b) A timely request for a stay of an action taken by the Grievance Board to which an exception has been filed shall operate as a temporary stay of the award. Such temporary stay shall be deemed effective from the date of the action and shall remain in effect until the Board issues its decision and order on the exception, or the Board or its designee otherwise acts with respect to the request for the stay.

(c) A request for a stay of an action taken by the Grievance Board will be granted only where it appears, based upon the facts and circumstances presented, that:

(1) There is a strong likelihood of success on the merits of the appeal; and

(2) A careful balancing of all the equities, including the public interest, warrants issuance of a stay.

§ 1429.9 Amicus curiae.

Upon petition of an interested person, a copy of which petition shall be served on the parties, and as the Board deems appropriate, the Board may grant permission for the presentation of written and/or oral argument at any stage of the proceedings by an amicus curiae and the parties shall be notified of such action by the Board.

§ 1429.10 Advisory opinions.

The Board and the General Counsel will not issue advisory opinions.

§ 1429.11 Interlocutory appeals.

The Board and the General Counsel ordinarily will not consider interlocutory appeals.

§ 1429.12 Service of process and papers by the Board.

(a) *Methods of service.* Notices of hearings, reports and findings, decisions of Administrative Law Judges, complaints, written rulings on motions, decisions and orders, and all other papers required by this subchapter to be issued by the Board, the General Counsel, Regional Directors, Hearing Officers and Administrative Law Judges, shall be served personally or by certified mail or by telegraph.

(b) *Upon whom served.* All papers required to be served under paragraph (a) of this section shall be served upon all counsel of record or other designated representative(s) of parties, and upon parties not so represented. Service upon such counsel or representative shall constitute service upon the party, but a copy also shall be transmitted to the party.

(c) *Proof of service.* Proof of service shall be the verified return by the individual serving the papers setting forth the manner of such service, the return post office receipt, or the return telegraph receipt. When service is by mail, the date of service shall be the day when the matter served is deposited in the United States mail. When service is to be made to an addressee outside the United States, the date of service shall be the date received, as evidenced by official receipt.

§ 1429.13 Official time.

If the participation of any employee in any phase of any proceeding before the Board, including the investigation of unfair labor practice charges and representation petitions and the participation in hearings and representation elections, is deemed

necessary by the Board, the General Counsel, any Administrative Law Judge, Regional Director, Hearing Officer, or other agent of the Board designated by the Board, such employee shall be granted official time for such participation, including necessary travel time, as occurs during the employee's regular work hours and when the employee would otherwise be in a work or paid leave status. In addition, necessary transportation and per diem expenses shall be paid by the Department.

§ 1429.14 Witness Fees.

(a) Witnesses (whether appearing voluntarily, or under a subpena) shall be paid the fee and mileage allowances which are paid subpenaed witnesses in the courts of the United States: *Provided,* That any witness who is employed by the Federal Government shall not be entitled to receive witness fees in addition to compensation received pursuant to §1429.13.

(b) Witness fees and mileage allowances shall be paid by the party at whose instance the witnesses appear, except when the witness receives compensation pursuant to (the preceding section).

§ 1429.15 Board requests for advisory opinions.

(a) Whenever the Board, pursuant to section 1007(c)(2)(f) of the Foreign Service Act of 1980 (22 U.S.C. 4107) requests an advisory opinion from the Director of the Office of Personnel Management concerning the proper interpretation of rules, regulations, or policy directives issued by that Office in connection with any matter before the Board, a copy of such request, and any response thereto, shall be served upon the parties in the matter.

(b) The parties shall have fifteen (15) days from the date of service a copy of the response of the Office of Personnel Management to file with the Board comments on that response which the parties wish the Board to consider before reaching a decision in the matter. Such comments shall be in writing and copies shall be served upon the parties in the manner and upon the Office of Personnel Management.

§ 1429.16 General remedial authority.

The Board shall take any actions which are necessary and appropriate to administer effectively the provisions of chapter 41 of title 22 of the United States Code.

Subpart B—General Requirements.

§ 1429.21 Computation of time for filing papers.

In computing any period of time prescribed by or allowed by this subchapter, except in agreement bar situations described in § 1422.3(c) of this subchapter, the day of the act, event, or default from or after which the designated period of time begins to run, shall not be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or a Federal legal holiday in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or a Federal legal holiday: *Provided, however,* In agreement bar situations described in § 1422.3 (c) and (d), if the sixtieth (60th) day prior to the expiration date of an agreement falls on Saturday, Sunday or a Federal legal holiday, a petition, to be timely, must be received by the close of business of the last official workday preceding the sixtieth (60th) day. When the period of time prescribed or allowed is seven (7) days or less, intermediate Saturdays, Sundays, and Federal legal holidays shall be excluded from the computations. When this subchapter requires the filing of any paper, such document must be received by the Board or the officer or agent designated to receive such matter before the close of business on the last day of the time limit, if any, for such filing or extension of time that may have been granted.

§ 1429.22 Additional time after service by mail.

Whenever a party has the right or is required to do some act pursuant to this subchapter within a prescribed period after service of a notice or other paper upon such party, and the notice or paper is served on such party by mail, five (5) days shall be added to the prescribed period.

§ 1429.23 Extension; waiver.

(a) Except as provided in paragraph (d) of this section, the Board or General Counsel, or their designated representatives, as appropriate, may extend any time limit provided in this subchapter for good cause shown, and shall notify the parties of any such extension. Requests for extensions of time shall be filed in writing no later than five (5) days before the established time limit for filing, shall state the position of the other parties on the request for extension, and shall be served on the other parties.

(b) Except as provided in paragraph (d) of this section, the Board or General Counsel, or their designated representatives, as appropriate, may waive any expired time limit in this subchapter in extraordinary circumstances. Request for a waiver of time limits shall state the position of the other parties and shall be served on the other parties.

(c) The time limits established in this subchapter may not be extended or waived in any manner other than that described in this subchapter.

(d) The time limits prescribed by 22 U.S.C. 4114(c) may not be waived.

§ 1429.24 Place and method of filing; acknowledgement.

(a) A document submitted to the Board pursuant to this subchapter shall be filed with the Board at the address set forth in the Appendix.

(b) A document submitted to the General Counsel pursuant to this subchapter shall be filed with the General Counsel at the address set forth in the Appendix.

(c) A document submitted to a Regional Director pursuant to this subchapter shall be filed with the appropriate regional office, as set forth in the Appendix.

(d) A document submitted to an Administrative Law Judge pursuant to this subchapter shall be filed with the appropriate Administrative Law Judge, as set forth in the Appendix.

(e) All documents filed pursuant to paragraphs (a), (b), (c) and (d) of this section shall be filed by certified mail or in person, or if the filing party is outside the United States, by the most appropriate available means.

(f) All matters filed under paragraphs (a), (b), (c) and (d) of this section shall be printed, typed, or otherwise legibly duplicated: Carbon copies of typewritten matter will be accepted if they are clearly legible.

(g) Documents in any proceedings under this subchapter, including correspondence, shall show the title of the proceeding and the case number, if any.

(h) The original of each document required to be filed under this subchapter shall be signed by the party or by an attorney or representative of record for the party, or by an officer of the party, and shall contain the address and telephone number of the person signing it.

(i) A return postal receipt may serve as acknowledgement of receipt by the Board, General Counsel, Administrative Law Judge, Regional Director, or Hearing Officer, as appropriate. The receiving officer will otherwise acknowledge receipt of documents filed only when the filing party so requests

and includes an extra copy of the document or its transmittal letter which the receiving office will date stamp upon receipt and return. If return is to be made by mail, the filing party shall include a self-addressed, stamped envelope for the purpose.

§ 1429.25 Number of copies.

Unless otherwise provided by the Board or the General Counsel, or their designated representatives, as appropriate, or under this subchapter, any document or paper filed with the Board, General Counsel, Administrative Law Judge, Regional Director, or Hearing Officer, as appropriate, under this subchapter, together with any enclosure filed therewith, shall be submitted in an original and four (4) copies. A clean copy capable of being used as an original for purposes such as further reproduction may be substituted for the original.

§ 1429.26 Other documents.

(a) The Board or the General Counsel, or their designated representatives, as appropriate, may in their discretion grant leave to file other documents as they deem appropriate.

(b) A copy of such other documents shall be served on the other parties.

§ 1429.27 Service; statement of service.

(a) Except as provided in § 1423.10 (c) and (d), any party filing a document as provided in this subchapter is responsible for serving a copy upon all counsel of record or other designated representative(s) of parties, upon parties not so represented, and upon any interested person who has been granted permission by the Board pursuant to § 1429.9 to present written and/or oral argument as amicus curiae. Service upon such counsel or representative shall constitute service upon the party, but a copy also shall be transmitted to the party.

(b) Service of any document or paper under this subchapter, by any party, including documents and papers served by one party on another, shall be made by certified mail or in person. A return post office receipt or other written receipt executed by the party or person served shall be proof of service.

(c) A signed and dated statement of service shall be submitted at the time of filing. The statement of service shall include the names of the parties and persons served, their addresses, the date of service, the nature of the document served, and the manner in which service was made.

(d) The date of service or date served shall be in the day when the matter served is deposited in the U.S. mail or is delivered in person. When service is to be made to an addressee outside the United States, the date of service shall be the date received, as evidenced by official receipt.

§ 1429.28 Petitions for amendment of regulations.

Any interested person may petition the Board or General Counsel in writing for amendments to any portion of these regulations. Such petition shall identify the portion of the regulations involved and provide the specific language of the proposed amendment together with a statement of grounds in support of such petition.

SUBCHAPTER D—FOREIGN SERVICE IMPASSE DISPUTES PANEL

PART 1470—GENERAL

Subpart A—Purpose

Sec.
1470.1 Purpose.

Subpart B—Definitions

1470.2 Definitions.

Authority: 22 U.S.C. 4107(c), 4110.

Subpart A—Purpose.

§ 1470.1 Purpose.

The regulations contained in this subchapter are intended to implement the provisions of section 4110 of title 22 of the United States Code. They prescribed procedures and methods which the Foreign Service Impasse Disputes Panel may utilize in the resolution of negotiation impasses.

Subpart B—Definitions

§ 1470.2 Definitions.

(a) The term "Department" as used herein shall have the meaning set forth in 22 U.S.C. 3902 and 4103, and § 1421.4 of subchapter C of these regulations.

(b) The terms "labor organization," and "conditions of employment" as used herein shall have the meanings set forth in 22 U.S.C. 4102.

(c) The term "Executive Director" means the Executive Director of the Federal Service Impasses Panel as defined in 5 U.S.C. 7119(c).

(d) The terms "designated representative" or "designee" of the Panel means a Panel member, a staff member, or other individual designated by the Panel to act on its behalf pursuant to 22 U.S.C. 4110(c)(1).

(e) The term "hearing" means a factfinding hearing, arbitration hearing, or any other hearing procedure deemed necessary to accomplish the purposes of 22 U.S.C. 4110.

(f) The term "impasse" means that point in the negotiation of a collective bargaining agreement at which the parties are deadlocked, notwithstanding their efforts to reach agreement by direct negotiations and other voluntary arrangements, if any.

(g) The term "Panel" means the Foreign Service Impasses Disputes Panel described in 22 U.S.C. 4110(a) or a quorum thereof.

(h) The term "party" means the Department or the labor organization participating in the negotiation of a collective bargaining agreement.

(i) The term "quorum" means three (3) or more members of the Panel.

(j) The term "voluntary arrangements" means any appropriate technique, not inconsistent with the provisions of 22 U.S.C. 4110, used by the parties to assist in the negotiation of a collective bargaining agreement.

PART 1471—PROCEDURES OF THE PANEL

Sec.
1471.1 Request for Panel consideration.
1471.2 Content of request.
1471.3 Where to file.
1471.4 Copies and service.
1471.5 Investigation of request; Panel recommendation and assistance.
1471.6 Preliminary hearing procedures.
1471.7 Conduct of hearing and prehearing conference.
1471.8 Report and recommendations.
1471.9 Duties of each party following receipt of recommendations.
1471.10 Final action by the Panel.

Authority: 22 U.S.C. 4107(c), 4110.

§ 1471.1 Request for Panel consideration.

If direct negotiations and other voluntary arrangements for settlement, if any, fail to resolve a negotiation impasse:

(a) Either party, or the parties jointly, may request the Panel to consider the matter by filing a request as hereinafter provided; or

(b) The Panel may, pursuant to 22 U.S.C. 4110(a), undertake consideration of the matter upon request of the Executive Director.

§ 1471.2 Content of request.

A request from a party or parties to the Panel for consideration of an impasse must be in writing and include the following information:

(a) Identification of the parties and individuals authorized to act on their behalf;

(b) Statement of issues at impasse and the summary of positions of the initiating party or parties with respect to those issues; and

(c) Number, length, and dates of negotiation sessions held, including the

nature and extent of all other voluntary arrangements utilized.

§ 1471.3 Where to file.

Requests to the Panel provided for in this part, and inquiries or correspondence on the status of impasses or other related matters, should be directed to the Executive Director, Federal Service Impasses Panel, Suite 209, 1730 K Street NW., Washington, D.C. 20006.

§ 1471.4 Copies and service.

Any party submitting a request for Panel consideration of an impasse and any party submitting a response to such requests shall file an original and one copy with the Panel, shall serve a copy promptly on the other party to the dispute, and shall file a statement of such service with the Executive Director. When the Panel acts on a request from the Executive Director, it will notify the parties to the dispute.

§ 1471.5 Investigation of request; Panel recommendation and assistance.

Upon receipt of a request for consideration of an impasse, the Panel or its designee will promptly conduct an investigation. After due consideration, the Panel shall either:

(a) Decline to assert jurisdiction in the event that it finds that no impasse exists or that there is other good cause for not asserting jurisdiction, in whole or in part, and so advise the parties in writing, stating its reasons; or

(b) Recommend to the parties procedures, including but not limited to arbitration, for the resolution of the impasse and/or assist them in resolving the impasse through whatever methods and procedures the Panel considers appropriate.

§ 1471.6 Preliminary hearing procedures.

When the Panel determines that a hearing is necessary under 1471.5 it will:

(a) Appoint one or more of its designees to conduct such hearing; and

(b) Issue and serve upon each of the parties a notice of hearing and a notice of prehearing conference, if any. The notice will state (1) the names of the parties to the dispute; (2) the date, time, place, type, and purpose of the hearing; (3) the date, time, place, and purpose of the prehearing conference, if any; (4) the name of the designated representative appointed by the Panel; and (5) the issues to be resolved.

§ 1471.7 Conduct of hearing and prehearing conference.

(a) A designated representative of the Panel, when so appointed to conduct a hearing, shall have the authority on behalf of the Panel to:

(1) Administer oaths, take the testimony or deposition of any person under oath, receive other evidence, and issue subpenas;

(2) Conduct the hearing in open or in closed session at the discretion of the designated representative for good cause shown;

(3) Rule on motions and requests for appearance of witnesses and the production of records;

(4) Designate the date on which posthearing briefs, if any, shall be submitted (an original and one (1) copy of each brief, accompanied by a statement of service, shall be submitted to the designated representative of the Panel with a copy to the other party); and

(5) Determine all procedural matters concerning the hearing, including the length of sessions, conduct of persons in attendance, recesses, continuances, and adjournments; and take any other appropriated procedural action which, in the judgment of the designated representative, will promote the purpose and objectives of the hearing.

(b) A prehearing conference may be conducted by the designated representative of the Panel in order to:

(1) Inform the parties of the purpose of the hearing and the procedures under which it will take place;

(2) Explore the possibilities of obtaining stipulations of fact;

(3) Clarify the positions of the parties with respect to the issues to be heard; and

(4) Discuss any other relevant matters which will assist the parties in the resolution of the dispute.

(c) An official reporter shall make the only official transcript of a hearing. Copies of the official transcript may be examined and copied at the Office of the Executive Director in accordance with Part 1411 of this chapter.

§ 1471.8 Report and recommendations.

(a) When a report is issued after a hearing conducted pursuant to §§ 1471.6 and 1471.7, it normally shall be in writing and, when authorized by the Panel, shall contain recommendations.

(b) A report of the designated representative containing recommendations shall be submitted to the parties, with two (2) copies to the Executive Director, within a period normally not to exceed thirty (30) calendar days after receipt of the transcript or briefs, if any.

(c) A report of the designated representative not containing recommendations shall be submitted to the Panel with a copy to each party within a period normally not to exceed thirty (30) calendar days after receipt of the transcript or briefs, if any. The Panel shall then take whatever action it may consider appropriate or necessary to resolve the impasse.

§ 1471.9 Duties of each party following receipt of recommendations.

(a) Within thirty (30) days after receipt of a report containing recommendations of the Panel or its designated representative, each party shall, after conferring with the other, either:

(1) Accept the recommendations and so notify the Executive Director; or

(2) Reach a settlement of all unresolved issues and submit a written settlement statement to the Executive Director; or

(3) Submit a written statement to the Executive Director setting forth the reasons for not accepting the recommendations and for not reaching a settlement of all unresolved issues.

(b) A reasonable extension of time may be authorized by the Executive Director for good cause shown when requested in writing by either party prior to the expiration of the time limits.

(c) All papers submitted to the Executive Director under this section shall be filed in duplicate, along with a statement of service showing that a copy has been served on the other party to the dispute.

§ 1471.10 Final action by the Panel.

(a) If the parties do not arrive at a settlement as a result of or during action taken under §§ 1471.5(a)(2), 1471.6, 1471.7, 1471.8, and 1471.9, the Panel may take whatever action is necessary and not inconsistent with 22 U.S.C. 4110 to resolve the impasse, including but not limited to methods and procedures which the Panel considers appropriate, such as directing the parties to accept a factfinder's recommendations, ordering binding arbitration conducted according to whatever procedure the Panel deems suitable, and rendering a binding decision.

(b) In preparation for taking such final action, the Panel may hold hearings, administer oaths, take the testimony or deposition of any person under oath, and issue subpenas as provided in 22 U.S.C. 4110(c)(2), or it may appoint or designate one or more individuals pursuant to 22 U.S.C. 4110(c)(1) to exercise such authority on its behalf.

(c) When the exercise of authority under this section requires the holding of a hearing, the procedure contained in § 1471.7 shall apply.

(d) Notice of any final action of the Panel shall be promptly served upon the parties, and the action shall be binding

on such parties during the term of the agreement, unless they agree otherwise.

(e) All papers submitted to the Executive Director under this section shall be filed in duplicate, along with a statement of service showing that a copy has been served on the other party to the dispute.

Appendix A to Chapter XIV

Current Addresses and Geographic Jurisdictions

(a) The Office address of the Board is as follows: 1900 E Street, NW., Room 7469, Washington, D.C. 20424. Telephone: Office of Executive Director, FTS—254–9595; Commercial—(202) 254–9595. Office of Operations, FTS—254–7362; Commercial—(202) 254–7362

(b) The Office address of the General Counsel is as follows: 1900 E Street, NW., Room 7469, Washington, D.C. 20424. Telephone: FTS—632–6264; Commercial—(202) 632–6264

(c) The Office address of the Chief Administrative Law Judge is as follows: 1111 20th Street, NW., Room 416, Washington, D.C. 20036. Telephone: FTS—653–7375; Commercial—(202) 653–7375

(d) The Office addresses of Regional Directors of the Authority are as follows:

(1) *Boston Regional Office,* 441 Stuart Street, 9th Floor, Boston, MA 02116. Telephone: FTS—223–0920; Commercial—(617) 223–0920

(2) *New York Regional Office,* 26 Federal Plaza, Room 241, New York, NY 10278. Telephone: FTS—264–4934; Commercial—(212) 264–4934

(a) *Philadelphia Sub-Regional Office,* 325 Chestnut Street, Mall Building, Room 5000, Philadelphia, PA 19106. Telephone: FTS—597–1527; Commercial—(215) 597–1527

(3) *Washington Regional Office,* 1133 15th Street, NW., Suite 300, Washington, D.C. 20005. Telephone: FTS—653–8452; Commercial—(202) 653–8452

(4) *Atlanta Regional Office,* 1776 Peachtree Street, NW., Suite 501, North Wing, Atlanta, GA 30309. Telephone: FTS—257–2324; Commercial—(404) 881–2324 or 881–2325

(5) *Chicago Regional Office,* 175 W. Jackson Blvd., Suite 1359–A, Chicago, IL 60604. Telephone: FTS—886–3468 or 886–3469; Commercial—(312) 353–6306

(a) *Cleveland Sub-Regional Office,* 1301 Superior Avenue, Suite 230, Cleveland, OH 44114. Telephone: FTS—293–2114; Commercial—(216) 522–2114

(6) *Dallas Regional Office,* Downtown Post Office Station, Bryan and Ervay Streets, P.O. Box 2640, Dallas, TX 75221. Telephone: FTS—729–4996; Commercial—(214) 767–4996

(7) *Kansas City Regional Office,* City Center Square, 1100 Main Street, Suite 680, Kansas City, MO 64105. Telephone: FTS—758–2199; Commercial—(816) 374–2199

(a) *Denver Sub-Regional Office,* 1531 Stout Street, Suite 301, Denver, CO 80202. Telephone: FTS—327-5224; Commercial—(303) 837-5224

(8) *Los Angeles Regional Office,* 350 So. Figueroa Street, 10th Floor, World Trade Center, Los Angeles, CA 90071. Telephone: FTS—798–3805; Commercial—(213) 688–3805

(a) *Honolulu Sub-Regional Office,* Room 3206, 300 Alamoana Blvd., Honolulu, Hawaii 96850. Telephone: FTS—556–0220 through San Francisco FTS Operator; Commercial—(808) 546–8355

(9) *San Francisco Regional Office,* 530 Bush Street, Room 542, San Francisco, CA 94108. Telephone: FTS—556–8105; Commercial—(415) 556–8105

(e) The Office address of the Panel is as follows: 1730 K Street, NW., Suite 209, Washington, D.C. 20006. Telephone: FTS—653–7078; Commercial—(202) 653–7078

(f) The geographic jurisdictions of the Regional Directors of the Authority, are as follows:

State or other locality	Regional office
Alabama	Atlanta
Alaska	San Francisco
Arizona	Los Angeles
Arkansas	Dallas
California	Los Angeles/San Francisco [1]
Colorado	Kansas City
Connecticut	Boston
Delaware	New York
District of Columbia	Washington, D.C.
Florida	Atlanta
Georgia	Atlanta
Hawaii and all land and water areas west of the continents of North and South America (except coastal islands) to long. 90¼E	Los Angeles
Idaho	San Francisco
Illinois	Chicago
Indiana	Chicago
Iowa	Kansas City
Kansas	Kansas City
Kentucky	Atlanta
Louisiana	Dallas
Maine	Boston
Maryland	Washington, D.C.
Massachusetts	Boston
Michigan	Chicago
Minnesota	Chicago
Mississippi	Atlanta
Missouri	Kansas City
Montana	Kansas City
Nebraska	Kansas City
Nevada	San Francisco
New Hampshire	Boston
New Jersey	New York
New Mexico	Dallas
New York	Boston/New York [2]
North Carolina	Atlanta
North Dakota	Kansas City
Ohio	Chicago
Oklahoma	Dallas
Oregon	San Francisco
Pennsylvania	New York
Puerto Rico	New York
Rhode Island	Boston
South Carolina	Atlanta
South Dakota	Kansas City
Tennessee	Atlanta
Texas	Dallas
Utah	Kansas City
Vermont	Boston
Virginia	Washington, D.C./ Atlanta [3]
Washington	San Francisco
West Virginia	Washington, D.C.
Wisconsin	Chicago
Wyoming	Kansas City
Virgin Islands	New York
Panama/Limited FLRA jurisdiction	Dallas
All land and water areas east of the continents of North and South America to long. 90¼E, except the Virgin Islands, Panama (limited FLRA jurisdiction), Puerto Rico and coastal islands	Washington

[1] San Francisco includes the following California counties: Monterey, Kings, Tulare, Inyo, and all counties north thereof. All counties in California south thereof are within the Los Angeles jurisdiction.

[2] New York includes the following counties: Ulster, Sullivan, Greene, Columbia and all counties south thereof. All counties in New York state north thereof are in the jurisdiction of Boston.

[3] Washington, D.C. includes the following counties in Virginia: Alexandria, Fairfax, Fauquier, Loudoun and Prince William. All other counties within Virginia are in the jurisdiction of Atlanta.

Note.—The Foreign Service Labor Relations Board, the Federal Labor Relations Authority, the General Counsel of the Federal Labor Relations Authority, and the Foreign Service Impasses Disputes Panel have determined that this document does not require preparation of a Regulatory Flexibility Analysis as required under section 605(b) of the Regulatory Flexibility Act of 1980.

Dated: September 9, 1981.

Ronald W. Haughton,

Chairperson.

Arnold Ordman,

Member.

Arnold M. Zack,

Member.

H. Stephen Gordon,

General Counsel.

[FR Doc 81–26694 Filed 9–14–81; 8:45 am]

BILLING CODE 6727–01–M

22 CFR Ch. XIV

Memorandum Describing the Authority and Assigned Responsibilities of the General Counsel of the Federal Labor Relations Authority Under the Foreign Service Labor-Management Relations Statute

AGENCY: Foreign Service Labor Relations Board.

ACTION: Foreign Service Labor Relations Board memorandum describing the authority and assigned responsibilities of the General Counsel of the Federal Labor Relations Authority under the Foreign Service Labor-Management Relations Statute.

SUMMARY: This memorandum of the Foreign Service Labor Relations Board describes the statutory authority and sets forth the prescribed duties and authority of the General Counsel of the Federal Labor Relations Authority under the Foreign Service Labor-Management Relations Statute.

EFFECTIVE DATE: February 15, 1981.

FOR FURTHER INFORMATION CONTACT:
James J. Shepard, Executive Director, Board (202) 254–9595
S. Jesse Reuben, Deputy General Counsel, (202) 254–8305

SUPPLEMENTARY INFORMATION: The Foreign Service Labor Relations Board was established by Chapter 10 of title 1 of the Foreign Service Action of 1980, effective February 15, 1980 (94 Stat. 2128). Pursuant to 5 U.S.C. 552(a)(1), the Board hereby publishes, the following memorandum of the Board describing the authority and assigned responsibilities of the General Counsel of the Federal Labor Relations Authority under the Foreign Service Labor-Management Relations Statute (Foreign Service Statute).

22 CFR Chapter XIV is amended by adding the following Appendix B to read as follows:

Appendix B to Ch. XIV—Memorandum Describing the Authority and Assigned Responsibilities of the General Counsel of the Federal Labor Relations Authority Under the Foreign Service Labor-Management Relations Statute

The statutory authority and responsibility of the General Counsel of the Federal Labor Relations Board are stated in section 4108 subsections (1), (2) and (3), of the Foreign Service Labor-Management Relations Statute as follows:

Section 4108 Functions of the General Counsel

The General Counsel may—

(A) investigate alleged unfair labor practices under this chapter,

(B) file and prosecute complaints under this chapter, and

(C) exercise such other powers of the Board as the Board may prescribe.

This memorandum is intended to describe the statutory authority and set forth the prescribed duties and authority of the General Counsel of the Federal Labor Relations Authority under the Foreign Service Statute, effective February 15, 1981.

I. *Case handling.* A. *Unfair labor practice cases.* The General Counsel has full and final authority and responsibility, on behalf of the Board, to accept and investigate charges filed, to enter into and approve the informal settlement of charges, to approve withdrawal requests, to dismiss charges, to determine matters concerning the consolidation and severance of cases before complaint issues, to issue complaints and notices of hearing, to appear before Administrative Law Judges in hearings on complaints and prosecute as provided in the Board's and the General Counsel's rules and regulations, and to initiate and prosecute injunction proceedings as provided for in section 4109(d) of the Foreign Service Statute. After issuance of the Administrative Law Judge's decision, the General Counsel may file exceptions and briefs and appear before the Board in oral argument, subject to the Board's and the General Counsel's rules and regulations.

B. *Compliance actions (injunction proceedings).* The General Counsel is authorized and responsible, on behalf of the Board, to seek and effect compliance with the Board's orders and make such compliance reports to the Board as it may from time to time require.

On behalf of the Board, the General Counsel will, in full accordance with the directions of the Board, initiate and prosecute injunction proceedings as provided in section 4109(d) of the Foreign Service Statute: *Provided however,* That the General Counsel will initiate and conduct injunction proceedings under section 4109(d) of the Foreign Service Statute only upon approval of the Board.

C. *Representation cases.* The General Counsel is authorized and has responsibility, on behalf of the Board, to receive and process, in accordance with the decisions of the Board and with such instructions and rules and regulations as may be issued by the Board from time to time, all petitions filed pursuant to sections 4111 and 4118(c) of the Foreign Service Statute. The General Counsel is also authorized and has responsibility to supervise or conduct elections pursuant to section 4111 of the Foreign Service Statute and to enter into consent election agreements in accordance with section 4111(g) of the Foreign Service Statute.

The authority and responsibility of the General Counsel in representation cases shall extend, in accordance with the rules and regulations of the Board and the General Counsel, to all phases of the investigation through the conclusion of the hearing (if a hearing should be necessary to resolve disputed issues), but all matters involving decisional action after such hearings are reserved by the Board to itself. In the event a direction of election should issue by the Board, the authority and responsibility of the General Counsel, as herein prescribed, shall attach to the conduct of the ordered election, the initial determination of the validity of challenges and objections to the conduct of the election and other similar matters, except that if appeals shall be taken from the General Counsel's action on the validity of challenges and objections, such appeals will be directed to and decided by the Board in accordance with its procedural requirements. If challenged ballots would not affect the election results and if no objections are filed within five days after the conduct of the Board-directed election under the provisions of section 4111 of the Foreign Service Statute, the General Counsel is authorized and has responsibility, on behalf of the Board, to certify to the parties the results of the election in accordance with regulations prescribed by the Board and the General Counsel.

Appeals from the refusal of the General Counsel to issue a notice of hearing, from the conclusions contained in a report and findings issued by the General Counsel, or from the dismissal by the General Counsel of any petition, will be directed to and decided by the Board, in accordance with its procedural requirements.

In processing election petitions filed pursuant to section 4111 of the Foreign Service Statute and petitions filed pursuant to section 4118(c) of the Foreign Service Statute, the General Counsel is authorized to conduct an appropriate investigation as to the authenticity of the prescribed showing of interest and, upon making a determination to proceed, where appropriate, to supervise or conduct a secret ballot election or certify the validity of a petition for determination of eligibility for dues allotment. After an election, if there are no challenges or objections which require a hearing by the Board, the General Counsel shall certify the results thereof, with appropriate copies lodged in the Washington, D.C., files of the Board.

II. *Liaison with other governmental agencies.* The General Counsel is authorized and has responsibility, on behalf of the Board, to maintain appropriate and adequate liaison and arrangements with the Office of the Assistant Secretary of Labor for Labor-Management Relations with reference to the financial and other reports required to be filed with the Assistant Secretary pursuant to section 4117 of the Foreign Service Statute and the availability to the Board and the General Counsel of the contents thereof. The General Counsel is authorized and has responsibility, on behalf of the Board, to

maintain appropriate and adequate liaison with the Foreign Service Grievance Board with respect to functions which may be performed by the Foreign Service Grievance Board.

III. To the extent that the above-described duties, powers and authority rest by statute with the Board, the foregoing statement constitutes a prescription and assignment of such duties, powers and authority, whether or not so specified.

Dated: September 9, 1981.

Foreign Service Labor Relations Board.

Ronald W. Haughton,

Chairperson.

Arnold Ordman,

Member.

Arnold M. Zack,

Member.

[FR Doc. 81-26095 Filed 9-14-81; 8:45 am]

BILLING CODE 6727-01-M

federal register

Tuesday
September 15, 1981

Part III

Department of the Interior

Bureau of Land Management

Oil and Gas Leasing; Increase in Filing Fees Accompanying Noncompetitive Oil and Gas Lease Applications

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3100 and 3110

[Circular No. 2491]

Oil and Gas Leasing; Increase in Filing Fees Accompanying Noncompetitive Oil and Gas Lease Applications

AGENCY: Bureau of Land Management, Interior.

ACTION: Interim final rulemaking.

SUMMARY: This interim final rulemaking will increase the filing fee that accompanies noncompetitive oil and gas lease applications from the current $10 to $25 as required by the Omnibus Budget Reconciliation Act. The change will be applicable to all lease applications filed on or after October 1, 1981.

EFFECTIVE DATE: October 1, 1981.

ADDRESS: Any comments, suggestions or inquiries should be sent to: Director (650), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Charles Weller, (202) 343–7753.

SUPPLEMENTARY INFORMATION: The Omnibus Budget Reconciliation Act provides in part that "* * *, effective October 1, 1981, all applications for noncompetitive oil and gas leases shall be accompanied by a filing fee of not less than $25 for each such application: * * *". Consistent with that Congressional mandate, the Department of the Interior is amending the Oil and Gas Leasing regulations to increase the filing fee for noncompetitive oil and gas lease applications from $10 to $25. In the absence of this interim final rulemaking, the existing regulations would be invalid because they would be inconsistent with the Omnibus Budget Reconciliation Act and, therefore, noncompetitive oil and gas lease applications could be accepted.

This change in filing fees will apply to all noncompetitive oil and gas lease applications filed on or after October 1, 1981, the effective date of this rulemaking. Any applications received in the proper Bureau of Land Management office after the effective date and not accompanied by a $25 filing fee will be considered unacceptable and will be returned to the applicant, along with the filing fee.

Since the Omnibus Budget Reconciliation Act requires that the filing fee increase be made effective as of October 1, 1981, there is insufficient time to publish the change in the regulations as a proposed rulemaking. This rulemaking is therefore published as an interim final rulemaking giving the public an opportunity to comment. Comments received on this interim final rulemaking will be reviewed and incorporated with comments on any subsequent revision of 43 CFR Part 3100 which covers filing fees and changes thereto. In addition, the Department of the Interior has determined that good cause exists for publishing this rulemaking in the Federal Register less than 30 days prior to its effective date.

The Omnibus Budget Reconciliation Act, in addition to requiring that the filing fee for noncompetitive oil and gas lease applications be set at $25, gives the Secretary of the Interior authority to increase the filing fee above that figure. The public is requested to give its views on the question of whether the filing fee should be increased above $25. While the Department of the Interior has no discretion concerning the increase of the filing fee to $25, it will receive and review any and all comments, suggestions or inquiries concerning this final rulemaking.

The Bureau of Land Management State offices will post notices explaining this change. They will also take whatever action is deemed necessary to ensure the broadest possible coverage in publicizing the increase in the filing fee.

The principal author of this final rulemaking is Rob Cervantes, Division of Onshore Energy Resources, Bureau of Land Management.

It is hereby determined that the publication of this document is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Reform Act (Pub. L. 96–354).

Under the authority of the Omnibus Budget Reconciliation Act, Parts 3100 and 3110, Group 3100, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations are amended as follows.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

August 31, 1981.

PART 3100—OIL AND GAS LEASING

§ 3103.1–3 [Amended]

1. Section 3103.1–3 is amended by deleting the figure "$10" where it appears and replacing it with the figure "$25".

§ 3103.2–1 [Amended]

2. Section 3103.2–1(a) is amended by deleting the figure "$10" where it appears and replacing it with the figure "$25".

PART 3110—NONCOMPETITIVE LEASES

§ 3111.1–3 [Amended]

3. Section 3111.1–3(a) is amended by deleting the figure "$10" where it appears and replacing it with the figure "$25".

§ 3112.2–2 [Amended]

1. Section 3112.2–2(a) is amended by deleting the figure "$10" where it appears and replacing it with the figure "$25".

[FR Doc. 81–26824 Filed 9–14–81; 8:45 am]

BILLING CODE 4310–84–M

federal register

Tuesday
September 15, 1981

Part IV

Department of Commerce

National Oceanic and Atmospheric Administration

Deep Seabed Mining Regulations for Exploration Licenses: Final Rules

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 970

Deep Seabed Mining Regulations for Exploration Licenses

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final rules.

SUMMARY: Pub. L. 96–283, the Deep Seabed Hard Mineral Resources Act (the Act), establishes a program pursuant to which the Administrator of the National Oceanic and Atmospheric Administration (NOAA) is authorized to issue to eligible United States citizens licenses for exploration for deep seabed hard mineral resources and permits for the commercial recovery of such resources. The Act calls for NOAA to issue such regulations as are required by or are necessary and appropriate to implement this program. These rules set forth the procedures and substantive requirements according to the terms of the Act pursuant to which U.S. citizens may apply for and NOAA will issue exploration licenses.

DATES: These rules will become effective October 15, 1981.

ADDRESSES: Inquiries and submissions should be mailed to: Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Page Building 1, Suite 410, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: James P. Lawless, Acting Director, Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Page Building 1, Suite 410, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235, Telephone: (202) 653–7695.

SUPPLEMENTARY INFORMATION: The Act was signed into law on June 28, 1980. It establishes a legal structure pursuant to which United States citizens may proceed with the exploration for and commercial recovery of deep seabed hard minerals (commonly referred to as "manganese nodules"), pending conclusion of an acceptable Law of the Sea Treaty which would address the same issue. The Act authorizes the Administrator of NOAA to issue to eligible U.S. citizens licenses for the exploration for deep seabed hard minerals (which licenses may not be issued before July 1, 1981) and permits for the commercial recovery of such minerals (which permits may not authorize commercial recovery to commence before January 1, 1988). The Act also authorizes NOAA, in consultation with the Secretary of State and the heads of other appropriate departments and agencies, to designate as reciprocating states those other nations which establish seabed mining programs which are compatible with and recognize the U.S. program. These reciprocal arrangements will provide a mechanism whereby each nation will recognize the rights of the others' miners.

These regulations for the issuance of exploration licenses have been developed, consistent with the purposes of the Act, to establish a legal framework to facilitate the development of the new seabed mining industry in the United States, while assuring that such efforts proceed in a responsible and environmentally sensitive manner. The regulations are intended to provide the necessary degree of certainty to the industry in the United States, while also recognizing the need for flexibility in order to promote the development of deep seabed mining technology, and the usefulness of allowing initiative on behalf of miners to develop mining techniques and systems in a manner compatible with requirements of the Act and these regulations. In this regard the regulations reflect an approach, pursuant to the Act, whereby the issues discussed ultimately will be addressed and evaluated on the basis of the application and exploration plan submitted by each applicant.

Structure of the Regulations

The proposed regulations are structured to present procedures and requirements in the approximate chronological order they will be encountered in the application process. They begin by setting out their underlying purpose and the basic legal premises established by the Act, as well as the definitions applicable to the rules. Next, the steps that the applicant and NOAA will follow are set forth mostly in Subparts B through E, while the more substantive discussion of major issues that arise during the course of issuing and operating under a license are found primarily in Subparts F, G, and H. Miscellaneous provisions, plus the primary procedural subparts, follow.

Public Comment Opportunities

In developing these regulations, NOAA has pursued a continuing effort to provide for and encourage public participation. On July 28, 1980, NOAA published in the **Federal Register** and distributed an advance notice of proposed rulemaking (45 FR 49953), seeking comments and information for use in this rulemaking. In November 1980, after considering the responses received on the advance notice, NOAA issued a discussion paper on the major issues to be addressed in regulations. This paper was sent to interested persons and organizations, and a notice published in the **Federal Register** (45 FR 79089, November 28, 1980), seeking comments. Also, a public hearing was held on December 17, 1980, to receive comments. With the benefit of these earlier comments NOAA published proposed rules on pages 18448–18475 of the **Federal Register** of March 24, 1981, and invited comments to be submitted by May 29, 1981. Also during this period public hearings were held in Honolulu, San Francisco and Washington, D.C. Comments on the proposed rules were received from 25 sources, including industry, state representatives, environmental groups, academia and other Federal agencies. Copies of the comments are available for review at the above address.

Summary of Comments and Responses

The comments submitted were useful in assisting NOAA to consider further the issues raised by the requirements of the Act and the related provisions in the regulations. A number of such comments provided improvements and refinements to the general approach proposed by NOAA, while many were the basis for clarification of specific provisions. The following summarizes the major comments and NOAA's responses.

Subpart A—General

Two commentors proposed that NOAA define or distinguish in greater detail those activities for which a license is not required. In the preamble to its proposed rules, NOAA indicated its initial view that a definitive and useful expansion in defining these exempted activities could not be provided, and that there were sufficient other incentives for a person to file an application for a license, if required, that such expansion was not necessary. Since these commentors did not offer any specific provisions or any reason why NOAA's initial view was invalid, and having reconsidered this issue, NOAA has concluded that it still is not necessary to expand on these exemptions.

Another commentor suggested that the regulations require parties, when undertaking in a license area those activities authorized to occur without a license, to give prior notice thereof, so as to allow for preventing conflicts with the activities of the licensee. Since such exempted activities do not require a

NOAA license, NOAA believes the Act does not provide authority to require such notice in the absence of conflict. However, NOAA believes that the public nature of issuing a license will provide adequate notice to such interested parties so as to alert them to the possibility of conflict and thus reduce the likelihood of its occurring.

Subpart B—Applications

Pre-application consultations. It was suggested that, with respect to the pre-application consultation provided for in § 970.200(d), the regulations should specify that in appropriate circumstances NOAA would provide written confirmation to the applicant of and verbal guidance resulting from such consultations. This has been incorporated into the regulations.

Statement of financial resources. The point was made that, at the time of submitting a license application, it is unlikely that an applicant would have actual assurance of the funding necessary for his entire exploration program. Rather, the comment suggested that a more realistic test should be whether the applicant can demonstrate a reasonable capability to commit or raise sufficient resources. (Thereafter, periodic review could be maintained satisfactorily through diligence requirements.) This revision was incorporated in § 970.201(a) and also is reflected in § 970.401. Commentors also suggested that the application need contain financial information with respect to only the applicant and those entities upon which the applicant will rely to finance his exploration activities and further suggested reliance on current Securities and Exchange Commission filings as sufficient documentation for publicly-held companies. NOAA agrees that these are reasonable revisions to this portion of the regulations, and has incorporated changes to this effect. Thus, the regulations no longer rely on the § 970.101(d) definition of "affiliate" in addressing the financial resources of the applicant. In addition, NOAA has incorporated the suggestion that § 970.201(b) request credit and bond ratings only if relevant. NOAA does not believe, however, that it can justify incorporating the suggested automatic exclusion of such information because it is proprietary or not reasonably available. Such information is still likely to be necessary for NOAA's determination. With respect to the former, § 970.902 specifically provides for protection of proprietary information, so that such exclusion is unnecessary. As for the latter, it would be impossible to define in these regulations what constitutes reasonable availability. Rather, individual difficulties can be addressed during pre-application consultations in each case.

Technological capabilities. In regard to this issue, it was suggested that an applicant be allowed to present technological knowledge and skills to which he can demonstrate access, as well as that which he possesses. This clarification has been incorporated in both §§ 970.202 and 970.402. The latter section, in response to a comment, also clarifies that the applicant need not demonstrate existing availability of all technology for the full exploration plan, particularly pertaining to the later stages of exploration. Rather, to allow for the future evolution of such technology, he need only show a reasonable expectation of obtaining the necessary technology.

Exploration plan. Several comments proposed that, rather than indicating that an exploration plan must reflect the actual initiation of commercial recovery by the end of the ten-year license period, it would be more appropriate for the regulations to provide that the plan must reflect the development of information within the license period which is sufficient to provide a basis for an application for a commercial recovery permit. NOAA concurs with this concept and has incorporated language in § 970.203(a) to reflect it. Related provisions in § 970.602(b) pertaining to diligence requirements also have been revised to reflect this approach. In addition, in response to comment, NOAA has clarified its view that the intended exploration schedule in an exploration plan can be sufficiently flexible to take into account the different concepts and chronologies to be employed by different applicants. This clarification includes the recognition in the regulations that a proposed licensee's approach could rely on the future participation by other entities to develop a mine site. If so, the plan should include a general description of how the applicant proposes to dovetail its activities with those of the other entities. The regulations also clarify, in response to comment, that at the time of application descriptions of planned designs and tests of recovery and processing systems can be general. These provisions were accompanied by other clarifications on the contents for an exploration plan, in response to comments. In particular, NOAA has added the specific recognition that the plan may include a retrospective element in the form of a description of any relevant activity, i.e., exploration and prospecting work, completed by the applicant prior to the submission of the application. One commentor also proposed that the provisions in § 970.203(b)(7), pertaining to plans for environmental monitoring and protection, be deleted and deferred until commercial recovery. However, NOAA believes this would be contrary to the Act since section 103(a)(2)(B) thereof specifies this as one element of an exploration plan.

Environmental information. Comments requested some clarification of the information needed for the site-specific EIS which NOAA must issue for each license, including clarification on the timeliness of submission of such information. The regulations have been revised in § 970.204(a) in this regard. They set forth the approach which has been developed in more detail in the technical guidance document referenced in that subsection. The clarification includes the minimum information which NOAA will need with an application, as well as the explanation of the need for all information at least one year prior to the testing of integrated mining systems. Although the regulations strongly encourage the submission of all needed information with the application, this need for any remaining information one year in advance of testing is based upon the possibility that, to the extent that detailed information on system tests is submitted subsequent to the basic application, NOAA may be required to issue a supplement to the site-specific EIS relating to the license. Until its EIS responsibilities are met, NOAA cannot authorize such system testing activities. NOAA did not feel it could accept one comment, that information need be submitted only on prototype or large-scale equipment tests since small-scale tests will not require the filing of a supplement. NOAA believes it is premature to make this distinction and determination in the absence of more specific information. Thus, the regulations provide for information on all tests of integrated mining systems.

Vessel safety. One comment received questioned the authority of the Administrator to require foreign flag vessels to comply with structural and safety requirements for United States vessels when the flag state is not a party to either SOLAS 74 or SOLAS 60. It was suggested that flag state requirements in conjunction with satisfaction of the applicable rules of an international classification society would provide adequate protection for the safety of life and property at sea. NOAA believes the commentor was not correct in stating that Congress did not convey authority

to the Administrator to require adherence by foreign flag vessels to standards adequate to insure the safety of life and property at sea, whether the standards be those of the United States or some other adequate criterion. The United States has adhered to the position that minimum design and construction standards should be implemented through competent international organizations. Thus, the suggestion that satisfaction of flag state requirements would suffice to enable the Administrator to make the necessary findings is not compelling. Further, such an approach would demand a case-by-case review of the design and construction standards for non-SOLAS flag states. However, consideration of the suggestion that certification of international classification societies would adequately address the safety concerns at issue has led to the conclusion that the small percentage of vessels not registered under SOLAS flags could most effectively be handled by requiring their certification to the applicable published rules of a member of the International Association of Classification Societies (IACS). Therefore, § 970.205(b)(3) has been altered to allow such certification to provide the basis for the necessary determinations with respect to safety of life and property at sea, pursuant to §§ 970.507, 970.521 and Subpart H of these regulations.

NPDES requirements. Although section 109(e) of the Act provides that requirements pertaining to National Pollutant Discharge Elimination System (NPDES) permits, pursuant to the Clean Water Act, apply to any discharge of a pollutant from a vessel or other floating craft engaged in deep seabed mining exploration, there is no legal requirement for an applicant to obtain such a permit prior to NOAA's issuance of an exploration license. Nevertheless, in its proposed rules NOAA had included a mechanism, as part of the NOAA application, for facilitating the efforts of both prospective miners and the Environmental Protection Agency (EPA) with respect to NPDES permits. This effort also included the assessment in NOAA's programmatic environmental impact statement of the effects on water quality of discharges from deep seabed mining exploration activities. However, in subsequent discussions with NOAA, EPA has advised of its intention to issue a general NPDES permit to cover all deep seabed mining exploration activities which are covered by these regulations, and has initiated efforts to do so. Since EPA's regulations providing for the issuance of general NPDES permits eliminate the need for applications, NOAA has deleted from its application regulations reference to EPA's requirements for NPDES applications. However, owners or operators of deep seabed mining facilities will be required under EPA procedures to notify EPA of their intent to be covered by the general permit when it is issued. If EPA's procedures should result in that agency's not issuing a final general NPDES permit to cover these activities, the individual explorer would be required to apply for an individual NPDES permit under 40 CFR 122.53.

Antitrust information. Comments urged that the information requested in the original § 970.208, to assist the Attorney General and the Federal Trade Commission in the antitrust review provided for in section 103(d) of the Act, in part was overly broad and unduly burdensome. In response to these concerns, NOAA has eliminated the requirement for market studies, surveys and other memoranda on the future prospects for deep seabed mining, as well as the requirement for supplementary information upon request. Furthermore, in lieu of the original request for certain business information pertaining to all affiliates of the applicant, the final regulations require such information only if such affiliate, or parent or subsidiary of the affiliate, is engaged in production in, or the purchase or sale in or to, the United States of copper, nickel, cobalt or manganese minerals, or any metals refined from these minerals.

Fee. In response to suggestions to allow for adjustment in the application fee so as to reflect more closely the actual cost of reviewing and processing the application, the regulations now specify that NOAA will subsequently adjust the fee if costs incurred are significantly less than the original fee, as well as if they are significantly greater. In addition, NOAA has responded to the suggestion for a substantially reduced fee, in case of transfer of a license to an applicant previously found qualified, by providing for an appropriate fee reduction in advance in such cases, on the basis of pre-application consultations pursuant to § 970.200(d). NOAA cannot specify in advance how extensive such reduction may be, and thus believes that a case-by-case review will be necessary.

Substantial compliance. It was suggested that the regulations provide that, if an application is in substantial but not full compliance with the regulations, NOAA's notice thereof should specify the information which the applicant must submit in order to bring it into full compliance, and why the additional information is necessary. NOAA believes this would be appropriate and has incorporated language to this effect. However, NOAA has determined that the Act does not grant it the discretion to employ a "good faith" test for pre-enactment explorers, rather than the substantial compliance test, as was suggested by one commentor.

Federal consultation and cooperation. In response to requests that NOAA identify those other agencies which have indicated statutory responsibilities which would be affected by proposed seabed mining exploration activities, and thus automatically would be sent copies of each application, NOAA has listed these other agencies in the regulations.

Public hearings. A commentor pointed out that NOAA's procedures could be interpreted to require a public hearing on a license application both before certification of the application and after preparation of the draft EIS on such application. NOAA does not believe that it generally would be necessary to hold multiple public hearings on each application, and did not intend to so require in its regulations. Therefore, new § 970.212(b) clarifies that the required public hearing will be held after preparation of the draft EIS on an application.

Subpart C—Procedures for Applications Based on Exploration Commenced before June 28, 1980

In its preamble to its proposed rules, NOAA pointed out that, in developing the final version of this subpart involving resolution of potential conflicts among applications of pre-enactment explorers, NOAA would consider procedures being developed in negotiations among reciprocating states. This was because NOAA recognizes that, for the most part, the procedures should be compatible. Although a number of comments were submitted on this subpart of the proposed rules, a primary thrust likewise was that NOAA should assure that the domestic procedures in these rules and comparable procedures agreed to among reciprocating states should be conformed. Since the terms of such procedures have not been completely resolved among reciprocating states, NOAA has concluded that it would be premature to publish Subpart C at the present time. Thus, it has been reserved in the final regulations, so that NOAA can assure adequate compatibility between this subpart and the terms

established among reciprocating states. When those terms are resolved, which should be in the near future, NOAA will publish the final regulations for Subpart C. NOAA will not accept applications from any person until after Subpart C is published.

Subpart D—Certification of Applications

Denial of certification. A commentor urged that, contrary to NOAA's proposed rules, the only basis for denial of certification is failure to meet the requirements of Subpart D of the regulations pertaining to certification, and that reference to the requirements for issuance or transfer should be deleted as a requirement at this stage. As a general rule, prior to certification NOAA intends to devote its efforts to review of the application only in the context of the certification requirements specified in Subpart D of the regulations. However, NOAA cannot concur with the particular comment that the agency has no authority to deny certification on the basis of failure to meet a requirement for issuance or transfer of a license. This authority is set forth in section 106(a) of the Act. Therefore, although NOAA views this occurrence as rather unlikely, if in the course of reviewing an application for certification the Administrator becomes aware of the fact that one or more of the requirements for issuance or transfer of a license will not be met, NOAA believes that it would be an unwarranted and useless expenditure of public resources to continue with the review and procedures associated with the issuance of a license. Thus, the general concept has been retained, although the regulations have been clarified to reflect that review of issuance requirements is not expected as a matter of course.

Subpart E—Issuance/Transfer/Terms, Conditions and Restrictions

Terms, conditions, and restrictions. In response to comment, NOAA has included in the regulations the provision from the Act that proposed and final terms, conditions and restrictions will be uniform in all licenses, except to the extent that differing physical and environmental conditions require the establishment of special terms, conditions and restrictions for the conservation of natural resources, protection of the environment, or the safety of life and property at sea.

Freedom of the high seas. One commentor objected to the inclusion of specific factors in § 970.503(c)(2) pertaining to the Administrator's decision on whether proposed exploration activities would unreasonably interfere with the exercise of the freedoms of the high seas by other nations, as recognized under general principles of international law. NOAA has deleted the list of factors. However, NOAA believes that it would be inappropriate, as recommended by another commentor, to specify in this section that this applies to "superior" freedoms. Rather, NOAA believes it more appropriate to refer to the general principles of international law as the basis for such determination.

Suspension or modification of activities; suspension or revocation of licenses. NOAA has incorporated the suggested addition to the new § 970.511 that the Administrator will immediately rescind a suspension order as soon as he has determined that the cause for suspension has been removed. A commentor also suggested providing for appeal of agency decisions pursuant to the Administrative Procedure Act; this is already included in § 970.511(g).

Revision of a license. In response to comment, § 970.513 has been revised to clarify that applications for revisions to licenses are required only for major changes in exploration activities, and a description has been included as to what constitutes a major change.

Duration of a license. One commentor suggested that, with respect to the extension of a license, the Administrator should make allowance for deviations from the original exploration plan for good cause. NOAA concurs with this concept and has included provision in the regulations to this effect. The regulations also now specify that a request for extension must be accompanied by an amended exploration plan.

License transfers. A commentor urged that, in instances where only the form or ownership of a licensee is changed, the application for a transfer should not be required. NOAA does not believe it appropriate to delete the requirement altogether, but it recognizes that full application procedures may be unduly burdensome and believes that the regulations should allow the Administrator to take account of such circumstances. Therefore, the regulations have been revised to allow him to waive relevant determinations for requirements for which no changes have occurred since the preceding application. Another commentor requested that, since section 105(a) of the Act contained no requirement for a public interest determination for license transfers, this provision should be deleted from the regulations. Section 115(b) of the Act does require such a determination, however, so the provision has been retained.

Subpart F—Resource Development Concepts

Logical mining unit. One commentor suggested that the 1866 Clarke Spheroid may be an inappropriate reference, and that perhaps another method should be prescribed for delineating an applicant's logical mining unit. After discussions with representatives of cognizant Federal agencies, NOAA has revised the regulations to specify that the applicant must present the geodetic coordinates of the points defining the boundaries, referred to the World Geodetic System (WGS) Datum, and that a boundary between points must be a geodesic. If grid coordinates are desired, the Universal Transverse Mercator Grid System must be used. NOAA believes this approach is consistent with another comment which supported the concept that there should be no restriction on the shape of a logical mining unit, so long as it can be explored and ultimately mined effeciently, and the boundaries are described by north-south and east-west lines. In response to another commentor's query as to the justification for a presumed limit of 80,000 square kilometers as the size of an exploration area, and in recognition of the relationship of any presumed size to conflict resolution among pre-enactment explorers' applications, NOAA has presently deleted the reference in § 970.601(b) to any presumed number. However, the application still must describe how the size and location selection constitutes a logical mining unit. If a presumed number is agreed to as a part of the reciprocating state discussions, this will be incorporated in Subpart C and § 970.601(b). Finally, while one commentor objected to the inclusion in § 970.601(b) of an optional double logical mining unit for satisfying a possible obligation under a future Law of the Sea Treaty, another proposed that this provision should be mandatory. Due to the presently undefined nature of such a treaty, NOAA believes the proposed approach remains the most appropriate, whereby the regulations provide a mechanism if an applicant wants to plan accordingly, but they do not mandate tying into a presently undefined system.

Conservation of resources. Two commentors proposed that conservation of resources is a concept which applies only to commercial recovery, and that therefore the conservation requirements referred to in §§ 970.519 and 970.603 should be deleted from these regulations, which deal only with exploration. NOAA agrees that it presently appears unnecessary to

impose conservation measures during exploration. However, because of the potential significance of this issue during subsequent commercial recovery, NOAA also believes that the agency cannot justify ignoring the issue altogether during exploration. Rather, NOAA views license phase mining system tests as an opportunity to examine with industry, the conservation implications of any mining patterns used during exploration. Thus, in order to develop information needed during commercial recovery, the regulations now provide for license terms, conditions and restrictions only for the submission of collector track and nodule production data. Only if the information submitted reflects that the integrated system tests are resulting in undue waste or threatening the future opportunity for commercial recovery of the unrecovered balance of hard mineral resources will NOAA modify the terms, conditions or restrictions pertaining to the conservation of natural resources, in order to address such problem.

Subpart G—Environmental Effects

Effects of exploration activities. In the draft programmatic EIS, NOAA listed four impacts which may have the potential for significant environmental impact. One of these, the effect on zooplankton and their predators of trace metals associated with abraded nodules, has been the subject of further review by the National Marine Fisheries Service. In summary, this review has concluded that there is a low probability of significant ecological effect from such trace metals, even at the commercial recovery stage. Accordingly, NOAA has reduced in § 970.701(b) the list of impacts with potential for significance to three, with the trace metal issue among those subject to further studies and monitoring, as appropriate, to verify the above preliminary conclusion. The final programmatic EIS summarizes the reasoning behind the conclusion. In response to one comment, NOAA also has clarified in § 970.701(a) that the list of exploration activities with no significant impact refers to all similar types of activities. Another commentor suggested that NOAA identify the limited number of effects from exploration activities (e.g., from the testing of mining systems) that are expected to have potential for significant environmental effect. NOAA has clarified under § 970.701(b)(2) that the three effects presented in that subsection as having the potential for significance also occur during mining system tests that may be conducted under a license, but are expected to be insignificant during exploration.

Environmental monitoring. In response to concern expressed over the possibility of undue restrictions on equipment to be used for monitoring NOAA has inserted in § 970.702 the clarification that a monitoring plan, which will be included in terms, conditions and restrictions specified by the agency, will be based on the monitoring plan proposed by an applicant and reviewed by NOAA for completeness, accuracy and statistical reliability. In response to another comment, NOAA has reviewed this section further to specify that monitoring plans will look at parameters relating to verification of NOAA's findings concerning potential impacts, but relating mainly to the three concerns listed in § 970.701(b)(2), and not just the effects of the benthic plume. With respect to the comment that nothing in the regulations indicates an intention to require the mitigation of adverse environmental effects during exploration, nor are any measures prescribed for mitigation, NOAA believes that the provision in § 970.702(b), for modification of license terms, conditions or restrictions to specify mitigation measures if found necessary, does address this potential and is appropriate at this stage since no significant adverse effects from exploration have been identified. As for another comment, NOAA agrees with the suggested need for field studies on this issue; that will be the function of the monitoring requirements in each license. However, NOAA disagrees with the proposal to include a requirement in these regulations for the use of best available technologies, since the Act directs this provision only to commercial recovery permits. With respect to the suggestion to require reports on environmental information and effects from exploration, including notice of circumstances that may create a significant adverse effect on the environment, NOAA believes that both the monitoring as referred to in § 970.702(a), which will include the reporting of results of monitoring, and submission of the annual report specified in § 970.901(b), accomplish this purpose.

Subpart I—Miscellaneous

Proprietary information. Commentors expressed some concern that greater protection should be afforded to applicants' proprietary information. Some techniques or procedures were suggested, such as providing for the presumptive proprietary status of material so designated by an applicant or licensee, and equal opportunity for an applicant to participte in procedures triggered by another's request for such information. In response to comments, NOAA has revised § 970.902 in several respects. Although NOAA believes it cannot provide in advance in these regulations for the presumptive proprietary status of all material so designated by an applicant or licensee, the rules now provide for a possible case-by-case determination by the Administrator in advance of receipt of a request for the information in question. The regulations also now provide for notice and opportunity for response from an applicant or licensee in case a request is received for information for which confidential treatment was requested. Also, the rules now provide for coordinating confidential treatment between NOAA and other Federal agencies.

Subpart J—Uniform Procedures

In response to comment, NOAA has incorporated several minor revisions to these procedures.

Subpart K—Enforcement

NOAA also has incorporated several refinements in this subpart, in response to comment. Primarily, these clarify in § 970.1105 the arrangements for, and the role and functions of, NOAA-designated observers on licensees' vessels. These clarifications include notice by NOAA of: whether it proposes to place an observer on a vessel, the name of the observer, if known, the nature of proposed activities and a description of the intended monitoring equipment. NOAA has not specified the time period for such notice, since flexibility will be needed in that regard. The notice also will not include medical histories of proposed observers, since NOAA believes this would be an unwarranted invasion of privacy. NOAA plans to assure that all observers are physically fit, however, before so assigning them. The above notice is complemented by a provision for notice from the licensee to NOAA of planned voyages and mining system tests. The rules also provide, in response to comment, that observers will have no authority over the operation of the vessel or its activities, or over the officers, crew or personnel of the vessel, and that observers will comply with all rules and regulations issued by the licensee and all orders from the Master or senior operating official pertaining to vessel and personnel safety. There also is a provision for protection of confidential information, including review by the licensee of relevant parts of any observer's report.

Other Comments

One commentor suggested that there may be some jurisdictional question as to the U.S. legal regime for seabed mining within 200 nautical miles of the U.S. (which the commentor refers to as an exclusive economic zone) but seaward of the outermost limit of the continental shelf. This comment proposed that the regulation should provide for an alternative seabed mining regime within this area. NOAA believes that the Act in its present form, based on its definition in section 4(4) of "deep seabed," calls for a single U.S. seabed mining regime. Although the Act recognizes a potential Law of the Sea treaty and regime in the future, at this time NOAA believes that only a single regime, as presented in the regulations, is authorized under the Act.

Certain commentors also proposed that NOAA explicitly provide in the regulations that specific actions under a license such as modification of terms, conditions and restrictions, as well as modification to the regulations, are subject to the procedures and cost-benefit analysis in Executive Order 12291. NOAA has concluded that, with respect to individual license actions, the actual procedures in the executive order do not apply, so their incorporation into these rules would be inappropriate. In implementing such actions, however, NOAA intends to consider the relative costs and benefits thereof, keeping in mind the requirements of the Act. As for future amendments to these regulations, it is impossible for NOAA to predict whether any such amendments, if undertaken, would be classified as "major" under the executive order, and thus to specify the applicable procedures. Nevertheless, the terms of the executive order apply regardless of NOAA's reference in these regulations.

Classification Under Executive Order 12291

The NOAA Administrator considers these regulations to be major with respect to the criteria of Executive Order 12291 (E.O. 12291) of February 17, 1981, because they will foster and govern development of the United States deep seabed mining industry. NOAA has prepared and transmitted to the Office of Management and Budget a final regulatory impact analysis as specified by section 3 of E.O. 12291. The Administrator of NOAA has determined that these final rules are clearly within the authority delegated by law and consistent with Congressional intent. The rules are authorized by section 308 of the Act, and respond to specific provisions or requirements found in sections 101 through 117 of Title I of the Act as well as the NOAA enforcement provisions in Title III of the Act.

Regulatory Impact Analysis

NOAA has prepared a final regulatory impact analysis on these regulations. This analysis, which examines the potential impact of the proposed regulations, is available to all interested parties. The analysis examines the various alternatives NOAA considered as it addressed the major issues in the regulations, considers benefit and cost implications of the alternatives, and explains NOAA's reasons for making the choices reflected in these regulations. The analysis has been done in such a way as to include a final regulatory flexibility analysis in compliance with the Regulatory Flexibility Act, Pub. L. 96-354. Copies of the analysis may be obtained by writing to the Director, NOAA Office of Ocean Minerals and Energy, at the address specified in the ADDRESS section of this rulemaking.

Summary of Final Regulatory Flexibility Analysis

Because of the large scale and costs of deep seabed mining operations, the primary involvement of small business concerns in this industry is expected to be as contractors or subcontractors, rather than as sole owners or operators of such operations. Only one license, obtained by the overall operator, is required. The general regulatory approach selected by NOAA for these regulations was designed to provide the greatest flexibility for, and to minimize any adverse economic impact on, any entity—large or small—which may be involved in deep seabed mining development. The regulations do not impose any reporting, record-keeping, or other compliance requirements on small governmental jurisdictions or small organizations. Copies of the combined final regulatory flexibility analysis and final regulatory impact analysis may be obtained by writing to the Director, NOAA Office of Ocean Minerals and Energy, at the address in the ADDRESS section of this rulemaking.

Paperwork Reduction Act, Pub. L. 96-511

Because of the limited number of persons initially subject to these regulations (historically there have been four consortia with U.S. companies participating which are involved in deep seabed mining development, and these four will apply to NOAA for exploration licenses), NOAA believes the regulations do not contian "collection of information" requests within the meaning of 44 U.S.C. 3502(4) and 3502(11). Accordingly, § 970.906 of these regulations contains a statement that the information requested is not subject to the requirements of 44 U.S.C. 3507. NOAA plans to review these regulations periodically, and to revise them if necessary based on that review. During the review, or earlier if necessary, NOAA will review its projections of the expected number of license applications and take any actions necessary under the Paperwork Reduction Act on that basis.

Environmental Impact Statement

Pursuant to section 109(c) of the Act and the National Enviornmental Policy Act of 1969, NOAA has prepared a final programmatic environmental impact statement (PEIS) assessing the environmental impacts of exploration and commercial recovery in the area of the oceans in which such activities by any United States citizen will likely first occur under the authority of the Act. The PEIS has been filed with the Environmental Protection Agency. Copies may be obtained by writing the Director, NOAA Office of Ocean Minerals and Energy, at the address specified in the ADDRESS section of this rulemaking.

Accordingly, new Subparts A, B and D through K are added to Part 970 of Title 15 of the Code of Federal Regulations. The text of these Subparts read as follows:

Dated: September 10, 1981.

John V. Byrne,

Administrator.

PART 970—DEEP SEABED MINING REGULATIONS FOR EXPLORATION LICENSES

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Issuance/Transfer; Modification/Revision; Suspension/Revocation

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Subpart K—Enforcement

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970.1107 Advance notice of civil actions.

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Authority: 30 U.S.C. 1401 *et seq.*

Subpart A—General

§ 970.100 Purpose.

(a) *General.* The purpose of this part is to implement those responsibilities and authorities of the National Oceanic and Atmospheric Administration (NOAA), pursuant to Pub. L. 96-283, the Deep Seabed Hard Mineral Resources Act (the Act), to issue to eligible United States citizens licenses for the exploration for deep seabed hard minerals.

(b) *Purposes of the Act.* In preparing these regulations NOAA has been mindful of the purposes of the Act, as set forth in section 2(b) thereof. These include—

(1) Encouraging the successful conclusion of a comprehensive Law of the Sea Treaty, which will give legal definition to the principle that the hard mineral resources of the deep seabed are the common heritage of mankind and which will assure, among other things, nondiscriminatory access to such resources for all nations;

(2) Establishing, pending the ratification by, and entering into force with respect to, the United States of such a treaty, an interim program to regulate the exploration for and commercial recovery of hard mineral resources of the deep seabed by United States citizens;

(3) Accelerating the program of environmental assessment of exploration for and commercial recovery of hard mineral resources of the deep seabed and assuring that such exploration and recovery activities are conducted in a manner which will encourage the conservation of such resources, protect the quality of the environment, and promote the safety of life and property at sea;

(4) Encouraging the continued development of technology necessary to recover the hard mineral resources of the deep seabed; and

(5) Pending the ratification by, and entry into force with respect to, the United States of a Law of the Sea Treaty, providing for the establishment of an international revenue-sharing fund the proceeds of which will be used for sharing with the international community pursuant to such treaty.

(c) *Regulatory approach.* (1) These regulations incorparate NOAA's recognition that the deep seabed mining industry is still evolving and that more information must be developed to form the basis for future decisions by industry and by NOAA in its implementation of the Act. They also recognize the need for flexibility in order to promote the development of deep seabed mining technology, and the usefulness of allowing initiative by miners to develop mining techniques and systems in a manner compatible with the requirements of the Act and regulations. In this regard, the regulations reflect an approach, pursuant to the Act, whereby their provisions ultimately will be addressed and evaluated on the basis of exploration plans submitted by applicants.

(2) In addition, these regulations reflect NOAA's recognition that the difference in scale and effects between exploration for and commercial recovery of hard mineral resources normally requires that they be distinguished and addressed separately. This distinction is also based upon the evolutionary stage of the seabed mining industry referenced above. Thus, NOAA will issue separate regulations

pertaining to commercial recovery, in Part 971 of this chapter.

§ 970.101 Definitions.

For purposes of this part, the term:

(a) "Act" means the Deep Seabed Hard Mineral Resources Act (Pub. L. 96-283; 94 Stat. 553; 30 U.S.C. 1401 *et seq.*);

(b) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration, or a designee;

(c) "Applicant" means an applicant for an exploration license pursuant to the Act and this part;

(d) "Affiliate" means any person—

(1) In which the applicant or licensee owns or controls more than 5% interest;

(2) Which owns or controls more than 5% interest in the applicant or licensee; or

(3) Which is under common ownership or control with the applicant or licensee.

(e) "Commercial recovery" means—

(1) Any activity engaged in at sea to recover any hard mineral resource at a substantial rate for the primary purpose of marketing or commercially using such resource to earn a net profit, whether or not such net profit is actually earned;

(2) If such recovered hard mineral resource will be processed at sea, such processing; and

(3) If the waste of such activity to recover any hard mineral resource, or of such processing at sea, will be disposed of at sea, such disposal;

(f) "Continental Shelf" means—

(1) The seabed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such submarine area; and

(2) The seabed and subsoil of similar submarine areas adjacent to the coast of islands;

(g) "Controlling interest", for purposes of paragraph (t)(3) of this section, means a direct or indirect legal or beneficial interest in or influence over another person arising through ownership of capital stock, interlocking directorates or officers, contractual relations, or other similar means, which substantially affect the independent business behavior of such person;

(h) "Deep seabed" means the seabed, and the subsoil thereof to a depth of ten meters, lying seaward of and outside—

(1) The Continental Shelf of any nation; and

(2) Any area of national resource jurisdiction of any foreign nation, if such area extends beyond the Continental Shelf of such nation and such jurisdiction is recognized by the United States;

(i) "Exploration" means—

(1) Any at-sea observation and evaluation activity which has, as its objective, the establishment and documentation of—

(i) The nature, shape, concentration, location, and tenor of a hard mineral resource; and

(ii) The environmental, technical, and other appropriate factors which must be taken into account to achieve commercial recovery; and

(2) The taking from the deep seabed of such quantities of any hard mineral resource as are necessary for the design, fabrication and testing of equipment which is intended to be used in the commercial recovery and processing of such resource;

(j) "Hard mineral resource" means any deposit or accretion on, or just below, the surface of the deep seabed of nodules which include one or more minerals, at least one of which contains manganese, nickel, cobalt, or copper;

(k) "International agreement" means a comprehensive agreement concluded through negotiations at the Third United Nations Conference on the Law of the Sea, relating to (among other matters) the exploration for and commercial recovery of hard mineral resources and the establishment of an international regime for the regulation thereof;

(l) "Licensee" means the holder of a license issued under this part to engage in exploration;

(m) "New entrant" means a person who was not engaged in exploration prior to the date of enactment of the Act (June 28, 1980);

(n) "NOAA" means the National Oceanic and Atmospheric Administration;

(o) "Permittee" means the holder of permit issued under NOAA regulations to engage in commercial recovery;

(p) "Person" means any United States citizen, any individual, and any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of any nation;

(q) "Pre-enactment explorer" means a person who was engaged in exploration prior to the date of enactment of the Act (June 28, 1980);

(r) "Reciprocating state" means any foreign nation designated as such by the Administrator under section 118 of the Act;

(s) "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the United States Virgin Islands, Guam, and any other Commonwealth, territory, or possession of the United States; and

(t) "United States citizen" means

(1) Any individual who is a citizen of the United States;

(2) Any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of any of the United States; and

(3) Any corporation, partnership, joint venture, association, or other entity (whether organized or existing under the laws of any of the United States or a foreign nation) if the controlling interest in such entity is held by an individual or entity described in paragraph (t)(1) or (t)(2) of this section.

§ 970.102 Nature of licenses.

(a) A license issued under this part will authorize the holder thereof to engage in exploration within a specific portion of the sea floor consistent with the provisions of the Act, this part, and the specific terms, conditions and restrictions applied to the license by the Administrator.

(b) Any license issued under this part will be exclusive with respect to the holder thereof as against any other United States citizen or any citizen, national or governmental agency of, or any legal entity organized or existing under the laws of, any reciprocating state.

(c) A valid existing license will entitle the holder, if otherwise eligible under the provisions of the Act and implementing regulations, to a permit for commercial recovery from an area selected within the same area of the sea floor. Such a permit will recognize the right of the holder to recover hard mineral resources, and to own, transport, use, and sell hard mineral resources recovered, under the permit and in accordance with the requirements of the Act.

§ 970.103 Prohibited activities and restrictions.

(a) *Prohibited activities and exceptions.* (1) Except as authorized under Subpart C of this part, no United States citizen may engage in any exploration or commercial recovery unless authorized to do so under—

(i) A license or a permit issued pursuant to the Act and implementing regulations;

(ii) A license, permit, or equivalent authorization issued by a reciprocating state; or

(iii) An international agreement which is in force with respect to the United States.

(2) The prohibitions of paragraph (a)(1) of this section will not apply to any of the following activities:

(i) Scientific research, including that concerning hard mineral resources;

(ii) Mapping, or the taking of any geophysical, geochemical, oceanographic, or atmospheric measurements or random bottom samplings of the deep seabed, if such taking does not significantly alter the surface or subsurface of the deep seabed or significantly affect the environment;

(iii) The design, construction, or testing of equipment and facilities which will or may be used for exploration or commercial recovery, if such design, construction or testing is conducted on shore, or does not involve the recovery of any but incidental hard mineral resources;

(iv) The furnishing of machinery, products, supplies, services, or materials for any exploration or commercial recovery conducted under a license or permit issued under the Act and implementing regulations, a license or permit or equivalent authorization issued by a reciprocating state, or under an international agreement; and

(v) Activities, other than exploration or commercial recovery activities, of the Federal Government.

(3) No United States citizen may interfere or participate in interference with any activity conducted by any licensee or permittee which is authorized to be undertaken under a license or permit issued by the Administrator to a licensee or permittee under the Act or with any activity conducted by the holder of, and authorized to be undertaken under, a license or permit or equivalent authorization issued by a reciprocating state for the exploration or commercial recovery of hard mineral resources. For purposes of this section, interference includes physical interference with activities authorized by the Act, this part, and a license issued pursuant thereto; the filing of specious claims in the United States or any other nation; and any other activity designed to harass deep seabed mining activities authorized by law. Interference does not include the exercise of any rights granted to United States citizens by the Constitution of the United States, any Federal or State law, treaty, or agreement or regulation promulgated pursuant thereto.

(4) United States citizens must exercise their rights on the high seas with reasonable regard for the interests of other states in their exercise of the freedoms of the high seas.

(b) *Restrictions on issuance of licenses or permits.* The Administrator will not issue—

(1) Any license or permit after the date on which an international agreement is ratified by and enters into force with respect to the United States, except to the extent that issuance of such license or permit is not inconsistent with such agreement;

(2) Any license or permit the exploration plan or recovery plan of which, submitted pursuant to the Act and implementing regulations, would apply to an area to which applies, or would conflict with:

(i) Any exploration plan or recovery plan submitted with any pending application to which priority of right for issuance applies under this part;

(ii) Any exploration plan or recovery plan associated with any existing license or permit; or

(iii) Any equivalent authorization which has been issued, or for which formal notice of application has been submitted, by a reciprocating state prior to the filing date of any relevant application for licenses or permits pursuant to the Act and implementing regulations;

(3) A permit authorizing commercial recovery within any area of the deep seabed in which exploration is authorized under a valid existing license if such permit is issued to a person other than the licensee for such area;

(4) Any exploration license before July 1, 1981, or any permit which authorizes commercial recovery to commence before January 1, 1988;

(5) Any license or permit the exploration plan or recovery plan for which applies to any area of the deep seabed if, within the 3-year period before the date of application for such license or permit:

(i) The applicant therefor surrendered or relinquished such area under an exploration plan or recovery plan associated with a previous license or permit issued to such applicant; or

(ii) A license or permit previously issued to the applicant had an exploration plan or recovery plan which applied to such area and such license or permit was revoked under section 106 of the Act; or

(6) A license or permit, or approve the transfer of a license or permit, except to a United States citizen.

Subpart B—Applications

§ 970.200 General.

(a) *Who may apply; how.* Any United States citizen may apply to the Administrator for issuance or transfer of an exploration license. Applications must be submitted in the form and manner prescribed in this subpart.

(b) *Place, form and copies.* Applications for the issuance or transfer of exploration licenses must be submitted in writing, verified and signed by an authorized officer or other authorized representative of the applicant, in 30 copies, to the following address: Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Suite 410, Page 1 Building, 2001 Wisconsin Avenue, N.W., Washington, D.C. 20235.

(c) *Use of application information.* The contents of an application, as set forth below, must provide NOAA with the information necessary to make determinations required by the Act and this part pertaining to the issuance or transfer of an exploration license. Thus, each portion of the application should identify the requirement in this part to which it responds. In addition, the information will be used by NOAA in its function under the Act of consultation and cooperation with other Federal agencies or departments in relation to their programs and authorities, in order to reduce the number of separate actions required to satisfy Federal agencies' responsibilities.

(d) *Pre-application consultation.* To assist in the development of adequate applications and assure that applicants understand how to respond to the provisions of this subpart, NOAA will be available for pre-application consultations with potential applicants. This includes consultation on the procedures in Subpart C. In appropriate circumstances, NOAA will provide written confirmation to the applicant of any oral guidance resulting from such consultations.

(e) *Priority of right.* (1) Priority of right for issuance of licenses to pre-enactment explorers will be established pursuant to Subpart C of this part.

(2) Priority of right for issuance of licenses to new entrants will be established on the basis of the chronological order in which license applications, which are in substantial compliance with the requirements established under this subpart, pursuant to § 970.209, are filed with the Administrator.

(3) Applications must be received by the Office of Ocean Minerals and Energy on behalf of the Administrator before a priority can be established.

(4) Upon (i) a determination that:

(A) An application is not in substantial compliance in accordance with § 970.209 or Subpart C, as applicable;

(B) An application has not been brought into substantial compliance in

accordance with § 970.210 or Subpart C, as applicable;

(C) A license has been relinquished or surrendered in accordance with § 970.903; or

(ii) A decision to:

(A) Deny certification of a license pursuant to § 970.407; or

(B) Deny issuance of a license pursuant to § 970.508,

and after the exhaustion of any administrative or judicial review of such determination or decision, the priority of right for issuance of a license will lapse.

(f) *Request for confidential treatment of information.* If an applicant wishes to have any information in his application treated as confidential, he must so indicate pursuant to § 970.902.

Contents

§ 970.201 Statement of financial resources.

(a) *General.* The application must contain information sufficient to demonstrate to the Administrator the financial resources of the applicant to carry out, in accordance with this part, the exploration program set forth in the applicant's exploration plan. The information must show that the applicant is reasonably capable of committing or raising sufficient resources to cover the estimated costs of the exploration program. The information must be sufficient for the Administrator to make a determination on the applicant's financial responsibility pursuant to § 970.401.

(b) *Contents.* In particular, the information on financial resources must include:

(1) A description of how the applicant intends to finance the exploration program;

(2) The estimated cost of the exploration program;

(3) With respect to the applicant and those entities upon which the applicant will rely to finance his exploration activities, the most recent audited financial statement (for publicly-held companies, the most recent annual report and Form 10–K filed with the Securities and Exchange Commission will suffice in this regard); and

(4) The credit rating and bond rating of the applicant, and such financing entities, to the extent they are relevant.

§ 970.202 Statement of technological experience and capabilities.

(a) *General.* The application must contain information sufficient to demonstrate to the Administrator the technological capability of the applicant to carry out, in accordance with the regulations contained in this part, the exploration program set out in the applicant's exploration plan. It must contain sufficient information for the Administrator to make a determination on the applicant's technological capability pursuant to § 970.402.

(b) *Contents.* In particular, the information submitted pursuant to this section must demonstrate knowledge and skills which the applicant either possesses or to which he can demonstrate access. The information must include:

(1) A description of the exploration equipment to be used by the applicant in carrying out the exploration program;

(2) A description of the environmental monitoring equipment to be used by the applicant in monitoring the environmental effects of the exploration program; and

(3) The experience on which the applicant will rely in using this or similar equipment.

§ 970.203 Exploration plan.

(a) *General.* Each application must include an exploration plan which describes the applicant's projected exploration activities during the period to be covered by the proposed license. Generally, the exploration plan must demonstrate to a reasonable extent that the applicant's efforts, by the end of the 10-year license period, will likely lead to the ability to apply for and obtain a permit for commercial recovery. In particular, the plan must include sufficient information for the Administrator, pursuant to this part, to make the necessary determinations pertaining to the certification and issuance or transfer of a license and to the development and enforcement of the terms, conditions and restrictions for a license.

(b) *Contents.* The exploration plan must contain the following information. In presenting this information, the plan should incorporate the applicant's proposed individual approach, including a general description of how projected participation by other entities will relate to the following elements, if appropriate. The plan must present:

(1) The activities proposed to be carried out during the period of the license;

(2) A description of the area to be explored, including its delineation according to § 970.601;

(3) The intended exploration schedule which must be responsive to the diligence requirements in § 970.602. Taking into account that different applicants may have different concepts and chronologies with respect to the types of activities described, the schedule should include an approximate projection for the exploration activities planned. Although the details in each schedule may vary to reflect the applicant's particular approach, it should address in some respect approximately when each of the following types of activities is projected to occur.

(i) Conducting survey cruises to determine the location and abundance of nodules as well as the sea floor configuration, ocean currents and other physical characteristics of potential commercial recovery sites;

(ii) Assaying nodules to determine their metal contents;

(iii) Designing and testing system components onshore and at sea;

(iv) Designing and testing mining systems which simulate commercial recovery;

(v) Designing and testing processing systems to prove concepts and designing and testing systems which simulate commercial processing;

(vi) Evaluating the continued feasibility of commercial scale operations based on technical, economic, legal, political and environmental considerations; and

(vii) Applying for a commercial recovery permit and, to the extent known, other permits needed to construct and operate commercial scale facilities (if application for such permits is planned prior to obtaining a commercial recovery permit);

(4) A description of the methods to be used to determine the location, abundance, and quality (i.e., assay) of nodules, and to measure physical conditions in the area which will affect nodule recovery system design and operations (e.g., seafloor topography, seafloor geotechnic properties, and currents);

(5) A general description of the developing recovery and processing technology related to the proposed license, and of any planned or ongoing testing and evaluation of such technology. To the extent possible at the time of application, this description should address such factors as nodule collection technique, seafloor sediment rejection subsystem, mineship nodule separation scheme, pumping method, anticipated equipment test areas, and details on the testing plan;

(6) An estimated schedule of expenditures, which must be responsive to the diligence requirements as discussed in § 970.602;

(7) Measures to protect the environment and to monitor the effectiveness of environmental safeguards and monitoring systems for commercial recovery. These measures must take into account the provisions in

§§ 970.506, 970.518, 970.522 and Subpart G of this part; and

(8) A description of any relevant activity that the applicant has completed prior to the submission of the application.

§ 970.204 Environmental and use conflict analysis.

(a) *Environmental information.* To enable NOAA to implement better its responsibility under section 109(d) of the Act to develop an environmental impact statement (EIS) on the issuance of an exploration license, the application must include information for use in preparing NOAA's EIS on the environmental impacts of the activities proposed by the applicant. The applicant must present physical, chemical and biological information for the exploration area. This information should include relevant environmental information, if any, obtained during past exploration activities, but need not duplicate information obtained during NOAA's DOMES Project. Planned activities in the area, including the testing of integrated mining systems which simulate commercial recovery, also must be described. NOAA will need information with the application on location and boundaries of the proposed exploration area, and plans for delineation of features of the exploration area including baseline data or plans for acquiring them. The applicant may at his option delay submission of baseline and equipment data and system test plans. However, applicants so electing should plan to submit this latter information at least one year prior to the initial test, to allow time for the supplement to the site-specific EIS, if one is required, to be prepared by NOAA, circulated, reviewed and filed with EPA. The submission of this information with the application is strongly encouraged, however, to minimize the possibility that a supplement will be required. If such latter information is submitted subsequent to the original application such tests may not be undertaken in the absence of concurrence by NOAA (which, if applicable, will be required in a term, condition, or restriction in the license). NOAA has developed a technical guidance document which will provide assistance for the agency and the applicant, in consultation, to identify the details on information needed in each case. NOAA may refer to such information for purposes of other determinations under the Act as well. NOAA also will seek to facilitate other Federal and, as necessary, state decisions on exploration activities by functioning as lead agency for the EIS on the application and related actions by other agencies, including those pertaining to any onshore impacts which may result from the proposed exploration activities.

(b) *Use conflict information.* To assist the Administrator in making determinations relating to potential use conflicts between the proposed exploration and other activities in the exploration area, pursuant to §§ 970.503, 970.505, and 970.520, the application must include information known to the applicant with respect to such other activities.

§ 970.205 Vessel safety.

In order to provide a basis for the necessary determinations with respect to the safety of life and property at sea, pursuant to §§ 970.507, 970.521 and Subpart H of this part, the application must contain the following information, except for those vessels under 300 gross tons which are engaged in oceanographic research if they are used in exploration.

(a) *U.S. flag vessel.* The application must contain a demonstration or affirmation that any United States flag vessel utilized in exploration activities will possess a current valid Coast Guard Certificate of Inspection (COI). To the extent that the applicant knows which United States flag vessel he will be using, the application must include a copy of the COI.

(b) *Foreign flag vessel.* The application must also contain information on any foreign flag vessels to be used in exploration activities, which responds to the following requirements. To the extent that the applicant knows which foreign flag vessel he will be using, the application must include evidence of the following:

(1) That any foreign flag vessel whose flag state is party to the International Convention for Safety of Life at Sea, 1974 (SOLAS 74) possesses current valid SOLAS 74 certificates;

(2) That any foreign flag vessel whose flag state is not party to SOLAS 74 but is party to the International Convention for the Safety of Life at Sea, 1960 (SOLAS 60) possesses current valid SOLAS 60 certificates; and

(3) That any foreign flag vessel whose flag state is not a party to either SOLAS 74 or SOLAS 60 meets all applicable structural and safety requirements contained in the published rules of a member of the International Association of Classification Societies (IACS).

(c) *Supplemental certificates.* If the applicant does not know at the time of submitting an application which vessels he will be using, he must submit the applicable certification for each vessel before the cruise on which it will be used.

§ 970.206 Statement of ownership.

The application must include sufficient information to demonstrate that the applicant is a United States citizen, as required by § 970.103(b)(6), and as defined in § 970.101(t). In particular, the application must include:

(a) Name, address, and telephone number of the United States citizen responsible for exploration operations to whom notices and orders are to be delivered; and

(b) A description of the citizen or citizens engaging in such exploration, including:

(1) Whether the citizen is a natural person, partnership, corporation, joint venture, or other form of association;

(2) The state of incorporation or state in which the partnership or other business entity is registered;

(3) The name of registered agent or equivalent representative and places of business;

(4) Certification of essential and nonproprietary provisions in articles of incorporation, charter or articles of association; and

(5) The name of each member of the association, partnership, or joint venture, including information about the participation of each partner and joint venturer and/or ownership of stock.

§ 970.207 Antitrust information.

(a) *General.* Section 103(d) of the Act specifically provides for antitrust review of applications by the Attorney General of the United States and the Federal Trade Commission.

(b) *Contents.* In order to provide information for this antitrust review, the application must contain the following:

(1) A copy of each agreement between any parties to any joint venture which is applying for a license, provided that said agreement relates to deep seabed hard mineral resource exploration or mining;

(2) The identity of any affiliate of any person applying for a license; and

(3) For each applicant, its affiliate, or parent or subsidiary of an affiliate which is engaged in production in, or the purchase or sale in or to, the United States of copper, nickel, cobalt or manganese minerals or any metals refined from these minerals:

(i) The annual tons and dollar value of any of these minerals and metals so purchased, sold or produced for the two preceding years;

(ii) Copies of the annual report, balance sheet and income statement for the two preceding years; and

(iii) Copies of each document submitted to the Securities and Exchange Commission.

§ 970.208 Fee.

(a) *General.* Section 104 of the Act provides that no application for the issuance or transfer of an exploration license will be certified unless the applicant pays to NOAA a reasonable administrative fee, which must reflect the reasonable administrative costs incurred in reviewing and processing the application.

(b) *Amount.* In order to meet this requirement, the application must include a fee payment of $100,000, payable to the National Oceanic and Administration, Department of Commerce. If costs incurred by NOAA in reviewing and processing an application are significantly less than or in excess of the original fee, the agency subsequently will determine those differences in costs and adjust the fee accordingly. If the costs are significantly less, NOAA will refund the difference. If they are significantly greater, the applicant will be required to submit the additional payment prior to issue or transfer of the license. In the case of an application for transfer of a license to an entity which has previously been found qualified for a license, the Administrator may, on the basis of pre-application consultations pursuant to § 970.200(d), reduce the fee in advance by an appropriate amount which reflects costs avoided by reliance on previous findings made in relation to the proposed transferee.

Procedures

§ 970.209 Substantial compliance with application requirements.

(a) Priority of right for the issuance of licenses to new entrants will be established on the basis of the chronological order in which license applications which are in substantial compliance with the requirements established under this subpart are filed with the Administrator pursuant to § 970.200.

(b) In order for an application to be in substantial compliance with the requirements of this subpart, it must include information specifically identifiable with and materially responsive to each requirement contained in §§ 970.201 through 970.208. A determination on substantial compliance relates only to whether the application contains the required information, and does not constitute a determination on certification of the application, or on issuance or transfer of a license.

(c) The Administrator will make a determination as to whether the application is in substantial compliance. Within 30 days after receipt of an application, he will issue written notice to the applicant regarding such determination. The notice will identify, if applicable, in what respects the application is not in either full or substantial compliance. If the application is in substantial but not full compliance, the notice will specify the information which the applicant must submit in order to bring it into full compliance, and why the additional information is necessary.

§ 970.210 Reasonable time for full compliance.

Priority of right will not be lost in case of any application filed which is in substantial but not full compliance, as specified in § 970.209, if the Administrator determines that the applicant, within 60 days after issuance to the applicant by the Administrator of written notice that the application is in substantial but not full compliance, has brought the application into full compliance with the requirements of this subpart.

§ 970.211 Consultation and cooperation with Federal agencies.

(a) Promptly after his receipt of an application, the Administrator will distribute a copy of the application to each other Federal agency or department which, pursuant to section 103(e) of the Act, has identified programs or activities within its statutory responsibilities which would be affected by the activities proposed in the application (i.e., the Departments of State, Transportation, Justice, Interior, Defense, Treasury and Labor, as well as the Environmental Protection Agency, Federal Trade Commission, Small Business Administration and National Science Foundation). Based on its legal responsibilities and authorities, each such agency or department may, not later than 60 days after it receives a copy of the application which is in full compliance with this subpart, recommend certification of the application, issuance or transfer of the license, or denial of such certification, issuance or transfer. The advice or recommendation by the Attorney General or Federal Trade Commission on antitrust review, pursuant to § 970.207, must be submitted within 90 days after their receipt of a copy of the application which is in full compliance with this subpart. NOAA will use the benefits of this process of consultation and cooperation to facilitate necessary Federal decisions on the proposed exploration activities, pursuant to the mandate of section 103(e) of the Act to reduce the number of separate actions required to satisfy Federal agencies' statutory responsibilities.

(b) In any case in which a Federal agency or department recommends a denial, it will set forth in detail the manner in which the application does not comply with any law or regulation within its area of responsibility and will indicate how the application may be amended, or how terms, conditions or restrictions might be added to the license to assure compliance with such law or regulation.

(c) A recommendation from another Federal agency or department for denying or amending an application will not affect its having been in substantial compliance with the requirements of this subpart, pursuant to § 970.209, for purposes of establishing priority of right. However, pursuant to section 103(e) of the Act, NOAA will cooperate with such agencies and with the applicant with the goal of resolving the concerns raised and satisfying the statutory responsibilities of these agencies.

§ 970.212 Public notice, hearing and comment.

(a) *Notice and comments.* The Administrator will publish in the **Federal Register**, for each application for an exploration license, notice that such application has been received. Subject to § 970.902, interested persons will be permitted to examine the materials relevant to such application. Interested persons will have at least 60 days after publication of such notice to submit written comments to the Administrator.

(b) *Hearings.* (1) After preparation of the draft EIS on an application pursuant to section 109(d) of the Act, the Administrator shall hold a public hearing on the application and the draft EIS in an appropriate location, and may employ such additional methods as he deems appropriate to inform interested persons about each application and to invite their comments thereon.

(2) If the Administrator determines there exists one or more specific and material factual issues which require resolution by formal processes, at least one formal hearing will be held in the District of Columbia in accordance with the provisions of Subpart J of this part. The record developed in any such formal hearing will be part of the basis of the Administrator's decisions on an application.

(c) Hearings held pursuant to this section and other procedures will be consolidated insofar as practicable with

hearings held and procedures employed by other agencies.

§ 970.213 Amendment to an application.

After an application has been submitted to the Administrator, but before a determination is made on the issuance or transfer of a license, the applicant must submit an amendment to the application if required by a significant change in the circumstances represented in the original application and affecting the requirements of this subpart. Applicants should consult with NOAA to determine if changes in circumstances are sufficiently significant to require submission of an amendment. The application, as amended, would then serve as the basis for determinations by the Administrator under this part. For each amendment judged by the Administrator to be significant, he will provide a copy of such amendment to each other Federal agency and department which received a copy of the original application, and also will provide for public notice, hearing and comment on the amendment pursuant to § 970.212. Such amendment, however, will not affect the priority of right established by the filing of the original application. After the issuance of or transfer of a license, any revision by the licensee will be made pursuant to § 970.513.

Subpart C—Procedures for Applications Based on Exploration Commenced Before June 28, 1980 [Reserved]

Subpart D—Certification of Applications

§ 970.400 General.

(a) Certification is an intermediate step between receipt of an application for issuance or transfer of a license and its actual issuance or transfer. It is a determination which focuses on the eligibility of the applicant.

(b) Before the Administrator may certify an application for issuance or transfer of a license, he must determine that issuance of the license would not violate any of the restrictions in § 970.103(b). He also must make written determinations with respect to the requirements set forth in §§ 970.401 through 970.406. This will be done after consultation with other departments and agencies pursuant to § 970.211.

(c) To the maximum extent possible, the Administrator will endeavor to complete certification of an application within 100 days after submission of an application which is in full compliance with Subpart B of this part. If final certification or denial of certification has not occurred within 100 days after such submission of the application, the Administrator will inform the applicant in writing of the pending unresolved issues, the agency's efforts to resolve them, and an estimate of the time required to do so.

§ 970.401 Financial responsibility.

(a) Before the Administrator may certify an application for an exploration license he must find that the applicant has demonstrated that, upon issuance or transfer of the license, the applicant will be financially responsible to meet all obligations which he may require to engage in the exploration proposed in the application.

(b) In order for the Administrator to make this determination, the applicant must show to the Administrator's satisfaction that he is reasonably capable of committing or raising sufficient resources to carry out, in accordance with the provisions contained in this part, the exploration program set forth in his exploration plan.

§ 970.402 Technological capability.

(a) Before the Administrator may certify an application for an exploration license, he must find that the applicant has demonstrated that, upon issuance or transfer of the license, the applicant will possess, or have access to or a reasonable expectation of obtaining, the technological capability to engage in the proposed exploration.

(b) In order for the Administrator to make this determination, the applicant must demonstrate to the Administrator's satisfaction that the applicant will possess or have access to, at the time of issuance or transfer of the license, the technology and expertise, as needed, to carry out the exploration program set forth in his exploration plan.

§ 970.403 Previous license and permit obligations.

In order to certify an application, the Administrator must find that the applicant has satisfactorily fulfilled all past obligations under any license or permit previously issued or transferred to the applicant under the Act.

§ 970.404 Adequate exploration plan.

Before he may certify an application, the Administrator must find that the proposed exploration plan of the applicant meets the requirements of § 970.203.

§ 970.405 Appropriate exploration site size and location.

Before the Administrator may certify an application, he must approve the size and location of the exploration area selected by the applicant. The Administrator will approve the size and location of the area unless he determines that the area is not a logical mining unit pursuant to § 970.601.

§ 970.406 Fee payment.

Before the Administrator may certify an application, he must find that the applicant has paid the license fee as specified in § 970.208.

§ 970.407 Denial of certification.

(a) The Administrator may deny certification of an application if he finds that the requirements of this subpart have not been met. If, in the course of reviewing an application for certification, the Administrator becomes aware of the fact that one or more of the requirements for issuance or transfer under §§ 970.503 through 970.507 will not be met, he may also deny certification of the application.

(b) When the Administrator proposes to deny certification he will send to the applicant, and publish in the **Federal Register**, written notice of intention to deny certification. Such notice will include:

(1) The basis upon which the Administrator proposes to deny certification; and

(2) If the basis for the proposed denial is a deficiency which the Administrator believes the applicant can correct:

(i) The action believed necessary to correct the deficiency; and

(ii) The time within which any correctable deficiency must be corrected (the period of time may not exceed 180 days except as specified by the Administrator for good cause).

(c) The Administrator will deny certification:

(1) On the 30th day after the date the notice is sent to the applicant, under paragraph (b) of this section, unless before such 30th day the applicant files with the Administrator a written request for an administrative review of the proposed denial; or

(2) On the last day of the period established under paragraph (b)(2)(ii) of this section in which the applicant must correct a deficiency, if such deficiency has not been corrected before such day and an administrative review requested pursuant to paragraph (c)(1) of this section is not pending or in progress.

(d) If a timely request for administrative review of the proposed denial is made by the applicant under paragraph (c)(1) of this section, the Administrator will promptly begin a formal hearing in accordance with Subpart J of this part. If the proposed denial is the result of a correctable

deficiency, the administrative review will proceed concurrently with any attempts to correct the deficiency, unless the parties agree otherwise or the administrative law judge orders differently.

(e) If the Administrator denies certification, he will send to the applicant written notice of the denial, including the reasons therefor.

(f) Any final determination by the Administrator granting or denying certification is subject to judicial review as provided in Chapter 7 of Title 5, United States Code.

§ 970.408 Notice of certification.

Upon making a final determination to certify an application for an exploration license, the Administrator will promptly send written notice of his determination to the applicant.

Subpart E—Issuance/Transfer/Terms, Conditions and Restrictions

§ 970.500 General.

(a) *Proposal.* After certification of an application pursuant to Subpart D of this part, the Administrator will proceed with a proposal to issue or transfer a license for the exploration activities described in the application.

(b)(1) *Terms, conditions and restrictions.* Within 180 days (or such longer period as the Administrator may establish for good cause shown in writing) after certification, the Administrator will propose terms and conditions for, and restrictions on, the proposed exploration which are consistent with the provisions of the Act and this part as set forth in §§ 970.517 through 970.524. Proposed and final terms, conditions and restrictions will be uniform in all licenses, except to the extent that differing physical and environmental conditions require the establishment of special terms, conditions and restrictions for the conservation of natural resources, protection of the environment, or the safety of life and property at sea. The Administrator will propose these in writing to the applicant. Also, public notice thereof will be provided pursuant to § 970.501, and they will be included with the draft of the EIS on the issuance of a license which is required by section 109(d) of the Act.

(2) If the Administrator does not propose terms, conditions and restrictions within 180 days after certification, he will notify the applicant in writing of the reasons for the delay and will indicate the approximate date on which the proposed terms, conditions and restrictions will be completed.

(c) *Findings.* Before issuing or transferring an exploration license, the Administrator must make written findings in accordance with the requirements of §§ 970.503 through 970.507. These findings will be made after considering all information submitted with respect to the application and proposed issuance or transfer. He will make a final determination on issuance or transfer of a license, and will publish a final EIS on that action, within 180 days (or such longer period of time as he may establish for good cause shown in writing) following the date on which proposed terms, conditions and restrictions, and the draft EIS, are published.

Issuance/Transfer; Modification/Revision; Suspension/Revocation

§ 970.501 Proposal to issue or transfer and of terms, conditions and restrictions.

(a) *Notice and comment.* The Administrator will publish in the Federal Register notice of each proposal to issue or transfer, and of terms and conditions for, and restrictions on, an exploration license. Subject to § 970.902, interested persons will be permitted to examine the materials relevant to such proposals. Interested persons will have at least 60 days after publication of such notice to submit written comments to the Administrator.

(b) *Hearings.* (1) The Administrator will hold a public hearing in an appropriate location and may employ such additional methods as he deems appropriate to inform interested persons about each proposal and to invite their comments thereon.

(2) If the Administrator determines there exists one or more specific and material factual issues which require resolution by formal processes, at least one formal hearing will be held in the District of Columbia in accordance with the provisions of Subpart J of this part. The record developed in any such formal hearing will be part of the basis for the Administrator's decisions on issuance or transfer of, and of terms, conditions and restrictions for, the license.

(c) Hearings held pursuant to this section will be consolidated insofar as practicable with hearings held by other agencies.

§ 970.502 Consultation and cooperation with Federal agencies.

Prior to the issuance or transfer of an exploration license, the Administrator will continue the consultation and cooperation with other Federal agencies which were initiated pursuant to § 970.211. This consultation will be to assure compliance with, among other statutes, the Endangered Species Act of 1973, as amended, the Marine Mammal Protection Act of 1972, as amended, and the Fish and Wildlife Coordination Act. He also will consult, prior to any issuance, transfer, modification or renewal of a license, with any affected Regional Fishery Management Council established pursuant to section 302 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1852) if the activities undertaken pursuant to such license could adversely affect any fishery within the Fishery Conservation Zone, or any anadromous species or Continental Shelf fishery resource subject to the exclusive management authority of the United States beyond such zone.

§ 970.503 Freedom of the high seas.

(a) Before issuing or transferring an exploration license, the Administrator must find that the exploration proposed in the application will not unreasonably interfere with the exercise of the freedoms of the high seas by other nations, as recognized under general principles of international law.

(b) In making this finding, the Administrator will recognize that exploration for hard mineral resources of the deep seabed is a freedom of the high seas. In the exercise of this right, each licensee must act with reasonable regard for the interests of other nations in their exercise of the freedoms of the high seas.

(c)(1) In the event of a conflict between the exploration program of an applicant or licensee and a competing use of the high seas by another nation or its nationals, the Administrator, in consultation and cooperation with the Department of State and other interested agencies, will enter into negotiations with that nation to resolve the conflict. To the maximum extent possible the Administrator will endeavor to resolve the conflict in a manner that will allow both uses to take place in a manner in which neither will unreasonably interfere with the other.

(2) If both uses cannot be conducted harmoniously in the area subject to the exploration plan, the Administrator will decide whether to issue or transfer the license.

§ 970.504 International obligations of the United States.

Before issuing or transferring an exploration license, the Administrator must find that the exploration proposed in the application will not conflict with any international obligation of the United States established by any treaty

or international convention in force with respect to the United States.

§ 970.505 Breach of international peace and security involving armed conflict.

Before issuing or transferring an exploration license, the Administrator must find that the exploration proposed in the application will not create a situation which may reasonably be expected to lead to a breach of international peace and security involving armed conflict.

§ 970.506 Environmental effects.

Before issuing or transferring an exploration license, the Administrator must find that the exploration proposed in the application cannot reasonably be expected to result in a significant adverse effect on the quality of the environment, taking into account the analyses and information in any applicable EIS prepared pursuant to section 109(c) or 109(d) of the Act. This finding also will be based upon the considerations and approach in § 970.701.

§ 970.507 Safety at sea.

Before issuing or transferring an exploration license, the Administrator must find that the exploration proposed in the application will not pose an inordinate threat to the safety of life and property at sea. This finding will be based on the requirements reflected in §§ 970.205 and 970.801.

§ 970.508 Denial of issuance or transfer.

(a) The Administrator may deny issuance or transfer of a license if he finds that the applicant or the proposed exploration activities do not meet the requirements of this part for the issuance or transfer of a license.

(b) When the Administrator proposes to deny issuance or transfer, he will send to the applicant, and publish in the **Federal Register**, written notice of such intention to deny issuance or transfer. Such notice will include:

(1) The basis upon which the Administrator proposes to deny issuance or transfer; and

(2) If the basis for the proposed denial is a deficiency which the Administrator believes the applicant can correct:

(i) The action believed necessary to correct the deficiency; and

(ii) The time within which any correctable deficiency must be corrected (the period of time may not exceed 180 days except as specified by the Administrator for good cause).

The **Federal Register** notice will not include the coordinates of the proposed exploration area.

(c) The Administrator will deny issuance or transfer:

(1) On the 30th day after the date the notice is sent to the applicant under paragraph (b) of this section, unless before such 30th day the applicant files with the Administrator a written request for an administrative review of the proposed denial; or

(2) On the last day of the period established under paragraph (b)(2)(ii) of this section in which the applicant must correct a deficiency, if such deficiency has not been corrected before such day and an administrative review requested pursuant to paragraph (c)(1) of this section is not pending or in progress.

(d) If a timely request for administrative review of the proposed denial is made by the applicant under paragraph (c)(1) of this section, the Administrator will promptly begin a formal hearing in accordance with Subpart J of this part. If the proposed denial is the result of a correctable deficiency, the administrative review will proceed concurrently with any attempt to correct the deficiency, unless the parties agree otherwise or the administrative law judge orders differently.

(e) If the Administrator denies issuance or transfer, he will send to the applicant written notice of the denial, including the reasons therefor.

(f) Any final determination by the Administrator granting or denying issuance of a license is subject to judicial review as provided in Chapter 7 of Title 5, United States Code.

§ 970.509 Notice of issuance or transfer.

If the Administrator finds that the requirements of this part have been met, he will issue or transfer the license along with the appropriate terms, conditions and restrictions. Notification thereof will be made in writing to the applicant and in the **Federal Register**.

§ 970.510 Objections to terms, conditions and restrictions.

(a) The licensee may file a notice of objection to any term, condition or restriction in the license. The licensee may object on the grounds that any term, condition or restriction is inconsistent with the Act or this part, or on any other grounds which may be raised under applicable provisions of law. If the licensee does not file notice of an objection within the 60-day period immediately following the licensee's receipt of the notice of issuance or transfer under § 970.509, he will be deemed conclusively to have accepted the terms, conditions and restrictions in the license.

(b) Any notice of objection filed under paragraph (a) of this section must be in writing, must contain the precise legal basis for the objection, and must provide information relevant to any underlying factual issues deemed by the licensee as necessary to the Administrator's decision upon the objection.

(c) Within 90 days after receipt of the notice of objection, the Administrator will act on the objection and publish in the **Federal Register**, as well as provide to the licensee, written notice of his decision.

(d) If, after the Administrator takes final action on an objection, the licensee demonstrates that a dispute remains on a material issue of fact, the Administrator will provide for a formal hearing which will proceed in accordance with Subpart J of this part.

(e) Any final determination by the Administrator on an objection to terms, conditions or restrictions in a license after the formal hearing provided in paragraph (d) of this section is subject to judicial review as provided in Chapter 7 of Title 5, United States Code.

§ 970.511 Suspension or modification of activities; suspension or revocation of licenses.

(a) The Administrator may:

(1) In addition to, or in lieu of, the imposition of any civil penalty under Subpart K of this part, or in addition to the imposition of any fine under Subpart K, suspend or revoke any license issued under this part, or suspend or modify any particular activities under such a license, if the licensee substantially fails to comply with any provision of the Act, this part, or any term, condition or restriction of the license; and

(2) Suspend or modify particular activities under any license, if the President determines that such suspension or modification is necessary:

(i) To avoid any conflict with any international obligation of the United States established by any treaty or convention in force with respect to the United States; or

(ii) To avoid any situation which may reasonably be expected to lead to a breach of international peace and security involving armed conflict.

(b) Any action taken by the Administrator in accordance with paragraph (a)(1) of this section will proceed pursuant to the procedures in § 970.1103. Any action taken in accordance with paragraph (a)(2) of this section will proceed pursuant to paragraphs (c) through (i) of this section.

(c) Prior to taking any action specified in paragraph (a)(2) of this section the Administrator will publish in the **Federal Register**, and send to the

licensee, written notice of the proposed action. The notice will include:

(1) The basis of the proposed action; and

(2) If the basis for the proposed action is a deficiency which the Administrator believes the licensee can correct:

(i) The action believed necessary to correct the deficiency; and

(ii) The time within which any correctable deficiency must be corrected (this period of time may not exceed 180 days except as specified by the Administrator for good cause).

(d) The Administrator will take the proposed action:

(1) On the 30th day after the date the notice is sent to the licensee, under paragraph (c) of this section, unless before such 30th day the licensee files with the Administrator a written request for an administrative review of the proposed action; or

(2) On the last day of the period established under paragraph (c)(2)(ii) of this section in which the licensee must correct the deficiency, if such deficiency has not been corrected before such day and an administrative review requested pursuant to paragraph (d)(1) of this section is not pending or in progress.

(e) If a timely request for administrative review of the proposed action is made by the licensee under paragraph (d)(1) of this section, the Administrator will promptly begin a formal hearing in accordance with Subpart J of this part. If the proposed action is the result of a correctable deficiency, the administrative review will proceed concurrently with any attempt to correct the deficiency, unless the parties agree otherwise or the administrative law judge orders differently.

(f) The Administrator will serve on the licensee, and publish in the **Federal Register**, written notice of the action taken including the reasons therefor.

(g) Any final determination by the Administrator to take the proposed action is subject to judicial review as provided in Chapter 7 of Title 5, United States Code.

(h) The issuance of any notice of proposed action under this section will not affect the continuation of exploration activities by a licensee, except as provided in paragraph (i) of this section.

(i) The provisions of paragraphs (c), (d), (e) and (h) of this section will not apply when:

(1) The President determines by Executive Order that an immediate suspension of a license, or immediate suspension or modification of particular activities under such license, is necessary for the reasons set forth in paragraph (a)(2) of this section; or

(2) The Administrator determines that immediate suspension of such a license, or immediate suspension or modification of particular activities under a license, is necessary to prevent a significant adverse effect on the environment or to preserve the safety of life or property at sea, and the Administrator issues an emergency order in accordance with § 970.1103(d)(4).

(j) The Administrator will immediately rescind the emergency order as soon as he has determined that the cause for the order has been removed.

§ 970.512 Modification of terms, conditions and restrictions.

(a) After issuance or transfer of any license, the Administrator, after consultation with interested agencies and the licensee, may modify any term, condition, or restriction in such license for the following purposes:

(1) To avoid unreasonable interference with the interests of other nations in their exercise of the freedoms of the high seas, as recongnized under general principles of international law. This determination will take into account the provisions of § 970.503;

(2) If relevant data and other information (including, but not limited to, data resulting from exploration activities under the license) indicate that modification is required to protect the quality of the environment or to promote the safety of life and property at sea;

(3) To avoid a conflict with any international obligation of the United States, established by any treaty or convention in force with respect to the United States, as determined in writing by the President; or

(4) To avoid any situation which may reasonably be expected to lead to a breach of international peace and security involving armed conflict, as determined in writing by the President.

(b) The procedures for objection to the modification of a term, condition or restriction will be the same as those for objection to an original term, condition or restriction under § 970.510, except that the period for filing notice of objection will run from the recipient of notice of proposed modification. Public notice of proposed modifications under this section will be made according to § 970.514. On or before the date of publication of public notice, written notice will be provided to the licensee.

§ 970.513 Revision of a license.

(a) During the term of an exploration license, the licensee may submit to the Administrator an application for a revision of the license or the exploration plan associated with it. NOAA recognizes that changes in circumstances encountered, and in information and technology developed, by the licensee during exploration may require such revisions. In some cases it may even be advisable to recognize at the time of filing the original license application that although the essential information for issuing or transferring a license as specified in §§ 970.201 through 920.208 must be included in such application, some details may have to be provided in the future in the form of a revision. In such instances, the Administrator may issue or transfer a license which would authorize exploration activities and plans only to the extent described in the application.

(b) The Administrator will approve such application for a revision upon a finding in writing that the revision will comply with the requirements of the Act and this part.

(c) A change which would require an application to and approval by the Administrator as a revision is a major change in one or more of:

(1) The bases for certifying the original application pursuant to §§ 970.401 through 970.406;

(2) The bases for issuing or transferring the license pursuant to §§ 970.503 through 970.507; or

(3) The terms, conditions and restrictions issued for the license pursuant to §§ 970.517 through 970.524.

A major change is one which is of such significance so as to raise a question as to:

(i) The applicant's ability to meet the requirements of the sections cited in subparagraph (1) and (2) of paragraph (c) of this section; or

(ii) The sufficiency of the terms, conditions and restrictions to accomplish their intended purpose.

§ 970.514 Scale requiring application procedures.

(a) A proposal by the Administrator to modify a term, condition or restriction in a license pursuant to § 970.512, or an application by a licensee for revision of a license or exploration plan pursuant to § 970.513, is significant, and the full application requirements and procedures will apply, if it would result in other than an incidental:

(1) Increase in the size of the exploration area; or

(2) Change in the location of the area.

An incidental increase or change is that which equals two percent or less of the original exploration area, so long as such adjustment is contiguous to the licensed area.

(b) All proposed modifications or revisions other than described in paragraph (a) of this section will be acted on after a notice thereof is published by the Administrator in the Federal Register, with a 60-day opportunity for public comment. On a case-by-case basis, the Administrator will determine if other procedures, such as a public hearing in a potentially affected area, are warranted. Notice of the Administrator's decision on the proposed modification will be provided to the licensee in writing and published in the Federal Register.

§ 970.515 Duration of a license.

(a) Each exploration license will be issued for a period of 10 years.

(b) If the licensee has substantially complied with the license and its associated exploration plan and requests an extension of the license, the Administrator will extend the license on terms, conditions and restrictions consistent with the Act and this part for a period of not more than 5 years.

In determining substantial compliance for purposes of this section, the Administrator may make allowance for deviation from the exploration plan for good cause, such as significantly changed market conditions. However, a request for extension must be accompanied by an amended exploration plan to govern the activities by the licensee during the extended period.

(c) Successive extensions may be requested, and will be granted by the Administrator, based on the criteria, and for the length of time, specified in paragraph (b) of this section.

§ 970.516 Approval of license transfers.

(a) The Administrator may transfer a license after a written request by the licensee. After a licensee submits such a request to the Administrator, the proposed transferee will be deemed an applicant for an exploration license, and will be subject to the requirements and procedures of this part.

(b) The Administrator will transfer a license if the proposed transferee and exploration activities meet the requirements of the Act and this part, and if the proposed transfer is in the public interest. The Administrator will presume that the transfer is in the public interest if it meets the requirements of the Act and this part. In case of mere change in the form or ownership of a licensee, the Administrator may waive relevant determinations for requirements for which no changes have occurred since the preceding application.

Terms, Conditions, and Restrictions

§ 970.517 Diligence requirements.

The terms, conditions and restrictions in each exploration license must include provisions to assure diligent development. The Administrator will establish these pursuant to § 970.602.

§ 970.518 Environmental protection requirements.

(a) Each exploration license must contain such terms, conditions and restrictions, established by the Administrator, which prescribe actions the licensee must take in the conduct of exploration activities to assure protection of the environment. The Administrator will establish these pursuant to § 970.702.

(b) Before establishing the terms, conditions and restrictions pertaining to environmental protection, the Administrator will consult with the Administrator of the Environmental Protection Agency, the Secretary of State and the Secretary of the department in which the Coast Guard is operating. He also will take into account and give due consideration to the information contained in the final EIS prepared with respect to that proposed license.

§ 970.519 Resource conservation requirements.

For the purpose of conservation of natural resources, each license issued under this part will contain, as needed, terms, conditions and restrictions which have due regard for the prevention of waste and the future opportunity for the commercial recovery of the unrecovered balance of the hard mineral resources in the license area. The Administrator will establish these pursuant to § 970.603.

§ 970.520 Freedom of the high seas requirements.

Each license issued under this part must include such restrictions as may be necessary and appropriate to ensure that the exploration activities do not unreasonably interfere with the interests of other nations in their exercise of the freedoms of the high seas, as recognized under general principles of international law, such as fishing, navigation, submarine pipeline and cable laying, and scientific research. The Administrator will consider the provisions in § 970.503 in establishing these restrictions.

§ 970.521 Safety at sea requirements.

The Secretary of the department in which the Coast Guard is operating, in consultation with the Administrator, will require in any license issued under this part, in conformity with principles of international law, that vessels documented under the laws of the United States and used in activities authorized under the license comply with conditions regarding the design, construction, alteration, repair, equipment, operation, manning and maintenance relating to vessel and crew safety and the promotion of safety of life and property at sea. These requirements will be established with reference to Subpart H of this part.

§ 970.522 Monitoring requirements.

Each exploration license must require the licensee:

(a) To allow the Administrator to place appropriate Federal officers or employees as observers aboard vessels used by the licensee in exploration activities to:

(1) Monitor such activities at such time, and to such extent, as the Administrator deems reasonable and necessary to assess the effectiveness of the terms, conditions, and restrictions of the license; and

(2) Report to the Administrator whenever such officers or employees have reason to believe there is a failure to comply with such terms, conditions, and restrictions;

(b) To cooperate with such officers and employees in the performance of monitoring functions; and

(c) To monitor the environmental effects of the exploration activities in accordance with a monitoring plan approved and issued by the Administrator as license terms, conditions and restrictions, and to submit such information as the Administrator finds to be necessary and appropriate to assess environmental impacts and to develop and evaluate possible methods of mitigating adverse environmental effects. This environmental monitoring plan and reporting will respond to the concerns and procedures discussed in Subpart G of this part.

§ 970.523 Special terms, conditions, and restrictions.

Although the general criteria and standards to be used in establishing terms, conditions, and restrictions for a license are set forth in this part, as referenced in §§ 970.517 through 970.522, the Administrator may impose special terms, conditions, and restrictions for the conservation of natural resources, protection of the environment, or the safety of life and property at sea when required by differing physical and environmental conditions.

§ 970.524 Other Federal requirements.

Pursuant to § 970.211, another Federal agency, upon review of an exploration license application submitted under this part, may indicate how terms, conditions, and restrictions might be added to the license, to assure compliance with any law or regulation within that agency's area of responsibility. In response to the intent, reflected in section 103(e) of the Act, to reduce the number of separate actions to satisfy the statutory responsibilities of these agencies, the Administrator may include such terms, conditions, and restrictions in a license.

Subpart F—Resource Development Concepts

§ 970.600 General.

Several provisions in the Act relate to appropriate mining techniques or mining efficiency. These raise what could be characterized as resource development issues. In particular, under section 103(a)(2)(D) of the Act, the applicant will select the size and location of the area of an exploration plan, which will be approved unless the Administrator finds that the area is not a "logical mining unit." Also, pursuant to section 108 of the Act the applicant's exploration plan and the terms, conditions and restrictions of each license must be designed to ensure diligent development. In addition, for the purpose of conservation of natural resources, section 110 of the Act provides that each license is to contain, but only as needed, terms, conditions, and restrictions which have due regard for the prevention of waste and the future opportunity for the commercial recovery of the unrecovered balance of the resources.

§ 970.601 Logical mining unit.

(a) In the case of an exploration license, a logical mining unit is an area of the deep seabed which can be explored under the license, and within the 10-year license period, in an efficient, economical and orderly manner with due regard for conservation and protection of the environment, taking into consideration the resource data, other relevant physical and environmental characteristics, and the state of the technology of the applicant as set forth in the exploration plan. In addition, it must be of sufficient size to allow for intensive exploration.

(b) Approval by the Administrator of a proposed exploration logical mining unit will be based on a case-by-case review of each application. In order to provide a proper basis for this evaluation, the applicant's exploration plan should describe the seabed topography, the location of mineral deposits and the nature of planned equipment and operations. Also, the exploration plan must show the relationship between the area to be explored and the applicant's plans for commercial recovery volume, to the extent projected in the exploration plan.

(c) In delineating an exploration area, the applicant need not include unmineable areas. Thus, the area need not consist of contiguous segments, as long as each segment would be efficiently mineable and the total proposed area constitutes a logical mining unit. In describing the area, the applicant must present the geodetic coordinates of the points defining the boundaries, referred to the World Geodetic System (WGS) Datum. A boundary between points must be a geodesic. If grid coordinates are desired, the Universal Transverse Mercator Grid System must be used.

(d) At the applicant's option, for the purpose of satisfying a possible obligation under a future Law of the Sea Treaty, the exploration area proposed may be up to twice the size of a logical mining unit, which can be divided into two exploration sites of equal estimated commercial value. The application should specify if this option is chosen.

§ 970.602 Diligent exploration.

(a) Each licensee must pursue diligently the activities described in his approved exploration plan. This requirement applies to the full scope of the plan, including environmental safeguards and monitoring systems. To help assure this diligence, terms, conditions and restrictions which the Administrator issues with a license will require such periodic reasonable expenditures for exploration by the licensee as the Administrator may establish, taking into account the size of the area of the deep seabed to which the exploration plan applies and the amount of funds which is estimated by the Administrator to be required during exploration for commercial recovery of hard mineral resources to begin within the time limit established by the Administrator. However, such required expenditures will not be established at a level which would discourage exploration by persons with less costly technology than is prevalently in use.

(b) In order to fulfill the diligence requirement, the applicant first must propose to the Administrator an estimated schedule of activities and expenditures pursuant to § 970.203(b) (3) and (6). The schedule must show, and the Administrator must be able to make a reasonable determination, that the applicant can complete his exploration activities within the term of the license. In this regard, there must be a reasonable relationship between the size of the exploration area and the financial and technological resources reflected in the application. Also, the exploration must clearly point toward developing the ability, by the end of the 10-year license period, to apply for and obtain a permit for commercial recovery.

(c) Ultimately, the diligence requirement will involve a retrospective determination by the Administrator, based on the licensee's reasonable conformance to the approved exploration plan. Such determination, however, will take into account the need for some degree of flexibility in an exploration plan. It also will include consideration of the needs and stage of development of each licensee, again based on the approved exploration plan. In addition, the determination will take account of legitimate periods of time when there is no or very low expenditure, and will allow for a certain degree of flexibility for changes encountered by the licensee in such factors as its resource knowledge and financial considerations.

(d) In order for the Administrator to make determinations on a licensee's adherence to the diligence requirements, the licensee must submit a report annually reflecting his conformance to the schedule of activities and expenditures contained in the license. In case of any changes requiring a revision to an approved license and exploration plan, the licensee must advise the Administrator in accordance with § 970.513.

§ 970.603 Conservation of resources.

(a) With respect to the exploration phase of seabed mining, the requirement for the conservation of natural resources, encompassing due regard for the prevention of waste and the future opportunity for the commercial recovery of the unrecovered balance of the hard mineral resources in the area to which the license applies, may not be particularly relevant. Thus, since the Act requires such terms, conditions and restrictions only as needed, exploration licenses will require such provisions only as the Administrator deems necessary.

(b) NOAA views license phase mining system tests as an opportunity to examine, with industry, the conservation implications of any mining patterns used. Thus, in order to develop information needed for future decisions during commercial recovery, NOAA will

include with a license a requirement for the submission of collector track and nodule production data. Only if information submitted reflects that the integrated system tests are resulting in undue waste or threatening the future opportunity for commercial recovery of the unrecovered balance of hard mineral resources will the Administrator modify the terms, conditions or restrictions pertaining to the conservation of natural resources, in order to address such problems.

(c) If the Administrator so modifies such terms, conditions and restrictions relating to conservation of resources, he will employ a balancing process in the consideration of the state of the technology being developed, the processing system utilized and the value and potential use of any waste, the environmental effects of the exploration activities, economic and resource data, and the national need for hard mineral resources.

Subpart G—Environmental Effects

§ 970.700 General.

Congress, in authorizing the exploration for hard mineral resources under the Act, also enacted provisions relating to the protection of the marine environment from the effects of exploration activities. For example, before the Administrator may issue a license, pursuant to section 105(a)(4) of the Act he must find that the exploration proposed in an application cannot reasonably be expected to result in a significant adverse effect on the quality of the environment. Also, the Act requires in section 109(b) that each license issued by the Administrator must contain such terms, conditions and restrictions which prescribe the actions the licensee must take in the conduct of exploration activities to assure protection of the environment. Furthermore, the Act in section 105(c)(1)(B) provides for the modification by the Administrator of any term, condition or restriction if relevant data and other information indicates that modification is required to protect the quality of the environment. In addition, section 114 of the Act specifies that each license issued under the Act must require the licensee to monitor the environmental effects of the exploration activities in accordance with guidelines issued by the Administrator, and to submit such information as the Administrator finds to be necessary and appropriate to assess environmental impacts and to develop and evaluate possible methods of mitigating adverse environmental effects.

§ 970.701 Significant adverse environmental effects.

(a) *Activities with no significant impact.* NOAA believes that exploration activities of the type listed below are very similar or identical to activities considered in section 6(c)(3) of NOAA Directives Manual 02–10, and therefore have no potential for significant environmental impact, and will require no further environmental assessment.

(1) Gravity and magnetometric observations and measurements;

(2) Bottom and sub-bottom acoustic profiling or imaging without the use of explosives;

(3) Mineral sampling of a limited nature such as those using either core, grab or basket samplers;

(4) Water and biotic sampling, if the sampling does not adversely affect shellfish beds, marine mammals, or an endangered species, or if permitted by the National Marine Fisheries Service or another Federal agency;

(5) Meteorological observations and measurements, including the setting of instruments;

(6) Hydrographic and oceanographic observations and measurements, including the setting of instruments;

(7) Sampling by box core, small diameter core or grab sampler, to determine seabed geological or geotechnical properties;

(8) Television and still photographic observation and measurements;

(9) Shipboard mineral assaying and analysis; and

(10) Positioning systems, including bottom transponders and surface and subsurface buoys filed in *Notices to Mariners.*

(b) *Activities with potential impact.* (1) NOAA research has identified at-sea testing of recovery equipment and the operation of processing test facilities as activities which have some potential for significant environmental impacts during exploration. However, the research has revealed that only the following limited effects are expected to have potential for significant adverse environmental impact.

(2) The programmatic EIS's documents three at-sea effects of deep seabed mining which cumulatively during commercial recovery have the potential for significant effect. These three effects also occur during mining system tests that may be conducted under a license, but are expected to be insignificant. These include the following:

(i) *Destruction of benthos in and near the collector track.* Present information reflects that the impact from this effect during mining tests under exploration licenses will be extremely small.

(ii) *Blanketing of benthic fauna and dilution of food supply away from mine site subareas.* The settling of fine sediments disturbed by tests under a license of scale-model mining systems which simulate commercial recovery could adversely affect benthic fauna by blanketing, diluation of their food supply, or both. Because of the anticipated slow settling rate of the sediments, the affected area could be quite large. However, research results are insufficient to conclude that this will indeed be a problem.

(iii) *Surface plume effect on fish larvae.* The impact of demonstration-scale mining tests during exploration is expected to be insignificant.

(3) If processing facilities in the United States are planned to be used for testing during exploration, NOAA also will assess their impacts in the site-specific EIS developed for each license.

(c) *NOAA approach.* In making determinations on significant adverse environmental effects, the Administrator will draw on the above conclusions and other findings in NOAA's programmatic environmental statement and site-specific statements issued in accordance with the Act. He will issue licenses with terms, conditions and restrictions containing, as appropriate, environmental protection or mitigation requirements (pursuant to § 970.518) and monitoring requirements (pursuant to § 970.522). The focus of NOAA's environmental efforts will be on environmental research and on monitoring during mining tests to acquire more information on the environmental effects of deep seabed mining. If these efforts reveal that modification is required to protect the quality of the environment, NOAA then may modify terms, conditions and restrictions pursuant to § 970.512.

§ 970.702 Monitoring and mitigation of environmental effects.

(a) *Monitoring.* If an application is determined to be otherwise acceptable, the Administrator will specify an environmental monitoring plan as part of the terms, conditions and restrictions developed for each license. The plan will be based on the monotoring plan proposed by the applicant and reviewed by NOAA for completeness, accuracy and statistical reliability. This monitoring strategy will be devised to insure that the exploration activities do not deviate significantly from the approved exploration plan and to determine if the assessment of the plan's acceptability was sound. The monitoring plan, among other things, will include monitoring environmental parameters

relating to verficiation of NOAA's findings concerning potential impacts, but relating mainly to the three unresolved concerns with the potential for significant environmental effect, as identified in § 970.701(b)(2). NOAA has developed a technical guidance document, which includes parameters pertaining to the upper and lower water column and operational aspects, which document will provide assistance in developing monitoring plans in consultation with applicants.

(b) *Mitigation.* Monitoring and continued research may develop information on future needs for mitigating environmental effects. If such needs are identified, terms, conditions and restrictions can be modified appropriately.

Subpart H—Safety of Life and Property at Sea

§ 970.800 General.

The Act contains requirements, in the context of several decisions, that relate to assuring the safety of life and property at sea. For instance, before the Administrator may issue a license, section 105(a)(5) of the Act requires that he find that the proposed exploration will not pose an inordinate threat to the safety of life and property at sea. Also, under section 112(a) of the Act the Coast Guard, in consultation with NOAA, must require in any license or permit issued under the Act, in conformity with principles of international law, that vessels documented in the United States and used in activities authorized under the license comply with conditions regarding the design, construction, alteration, repair, equipment, operation, manning and maintenance relating to vessel and crew safety and the safety of life and property at sea. In addition, under section 105(c)(1)(B) of the Act, the Administrator may modify terms, conditions and restrictions for a license if required to promote the safety of life and property at sea.

§ 970.801 Criteria for safety of life and property at sea.

Response to the safety at sea requirements in essence will involve vessel inspection requirements. These inspection requirements may be identified by reference to present laws and regulations. The primary inspection statutes pertaining to United States flag vessels are: 46 U.S.C. 86 (Loadlines); 46 U.S.C. 395 (Inspection of seagoing barges over 100 gross tons); 46 U.S.C. 367 (Inspection of sea-going motor vessels over 300 gross tons); and 46 U.S.C. 404 (Inspection of vessels above 15 gross tons carrying freight for hire). All United States flag vessels will be required to meet existing regulatory requirements applicable to such vessels. This includes the requirement for a current valid Coast Guard Certificate of Inspection, as specified in § 970.205. Being United States flag, these vessels will be under United States jurisdiction on the high seas and subject to domestic enforcement procedures. With respect to foreign flag vessels, the SOLAS 74 or SOLAS 60 certificate requirements or alternative IACS requirements, as specified in § 970.205, apply.

Subpart I—Miscellaneous

§ 970.900 General.

This subpart contains miscellaneous provisions pursuant to the Act which are relevant to exploration licenses.

§ 970.901 Records to be maintained and information to be submitted by licensees.

(a)(1) In addition to the information specified elsewhere in this part, each licensee must keep such records, consistent with standard accounting principles, as the Administrator may specify with each license. Such records must include information which will fully disclose expenditures for exploration for hard mineral resources in the area under license, and such other information as will facilitate an effective audit of such expenditures.

(2) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for purposes of audit and examination, to any books, documents, papers, and records of licensees which are necessary and directly pertinent to verify the expenditures referred to in paragraph (a)(1) of this section.

(b) In addition to the information specified elsewhere in this part, each applicant or licensee will be required to submit to the Administrator at his request such data or other information as he may reasonably need for purposes of making determinations with respect to the issuance, revocation, modification, or suspension of the license in question; compliance with the biennal Congressional report requirement contained in section 309 of the Act; and evaluation of the exploration activities conducted by the licensee. At a minimum, licensees must submit an annual written report, within 90 days after each anniversary of the license issuance or transfer, of exploration activities and expenditures to address the diligence requirements in § 970.602, and of environmental monitoring to address the requirements of § 970.522(c) and § 970.702(a).

§ 970.902 Public disclosure of documents received by NOAA.

(a) *Purpose.* This section provides a procedure by which persons submitting information pursuant to this part may request that certain information not be subject to public disclosure. The substantiation requested from such persons is intended to assure that NOAA has a complete and proper basis for determining the legality and appropriateness of withholding or releasing the identified information if a public request for disclosure is received.

(b) *Written requests for confidential treatment.* (1) Any person who submits any information pursuant to this part, which information is considered by him to be protected by the Trade Secrets Act (18 U.S.C. 1905) or otherwise to be a trade secret or commercial or financial information which is privileged or confidential, may request that the information be given confidential treatment.

(2)(i) Any request for confidential treatment of information:

(A) Should be submitted at the time of submission of information;

(B) Should state the period of time for which confidential treatment is desired (e.g., until a certain date, or until the occurrence of a certain event, or permanently);

(C) Must be submitted in writing; and

(D) Must include the name, mailing address, and telephone number of an agent of the submitter who is authorized to receive notice of requests for disclosure of such information pursuant to paragraph (d) of this section.

(ii) If information is submitted to NOAA without an accompanying request for confidential treatment, the notice referred to in paragraph (d)(2) of this section need not be given. If a request for confidential treatment is received after the information itself is received, NOAA will make such efforts as are administratively practicable to associate the request with copies of the previously submitted information in the files of NOAA and the Federal agencies to which NOAA distributed the information.

(3)(i) Information subject to a request for confidential treatment must be segregated from information for which confidential treatment is not being requested, and each page (or segregable portion of each page) subject to the request must be clearly marked with the name of the person requesting confidential treatment, the name of the applicant or licensee, and an identifying legend such as "Proprietary Information" or "Confidential Treatment Requested." Where this marking proves

impracticable, a cover sheet containing the identifying names and legend must be securely attached to the compilation of information for which confidential treatment is requested. Each copy of the information for which confidential treatment has been requested must be cross-referenced to the appropriate section of the application or other document. All information for which confidential treatment is requested pertaining to the same application or other document must be submitted to NOAA in a package separate from that information for which confidential treatment is not being requested.

(ii) Each copy of any application or other document with respect to which confidential treatment of information has been requested must indicate, at each place in the application or document where confidential information has been deleted, that confidential treatment of information has been requested.

(iii) With respect to information submitted as part of an application, twenty-five copies of the information for which confidential treatment is requested must be submitted.

(4) Normally, NOAA will not make a determination as to whether confidential treatment is warranted until a request for disclosure of the information is received. However, on a case-by-case basis, the Administrator may decide to make a determination in advance of a request for disclosure, where it would facilitate NOAA's obtaining voluntarily submitted information (rather than information required to be submitted under this part).

(c) *Substantiation of request for confidential treatment.* (1) Any request for confidential treatment may include a statement of the basis for believing that the information is deserving of confidential treatment which addresses the issues relevant to a determination of whether the information is a trade secret, or commercial or financial information which is privileged or confidential. To the extent permitted by applicable law, part or all of any such statement submitted will be treated as confidential if so requested by the person requesting confidential treatment. Any such statement for which confidential treatment is requested must be segregated, marked, and submitted in accordance with the procedures described in paragraph (b)(3) of this section.

(2) Issues addressed in the statement should include:

(i) The commercial or financial nature of the information;

(ii) The nature and extent of the competitive advantage enjoyed as a result of possession of the information;

(iii) The nature and extent of the competitive harm which would result from public disclosure of information;

(iv) The extent to which the information has been disseminated to employees and contractors of the person submitting the information;

(v) The extent to which persons other than the person submitting the information possess, or have access to, the same information; and

(vi) The nature of the measures which have been and are being taken to protect the information from disclosure.

(d) *Requests for disclosure.* (1) Any request for disclosure of information submitted, reported or collected pursuant to this part shall be made in accordance with 15 CFR 903.7.

(2) Upon receipt of a request for disclosure of information for which confidential treatment has been requested, the Administrator immediately will issue notice by an expeditious means (such as by telephone, confirmed by certified or registered mail, return receipt requested) of the request for disclosure to the person who requested confidential treatment of the information or to the designated agent. The notice also will:

(i) Inquire whether such person continues to maintain the request for confidential treatment;

(ii) Notify such person of the date (generally, not later than the close of business on the fourth working day after issuance of the notice) by which the person is strongly encouraged to deliver to NOAA a written statement that the person either:

(A) Waives or withdraws the request for confidential treatment in full or in part; or

(B) Confirms that the request for confidential treatment is maintained;

(iii) Inform such person that by such date as the Administrator specifies (generally, not later than the close of business on the fourth working day after issuance of the notice), the person:

(A) Is strongly encouraged to deliver to NOAA a written statement addressing the issues listed in paragraph (c)(2) of this section, describing the basis for believing that the information is deserving of confidential treatment, if such a statement was not previously submitted;

(B) Is strongly encouraged to deliver to NOAA an update of or supplement to any statement previously submitted under paragraph (c) of this section; and

(C) May present to the Administrator in such forum as the Administrator deems appropriate (such as by telephone or in an informal conference), such person's arguments against disclosure of the information; and

(iv) Inform such person that the burden is on him to assure that any response to the notice is delivered to NOAA within the time specified in the notice.

(3) To the extent permitted by applicable law, part or all of any statement submitted in response to any notice issued under paragraph (d)(2) will be treated as confidential if so requested by the person submitting the response. Any such response for which confidential treatment is requested must be segregated, marked and submitted in accordance with the procedures described in paragraphs (b)(3)(i) and (b)(3)(ii) of this section;

(4) Upon the expiration of the time allowed for response under paragraph (d)(2) of this section, the Administrator will determine, in consultation with the Assistant General Counsel for Administration, whether confidential treatment is warranted based on the information then available to NOAA;

(5) If the person who requested confidential treatment waives or withdraws that request, the Administrator will proceed with appropriate disclosure of the information;

(6) If the Administrator determines that confidential treatment is warranted, he will so notify the person requesting confidential treatment, and will issue an initial denial of the request for disclosure of records in accordance with 15 CFR 903.8;

(7) If the Administrator determines that confidential treatment is not warranted for part or all of the information, the Administrator immediately will issue notice by an expeditious means (such as by telephone, confirmed by certified or registered mail, return receipt requested) to the person who requested confidential treatment. The notice will state:

(i) The basis for the Administrator's determination;

(ii) That the Administrator's determination constitutes final agency action on the request for confidential treatment;

(iii) That such final agency action may be subject to judicial review under Chapter 7 of Title 5, United States Code; and

(iv) That on the fourth working day after issuance of the notice described in this paragraph (d)(7), the Administrator will make the information available to the person who requested disclosure unless NOAA has first been notified of

the filing of an action in a Federal court to obtain judicial review of the determination, and the court has issued an appropriate order preventing or limiting disclosure.

(8) NOAA will keep a record of the date any notice is issued, and of the date any response is received, by NOAA under this paragraph (d).

(9) In all other respects, procedures for handling requests for records containing information submitted to, reported to, or collected by the Administrator pursuant to this part will be in accordance with 15 CFR Part 903. For example, if 10 working days have passed after the receipt of a request for disclosure and, dispite the exercise of due diligence by the agency, the Administrator cannot make a determination as to whether confidential treatment is warranted, the Administrator will issue appropriate notice in accordance with 15 CFR 903.8(b)(5).

(e) *Direct submissions of confidential information.* If any person (for example, an affiliate) has reason to believe that it would be prejudiced by furnishing information required from it to the applicant or licensee, such person may file the required information directly with NOAA. Information for which the person requests confidential treatment must be segregated, marked, and submitted in accordance with the procedures described in paragraph (b)(3) of this section.

(f) *Protection of confidential information transmitted by NOAA to other agencies.* Each copy of information for which confidential treatment has been requested which is transmitted by NOAA to other Federal agencies will be accompanied by a cover letter containing:

(1) A request that the other Federal agency maintain the information in confidence in accordance with applicable law (including the Trade Secrets Act, 18 U.S.C. 1905) and any applicable protective agreement entered into by the Administrator and the Federal agency receiving the information;

(2) A request that the other Federal agency notify the Administrator immediately upon receipt of any request for disclosure of the information; and

(3) A request that all copies of the information be returned to NOAA for secure storage or disposal promptly after the Federal agency determines that it no longer needs the information for its official use.

§ 970.903 Relinquishment and surrender of licenses.

(a) Any licensee may at any time, without penalty:

(1) Surrender to the Administrator a license issued to the licensee; or

(2) Relinquish to the Administrator, in whole or in part, any right to conduct any exploration activities authorized by the license.

(b) Any licensee who surrenders a license or relinquishes any such right will remain liable with respect to all violations and penalties incurred, and damage to persons or property caused, by the licensee as a result of activities engaged in by the licensee under such license.

§ 970.904 Amendment to regulations for conservation, protection of the environment and safety of life and property at sea.

The Administrator may at any time amend the regulations in this part as the Administrator determines to be necessary and appropriate in order to provide for the conservation of natural resources, protection of the environment, and the safety of life and property at sea. Such amended regulations will apply to all exploration activities conducted under any license issued or maintained pursuant to this part; except that any such amended regulations which provide for conservation of natural resources will apply to exploration conducted under an existing license during the present term of such license only if the Administrator determines that such amended regulations providing for conservation of natural resources will not impose serious or irreparable economic hardship on the licensee. Any amendment to regulations under this section will be made pursuant to the procedures in Subpart J of this part, except that § 970.1001(f)(1) will not apply. Instead, the parties of right to the hearing will be limited to the Administrator. Other persons may file a request under § 970.1001(f)(2) or (3) to participate in the hearing.

§ 970.905 Computation of time.

Saturdays, Sundays, and Federal Government holidays will be included in computing the time period allowed for filing any document or paper under this part, but when such time period expires on such a day, such time period will be extended to include the next following Federal Government work day. Also, filing periods expire at the close of business on the day specified, and for the office specified.

§ 970.906 Compliance with Paperwork Reduction Act.

In accordance with 44 U.S.C. 3506(c) and 3512 NOAA hereby informs affected persons that the requests for information under this part requiring:

(a) Submissions of specified information with applications; and

(b) Compliance with specified recordkeeping and reporting requirements;

Are not subject to the requirements of Chapter 35 of title 44, United States Code, including 44 U.S.C. 3705.

Subpart J—Uniform Procedures

§ 970.1000 Applicability.

The regulations of this subpart govern the following proceedings conducted by NOAA under this part.

(a) All adjudicatory hearings required by section 116(b) of the Act to be held on the following actions upon a finding by the Administrator that one or more specific and material issues of fact exist which require resolution by formal process, including but not limited to:

(1) All applications for issuance or transfer of license;

(2) All proposed terms, conditions and restrictions on a license; and

(3) All proposals to significantly modify a license;

(b) Hearings conducted under section 105(b)(3) of the Act on objection by a licensee to any term, condition or restriction in a license, or to modification thereto, where the licensee demonstrates, after final action by the Administrator on the objection, that a dispute remains as to a material issue of fact;

(c) Hearings conducted in accordance with section 106(b) of the Act pursuant to a timely request by an applicant or a licensee for review of:

(1) A proposed denial of issuance or transfer of a license; or

(2) A proposed suspension or modification of particular activities under a license after a Presidential determination pursuant to section 106(a)(2)(B) of the Act;

(d) Hearings conducted in accordance with section 308(c) of the Act to amend regulations for the purpose of conservation of natural resources, protection of the environment, and safety of life and property at sea;

(e) Hearings conducted in accordance with § 970.407 on a proposal to deny certification of an application; and

(f) Hearings conducted in accordance with Subpart C of this part to determine priority of right among pre-enactment explorers.

§ 970.1001 Formal hearing procedures.

(a) *General.* (1) All hearings described in paragraph (a) of § 970.1000 are governed by 5 U.S.C. sections 554–557 and the procedures contained in this section.

(2) Hearings held under this section will be consolidated insofar as practicable with hearings held by other agencies.

(b) *Decision to hold a hearing.* Whenever the Administrator finds that a formal hearing is required by the provision of this part he will provide for a formal hearing.

(c) *Assignment of administrative law judge.* Upon deciding to hold a formal hearing, the Administrator will refer the proceeding to the NOAA Office of Administrative Law Judges for assignment to an Administrative Law Judge to serve as presiding officer for the hearing.

(d) *Notice of formal hearing.*

(1) The Administrator will publish notice of the formal hearing in the Federal Register at least 15 days before the beginning of the hearing, and will send written notice by registered or certified mail to any involved applicant or licensee, and to all persons who submitted written comments upon the action in question, testified at any prior informal hearing on the action or filed a request for the formal hearing under this part.

(2) Notice of a formal hearing will include, among other things:

(i) Time and place of the hearing;

(ii) The name and address of the person(s) requesting the formal hearing or a statement that the formal hearing is being held by order of the Administrator;

(iii) The issues in dispute which are to be resolved in the formal hearing;

(iv) The due date for filing a written request to participate in the hearing in accordance with paragraphs (f)(2) and (f)(3) of this section; and

(v) Reference to any prior informal hearing from which the issues to be determined arose.

(e) *Powers and duties of the administrative law judge.* Judges have all the powers and duties necessary to preside over the parties and proceedings and to conduct fair and impartial hearings, as specified by 5 U.S.C 554–557 and this section, including the power to:

(1) Regulate the course of the hearing and the conduct of the parties, interested persons and others submitting evidence, including but not limited to the power to require the submission of part or all of the evidence in written form if the judge determines a party will not be prejudiced thereby, and if otherwise in accordance with law;

(2) Rule upon requests submitted in accordance with paragraph (f)(2) of this section to participate as a party, or requests submitted in accordance with paragraph (f)(3) of this section to participate as an interested person in a proceeding, by allowing, denying, or limiting such participation;

(3) Hold conferences in accordance with paragraph (i) of this section for the simplification or, if appropriate, settlement of the issues by consent of the parties or to otherwise expedite the proceedings;

(4) Administer oaths and affirmations;

(5) To the extent authorized by law, rule upon requests for, and issue, subpoenas for the attendance and testimony of witnesses and the production of books, records, and other evidence upon proper application under paragraph (p) of this section;

(6) Rule on discovery requests, establish discovery schedules, and take or cause depositions or interrogatories to be taken;

(7) Rule on requests for protective orders to protect persons in the discovery process from undue burden or expense, or for other good cause;

(8) Require, at or prior to any hearing, the submission and exchange of evidence;

(9) Rule upon offers of proof and evidence and receive, exclude and limit evidence as set forth in paragraph (j)(3) of this section;

(10) Introduce documentary or other evidence into the record;

(11) Examine and cross-examine witnesses;

(12) Consider and rule upon motions, procedural requests, and similar matters;

(13) Take such measures as may be necessary, such as sealing of portions of the hearing record, to protect classified information, proprietary and privileged information and information consisting of trade secrets and confidential commercial and financial information;

(14) Schedule the time and place of the hearing, or the hearing conference, continue the hearing from day-to-day, adjourn the hearing to a later date or a different place, and reopen the hearing at any time before issuance of the recommended or initial decision, all in the judge's discretion, having due regard for the covenience and necessity of the parties;

(15) Establish rules, consistent with applicable law, for media coverage of the proceedings and for the closure of the hearing in the interest of justice;

(16) Strike testimony of a witness refusing to answer a question ruled to be proper;

(17) Make and file decisions in conformity with this subpart; and

(18) Take any action authorized by the rules in this section or in conformance with 5 U.S.C. sections 554–557.

Hearings

(f) *Participation.* (1) Parties to the formal hearing will include:

(i) The NOAA General Counsel;

(ii) Any involved applicant or licensee; and

(iii) Any other person determined by the judge, in accordance with paragraph (f)(2) below, to be eligible to participate as a full party.

(2) Any person desiring to participate as a party in a formal hearing must submit a request to the judge to be admitted as a party. The request must be submitted within 10 days after the date of mailing or publication of notice of a decision to hold a formal hearing, whichever occurs later. Such person will be allowed to participate if the judge finds that the interests of justice and a fair determination of the issues would be served by granting the request. The judge may entertain a request submitted after the expiration of the 10 days, but such a request may only be granted upon an express finding on the record that:

(i) Special circumstances justify granting the request;

(ii) The interests of justice and a fair determination of the issues would be served by granting the request;

(iii) The requestor has consented to be bound by all prior written agreements and stipulations agreed to by the existing parties, and all prior orders entered in the proceedings; and

(iv) Granting the request will not cause undue delay or prejudice the rights of the existing parties.

(3)(i) Any interested person who desires to submit evidence in a formal hearing must submit a request within 10 days after the dates of mailing or publication of notice of a decision to hold a formal hearing, whichever occurs later. The judge may waive the 10 day rule for good cause, such as if the interested person, making this request after the expiration of the 10 days, shows that he lacked actual notice of the formal hearing during the 10 days, and the evidence he proposes to submit may significantly affect the outcome of the proceedings.

(ii) The judge may permit an interested person to submit evidence at any formal hearing if the judge determines that such evidence is relevant to facts in dispute concerning the issue(s) being adjudicated. The fact that an interested person may submit

evidence under this paragraph at a hearing does not entitle the interested person to participate in other ways in the hearing unless allowed by the judge under paragraph (f)(3)(iii) of this section.

(iii) The judge may allow an interested person to submit oral testimony, oral arguments or briefs, or to cross-examine witnesses or participate in other ways, if the judge determines:

(A) That the interests of justice would be better served by allowing such participation by the interested person; and

(B) That there are compelling circumstances favoring such participation by the interested person.

(g) *Definition of issues.* Whenever a formal hearing is conducted pursuant to this section the Administrator may certify the issues for decision to the judge, and if the issues are so certified, the formal hearing will be limited to those issues.

(h) *Obligation to raise issues before a formal hearing is held.* Whenever a formal hearing is conducted pursuant to an objection to any term, condition, or restriction in a license in accordance with section 105 (b)(3) or (c)(4) of the Act, no issues may be raised by any party or interested person that were not submitted to the administrative record on the action unless good cause is shown for the failure to submit them. Good cause includes the case where the party seeking to raise the new issues shows that it could not reasonably have ascertained the issues at a prior stage in the administrative process.

(i) *Conferences.* (1) At any time the judge considers appropriate, he may upon his own motion or the motion of any party or interested person, direct the parties and interested persons, or their attorneys, to meet (in person, by telephone conference call, or otherwise) in a conference to consider:

(i) Simplification of the issues;

(ii) Settlements, in appropriate cases;

(iii) Stipulations and admissions of fact, and contents and authenticity of documents;

(iv) Exchange of evidence, witness lists, and summaries of expected testimony;

(v) Limitation of the number of witnesses; and

(vi) Such other matters as may tend to expedite the disposition of the proceedings.

(2) The record will show how the matters were disposed of by order and by agreement in such conferences.

(j) *Appearance and presentation of evidence.* (1) A party or interested person may appear at a hearing under this section in person, by attorney, or by other representative.

(2) Absent a showing of good cause, failure of a party to appear at a hearing:

(i) Constitutes waiver of the right to a hearing under this section;

(ii) Constitutes consent of the party to the making of a decision on the record of the hearing; but

(iii) Will not be deemed to be a waiver of the right to be served with a copy of the judge's decision.

(3) *Evidence.* (i) The order of presentation of evidence will be at the judge's discretion.

(ii) The testimony of wtinesses will be upon oath or affirmation administered by the judge and will be subject to such cross-examination as may be required for a full and true disclosure of the facts. The formal rules of evidence do not apply, but the judge will exclude evidence which is immaterial, irrelevant, nonprobative, or unduly repetitious. Hearsay evidence is not inadmissable as such.

(iii) If a party objects to the admission or rejection of any evidence or to the limitation of the scope of any examination or cross-examination or the failure to limit such scope, the party must state briefly the grounds for such objections. Rulings on each objection will appear in the record.

(iv) Formal exception to an adverse ruling is not required.

(v) At any time during the proceedings, the judge may require a party or a witness to state his position on any issue, and theory in support of such position.

(vi) Upon the failure of a party or interested person to effect the appearance of a witness or the production of a document or other evidence ruled relevant and necessary to the proceeding, the judge may take appropriate action as authorized by law.

(4) *Authority of judge to expedite adjudication.* To prevent unnecessary delays or an unnecessarily large record, the judge may:

(i) Limit the number of witnesses whose testimony may be cumulative;

(ii) Strike argumentative, repetitious, cumulative, immaterial, nonprobative or irrelevant evidence;

(iii) Take necessary and proper measures to prevent argumentative, repetitious, or cumulative cross-examination; and

(iv) Impose such time limitations on arguments as the judge determines appropriate, having regard for the volume of the evidence and the importance and complexity of the issues involved.

(5) *Official notice.* Official notice may be taken of any matter not appearing in evidence in the record, which is among the traditional matters of judicial notice, or concerning which the Department of Commerce, by reason of its functions, is deemed to be expert, or of a nonprivileged document required by law to be filed with, or prepared or published by a government body, or of any reasonably available public document. The parties will be given adequate notice, at the hearing or otherwise before the judge's decision, of the matters so noticed, and upon timely request by a party will be given reasonable opportunity to show the contrary.

(6) *Argument.* At the close of the formal hearing, each party shall be given the opportunity to submit written arguments on the issues before the judge.

(7) *Record.* (i) The judge or the Administrator will arrange for a verbatim tape or other record of any oral hearing proceedings. An official transcript will be prepared and copies may be obtained upon written request filed with the reporter and upon payment of the fees at the rate provided in the agreement with the reporter.

(ii) The official transcript, exhibits, briefs, requests, and other documents and papers filed will constitute the exclusive record for the decision on the issues concerning which the hearing was held.

(iii) The record developed in any hearing held pursuant to section 116(b) of the Act will be part of the basis for the Administrator's decision to take any action referred to in section 116(a) of the Act.

(k) *Interlocutory appeals.* (1) At the request of a party or on the judge's own motion, the judge may certify to the Administrator for review a ruling which does not finally dispose of the proceeding if the judge determines that such a ruling involves a controlling question of law and that an immediate appeal therefrom may materially advance the ultimate disposition of the matter.

(2) Upon certification by the judge of an interlocutory ruling for review, the Administrator will expeditiously decide the matter, taking into account any briefs in this respect filed by the parties within 10 days after certification. The Administrator's order on an interlocutory appeal will not be considered the final decision of the Administrator except by operation of other provisions in this section.

(3) No interlocutory appeal will lie as to any ruling not certified to the Administrator by the judge. Objections to non-certified rulings will be a part of the record and will be subject to review at the same time and in the same

manner as the Administrator's review of the judge's initial or recommended decision.

(l) *Decisions.*—(1) *Proposed findings of fact and conclusions of law.* The judge will allow each party to file with the judge proposed findings of fact, and in appropriate cases conclusions of law, together with a supporting brief expressing the reasons for such proposals. Such proposals and briefs must be filed within 20 days after the hearing or within such additional time as the judge may allow. Such proposals and briefs must refer to all portions of the record and to all authorities relied upon in support of each proposal. Reply briefs must be submitted within 10 days after receipt of the proposed findings and conclusions to which they respond, unless the judge allows additional time.

(2) *Recommended decision.* As soon as practicable, but normally not later than 90 days after the record is closed, the judge will evaluate the record of the formal hearing and prepare and file a recommended decision with the Administrator. The decision will contain findings of fact, when appropriate, conclusions regarding all material issues of law, and a recommendation as to the appropriate action to be taken by the Administrator. The judge will serve a copy of the decision on each party and upon the Administrator.

(3) *Final decision.* (i) As soon as practicable, but normally not later than 60 days after receipt of the recommended decision, the Administrator will issue a final decision. The final decision will include findings of fact and conclusions regarding material issues of law or discretion, as well as reasons therefor. The final decision may accept or reject all or part of the recommended decision.

(ii) With respect to hearings held pursuant to section 116(b), the Administrator may defer announcement of his findings of fact until the time he takes final action with respect to any action described in section 116(a).

(iii) The Administrator will base the final decision upon the record already made except that the Administrator may issue orders:

(A) Specifying the filing of supplemental briefs; or

(B) Remanding the matter to the judge for the receipt of further evidence, or otherwise assisting in the determination of the matter.

Miscellaneous

(m) *Motions and requests.* Motions or requests must be filed in writing with the judge or must be stated orally and made part of the hearing record. Each motion or request must state the particular order, ruling or action desired, and the grounds therefor.

(n) *Witnesses and fees.* Witnesses subpoenaed will be paid the same fees and mileage, and in the same manner, as are paid for like services in the District Court of the United States for the district in which the hearing is located.

(o) *Depositions.* (1) Any party desiring to take the deposition of a witness must make application in writing to the judge, setting forth the reasons why such deposition should be taken; the time when, the place where, and the name and mailing address of the person before whom the deposition is requested to be taken; the name and address of each witness to appear for deposition; and the subject matter concerning which each witness is expected to testify.

(2) Depositions may be taken orally or upon written interrogatories before any person designated by the judge.

(3) Such notice as the judge may order will be given for the taking of a deposition, but this ordinarily will not be less than 5 days' written notice when the deposition is to be taken within the United States and ordinarily will not be less than 20 days' written notice when the deposition is to be taken elsewhere.

(4) Each witness testifying upon deposition will be sworn and any party will have the right to cross-examine. The questions propounded and the answers thereto, together with all objections made, will be reduced to writing, read to the witness, signed by the witness unless waived, and certified by the person presiding. Thereafter, the person presiding will deliver or mail a copy of the document to each party. Subject to such objection to the questions and answers as were noted at the time of taking the deposition which would be valid were the witness personally present and testifying, such deposition may be read and offered in evidence by any party taking it as against any party who was present or represented at the taking of the deposition or who had due notice thereof.

(p) *Extension of time.* The time for the filing of any document under this section may be extended by the judge if:

(1) The request for the extension of time is made before or on the final date allowed for the filing; and

(2) The judge, after giving written or oral notice to and considering the views of all other parties (when practicable), determines that there is good reason for the extension.

(q) *Filing and service of documents.* (1) Whenever the regulations in this subpart or in an order issued hereunder require a document to be filed within a certain period of time, such document will be considered filed as of the date of the postmark, if mailed, or (if not mailed) as of the date actually delivered to the office where filing is required. Time periods will begin to run on the day following the date of the document, paper, or event which begins the time period.

(2) All submissions must be signed by the person making the submission, or by the person's attorney or other authorized agent or representative.

(3) Service of a document must be made by delivering or mailing a copy of the document to the known address of the person being served.

(4) Whenever the regulations in this subpart require service of a document, such service may effectively be made on the agent for the service of process or on the attorney for the person to be served.

(5) Refusal of service of a document by the person, his agent, or attorney will be deemed effective service of the document as of the date of such refusal.

(6) A certificate of the person serving the document by personal delivery or by mailing, setting forth the manner of the service, will be proof of the service.

§ 970.1002 Ex parte communications.

(a) "Ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but does not include requests for status reports.

(b) Except to the extent required for disposition of *ex parte* matters as authorized by law, upon assignment of a matter to an administrative law judge and until the final decision of the Administrator is effective under these regulations, no *ex parte* communication relevant to the merits of the proceeding shall be made, or knowingly caused to be made:

(1) By the judge or by an agency employee involved in the decisional process of the proceeding to any interested person outside the Department of Commerce; or

(2) By an interested person outside the Department of Commerce to the judge or to any agency employee involved in the decisional process of the proceeding.

(c) The judge may not consult any person or party on a fact in issue unless on notice and opportunity for all parties to participate.

(d) An agency employee or judge who makes or receives a prohibited communication must place in the hearing record the communication and any response thereto and the judge, or Administrator, as appropriate, may take action in this respect consistent with this part, the Act, and 5 U.S.C. 556(d) and 557(d).

(e) This section does not apply to communications to or from the attorney representing the Administrator in the proceedings (the agency representative); however, the agency representative may not participate or advise in the initial or recommended decision of the judge or the Administrator's review thereof except as witness or counsel in the proceeding in accordance with this subpart. In addition, the judge may not consult any person or party on the substance of the matter in issue unless on notice and opportunity for all parties to participate.

(f) Paragraphs (b) through (d) of this section do not apply to communications concerning national defense or foreign policy matters. Any such Ex Parte communications on those subjects to or from an agency employee or from employees of the United States Government involving intergovernmental negotiations are permitted if the communicator's position with respect to those matters cannot otherwise be fairly presented for reasons of foreign policy or national defense.

Ex Parte communications subject in this paragraph shall be made a part of the public record to the extent that they do not include information classified pursuant to Executive Order. Classified information shall be included in a classified portion of the record which shall be available for review only in accordance with applicable law.

Subpart K—Enforcement

§ 970.1100 General.

(a) *Purpose and scope.* (1) Section 302 of the Act authorizes the Administrator to assess a civil penalty, in an amount not to exceed $25,000 for each violation, against any person found to have committed an act prohibited by section 301 of the Act. Each day of a continuing violation is a separate offense.

(2) Section 106 of the Act describes the circumstances under which the Administrator may suspend or revoke a license, or suspend or modify activities under a license, in addition to or in lieu of imposing of a civil penalty, or in addition to imposing a fine.

(3) Section 306 of the Act makes provisions of the customs laws relating to, among other things, the remission or mitigation of forfeitures, applicable to forfeitures of vessels and hard mineral resources. The Administrator is authorized to entertain petitions for administrative settlement of property seizures made under the Act which would otherwise proceed to judicial forfeiture.

(4) Section 114 of the Act authorizes the Administrator to place observers on vessels used by a licensee under the Act to monitor compliance and environmental effects of activities under the license.

(5) Section 117 of the Act describes the circumstances under which a person may bring a civil action against a alleged violator or against the Administrator for failure to perform a nondiscretionary duty, and directs the Administrator to issue regulations governing procedures prerequisite to such a civil action.

(6) The regulations in this subpart provide uniform rules and procedures for the assessment of civil penalties (§§ 970.1101–970.1102), and license sanctions (§ 970.1103); the remission or mitigation of forfeitures (§ 970.1104); observers (§ 970.1105); protection of certain information related to enforcement (§ 970.1106); and procedures requiring persons planning to bring a civil action under section 117 of the Act to give advance notice (§ 970.1107).

(b) *Filing and service of documents.* (1) Filing and service of documents required by this subpart shall be in accordance with § 970.1001(r). The method for computing time periods set forth in § 970.1001(r) also applies to any action or event, such as payment of a civil penalty, required by this subpart to take place within a specified period of time.

(2) If an oral or written request is made to the Administrator within 10 days after the expiration of a time period established in this subpart for the required filing of documents, the Administrator may permit a late filing if the Administrator finds reasonable grounds for an inability or failure to file within the time periods. All extensions will be in writing. Except as provided by this paragraph, by § 970.1101(b) or by order of an administrative law judge, no requests for an extension of time may be granted.

§ 970.1101 Assessment procedure.

(a) *Notice of violation and assessment (NOVA).* (1) A notice of violation and assessment (NOVA) will be issued by the Administrator and served personally or by registered or certified, mail, return receipt requested, upon the person alleged to be subject to a civil penalty (the respondent). A copy of the NOVA will similarly be served upon the affected licensee, and the owner of an affected vessel (defined in paragraph (f) of this section), if the licensee or owner is not the respondent. Although no specific form is prescribed, the NOVA will contain:

(i) A concise statement of the facts believed to show a violation;

(ii) A specific reference to the provisions of the Act, regulations, license, or order allegedly violated;

(iii) The findings and conclusions upon which the Administrator based the proposed assessment; and

(iv) The amount of penalty proposed to be assessed.

(2) In respect to the amount of civil penalty, the Administrator will take into account information available to the agency concerning the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the respondent, any history of prior offenses, good faith demonstrated in attempting to achieve timely compliance after being cited for the violation, and such other matters as justice may require.

(3) The NOVA may also contain an initial proposal for compromise or settlement of the case. The Administrator may also attach documents which illuminate the facts believed to show a violation. The NOVA will advise the respondent of the respondent's rights at that point in the proceeding, and will be accompanied by a copy of regulations governing civil enforcement procedures, this subpart and the applicable provisions of Subpart J of this part.

(b) *Procedures upon receipt of NOVA.* (1) The respondent shall have 30 days from receipt of the NOVA in which to respond. During this time the respondent may:

(i) Accept the proposed penalty or compromise penalty, if any, by taking the actions specified in the NOVA;

(ii) Seek to have the NOVA amended or modified as prescribed in paragraph (b)(2) of this section;

(iii) Request a hearing, as prescribed in paragraph (b)(5) of this section;

(iv) Take no action, in which case the NOVA becomes final in accordance with paragraph (c) of this section; or

(v) Request an extension of the time allowed to respond to the NOVA under paragraph (b)(3) of this section.

Options in paragraph (b)(1), (ii), (iii), (iv) and (v) of this section may also be exercised by the affected licensee or the owner of an affected vessel.

(2) The respondent, the affected licensee or the owner of an affected vessel may seek amendment or modification of the NOVA to conform to the facts or law as that person sees them by notifying the Administrator at the telephone number or address specified in the NOVA. Where amendment or modification is sought, the Administrator will either amend the

NOVA or decline to amend it, and will so notify the respondent, affected licensee or owner, as appropriate.

(3) The respondent, affected licensee or owner of an affected vessel may, within the 30-day period specified in paragraph (b)(1) of this section, request an extension of time to respond. The Administrator may grant an extension of up to 30 days unless the Administrator determines that the requestor could, exercising reasonable diligence, prepare a response within the 30-day period specified in paragraph (b)(1) of this section. If the Administrator does not respond to the request within 48 hours of its receipt by the Administrator, the request will be granted automatically for the extension requested, up to a maximum of 30 days. A telephonic response to the request within the 48-hour period will be considered effective response, and will be followed by written confirmation.

(4) The Administrator may, for good cause, grant an additional extension beyond the 30-day period specified in paragraph (b)(3) of this section.

(5) If the respondent, the affected licensee, or the owner of an affected vessel wishes a hearing, a written and dated request shall be served either in person or by certified or registered mail, return receipt requested, at the address specified in the NOVA. The requestor shall either attach a copy of the relevant NOVA or refer to the relevant NOAA case number.

(6) Any denial, in whole or in part, of any request under this section which is based upon untimeliness will be made in writing.

(7) The Administrator may, in the Administrator's discretion, treat any communication from a respondent, an affected licensee, or owner as a request for a hearing pursuant to paragraph (b)(5).

(c) *Final decision.* (1) If no request for a hearing is filed under paragraph (b)(5) of this section, the NOVA becomes effective and constitutes the final decision and order of the Administrator on the 30th calendar day after service of the NOVA, or on the last day of any delay period granted under § 970.1100(b)(2) or paragraph (b)(3) or (b)(4) of this section.

(2) If a request for hearing is filed in accordance with paragraph (b)(5) of this section, the date of the final decision will be as provided in § 970.1102.

(d) *Payment of final assessment.* (1) The respondent shall make full payment of the civil penalty assessed within 30 days after the date upon which the assessment becomes effective as the final decision and order of the Administrator under paragraph (c) of this section or § 970.1102(k); or, if judicial review of the assessment is initiated under section 302(b) of the Act during the 30-day period, within 10 days after the appropriate court has entered final judgment in favor of the Administrator, unless the court's order provides otherwise. Payment shall be made by mailing or delivering to the Administrator at the address specified in the NOVA a check or money order made payable in United States currency in the amount of the assessment to the "Treasurer of the United States."

(2) Upon any failure to pay the civil penalty assessed, the Administrator may request the Attorney General of the United States to recover the amount assessed in any appropriate district court of the United States, or may take action under paragraph (e) of this section. In any court action under this paragraph (d)(2) of this section, the validity and appropriateness of the final order imposing the civil penalty is not subject to review.

(e) *Compromise of civil penalty.* (1) In his or her sole discretion, the Administrator may compromise, modify, remit, or mitigate, with or without conditions, any civil penalty, imposed under this subpart, or which is subject to imposition, unless a court action, brought either under section 302(b) of the Act to review a civil penalty or under section 302(c) of the Act to recover a civil penalty, is pending in a court of the United States.

(2) The compromise authority of the Administrator under this paragraph (e) is in addition to any similar authority provided in the Act or in this subpart, and may be exercised either upon the initiative of the Administrator or in response to a request by the alleged violator or other interested person.

(3) If the Administrator acts under this paragraph (e) prior to issuing of a NOVA or after a final assessment becomes payable under paragraph (d) of this section, the Administrator will prepare a document indicating the action taken and citing this paragraph (e) and section 302(d) of the Act as authority. Once the case has been assigned for hearing under § 970.1102 (a), the Administrator will, except in unusual circumstances, defer any compromise action under this paragraph (e) until the administrative law judge has rendered an initial decision in the matter. Neither the existence of the compromise authority of the Administrator under this paragraph (e) nor the Administrator's exercise thereof at any time changes the date upon which an assessment becomes final or payable.

(4) If compromise action is requested or otherwise becomes appropriate for the Administrator's consideration during the pendency of a petition for relief from forfeiture filed under § 970.1104, the Administrator may consolidate, consistent with the provisions of § 970.1104, consideration of the two matters.

(f) *Application of this section to licensees and vessel owners.* (1) This section applies to affected licensees. "Affected licensee" means the holder of a license issued under the Act which license may be subject to sanctions as a result of civil penalty proceedings under this subpart.

(2) This section also applies to owners of affected vessels. "Affected vessel" means any vessel of the United States that may be liable *in rem* for any civil penalty assessed as a result of civil penalty proceedings under this subpart.

§ 970.1102 Hearing and appeal procedures.

(a) *Beginning of hearing procedures.* Following receipt of a written request for hearing timely filed under § 970.1101(b), the Administrator will begin procedures under this section by forwarding the request, a copy of the NOVA, and any response thereto to the NOAA Office of Administrative Law Judges, which will docket the matter for hearing. Written notice of the referral will promptly be given to the respondent, the affected licensee, and the owner of an affected vessel (if the licensee or owner is not the respondent), with the name and address of the attorney representing the Administrator in the proceedings (the agency representative). Thereafter, all pleadings and other documents shall be filed directly with the NOAA Office of Administrative Law Judges, and a copy shall be served on the opposing party (respondent or agency representative).

(b) *Ex parte communications.* Upon assignment of the case to an administrative law judge and until an assessment or other action on the matter becomes effective under these regulations as the final administrative decision of the Administrator, ex parte communications shall be governed by the regulations set forth in § 970.1002. However, § 970.1002 will not be interpreted to diminish the authority of the Administrator under § 970.1101(e).

(c) *Duties and powers of judge.* To the extent consistent with this subpart, the administrative law judge has all powers and responsibilities enumerated in § 970.1001(e) except that paragraph (e)(2) thereof does not apply. Instead, the judge has the power to rule on a

request to participate as a party in the proceedings by allowing, denying, or limiting such participation, except that the respondent, the affected licensee, the owner of an affected vessel, and the agency representative will be parties. The judge will, prior to ruling, ascertain the views of the other parties and base the ruling on whether the request is from a person who could be directly and adversely affected by the final decision and who may contribute materially to the disposition of the proceedings.

(d) *Participation by parties.* (1) The respondent, the affected licensee, the owner of an affected vessel, the agency representative, and, to the extent permitted by the judge, any other party, may appear in person, by counsel, or by other representative, and may examine and cross-examine witnesses to the extent required for a full and true disclosure of the facts, present documentary or other evidence in support of that party's case or defense, and conduct oral argument at the close of testimony. This paragraph shall not be interpreted to diminish the powers and duties of the judge provided in paragraph (c) of this section.

(2) Failure of any party to appear at the hearing will be deemed a waiver of the right to a hearing and consent to the making of a decision on the record of the hearing.

(e) *Appearance and presentation of evidence.* Appearance and the presentation of evidence are governed by in § 970.1001(k).

(f) *Settlements.* An agreement by respondent and the agency representative to settle the matter, if filed before an assessment or other action in the case becomes effective under these regulations as the final decision of the Administrator, will terminate the proceedings, and vacate any initial or administrative appellate decision which has been issued. However, if settlement is reached before the judge submits the initial decision and certifies the record under paragraph (i) of this section, the judge may require submission of a copy of the agreement solely to assure that the judge's consideration of the case is completed and to order the matter dismissed on the basis of the agreement.

(g) *Interlocutory appeals.* Appeals of interlocutory rulings by the judge under this subpart are governed by § 970.1001(k), except that objections to rulings not certified to the Administrator by the judge are subject to review at the same time and in the same manner as the Administrator's review of the initial decision of the judge upon any appeal therefrom under paragraph (j) of this section.

(h) *Proposed findings and conclusions.* Unless a different schedule is established in the discretion of the judge, the parties may file proposed findings of fact and conclusions of law, together with supporting briefs, within 30 days after the judge closes the hearing. Reply briefs may be submitted within 15 days after receipt of the proposed findings and conclusions to which they respond, unless the judge sets a different schedule.

(i) *Initial decision.* (1) After expiration of the period provided in paragraph (h) of this section for filing reply briefs, the judge will render a written initial decision upon the record in the case, setting forth:

(i) Findings and conclusions, and reasons or basis therefor, on all material issues of fact, law, or discretion presented on the record. In determining the amount of a penalty assessment, the judge is not bound by the amount proposed or assessed in the NOVA, or elsewhere, but will decide the matter *de novo*, stating the reasons in view of the factors as set forth in section 302(a) of the Act and § 970.1101(a)(2);

(ii) Reasons for rejecting fundings and conclusions proposed by the parties;

(iii) A statement of facts officially noticed and relied upon in the decision, if the parties have not previously been advised of such notice; and

(iv) Such other matters as the judge considers appropriate, including recommendations, if any, regarding forfeiture action and license sanctions.

(2) The judge will submit the initial decision to the Administrator, serve copies on the parties, and transmit to the Administrator the record of the proceeding together with a certification to the effect that, to the best of the judge's knowledge and belief, the record is a complete and accurate compilation of all evidence and other documents in the proceeding, except in such particulars as are specified.

(j) *Appeals.* (1) Any party may appeal the initial decision of the judge by filing a notice of appeal with the Administrator, within 45 days after the date of the initial decision. The notice of appeal shall concisely state such exceptions as the appellate takes to the initial decision and shall contain citations to the record or other authority relied upon. The appellant shall serve a copy of the notice of appeal on the other parties.

(2) The Administrator will decide the appeal upon the record already made, except that the Administrator may issue orders:

(i) Specifying the filing of supplemental briefs; or

(ii) Remanding the matter to the judge for receipt of further evidence other assistance in the determination of the matter. The decision of the Administrator will be in writing and will state the reasons for accepting or rejecting the exceptions taken by the appellant. To the extent the Administrator's decision is silent as to a material issue of fact, law, or discretion presented on the record, the decision will be deemed to adopt the findings and conclusions thereon, and the reasons or basis therefor, contained in the initial decision.

(k) *Final decision.* (1) Unless notice of appeal is timely filed in accordance with paragraph (j) of this section, the initial decision of the judge becomes effective and constitutes the final decision and order of the Administrator on the 45th calendar day after the date it is rendered.

(2) If a notice of appeal is timely filed as provided in paragraph (j) of this section, the Administrator's decision becomes effective and constitutes the final decision and order of the Administrator on the date the decision is issued, or as otherwise specified by the Administrator in the decision.

(3) Payment of any assessment which becomes final under this paragraph (k) shall be made in accordance with § 970.1101(d).

(l) *Application of this section to affected licensees and vessel owners.* The provisions of this section apply to affected licensees and owners of affected vessels as defined in § 970.1101(f).

§ 970.1103 License sanctions.

(a) *Application of this section.* This section governs the suspension or revocation of any license issued under the Act, or the suspension or modification of any particular activity or activities under a license, which suspension, revocation or modification is undertaken in addition to, or in lieu of, imposing a civil penalty under this subpart, or in addition to imposing a fine.

(b) *Basis for sanctions.* The Administrator may act under this section with respect to a license issued under the Act, or any particular activity or activities under such a license, if the licensee substantially fails to comply with any provision of the Act, any regulation or order issued under the Act, or any term, condition, or restriction in the license.

(c) *Nature of sanctions.* In the Administrator's discretion and subject to the requirements of this section, the Administrator may take any of the

following actions or combinations thereof with respect to a license issued under the Act:

(1) Revoke the license;

(2) Suspend the license, either for a specified period of time or until certain stated requirements are met, or both; or

(3) Suspend or modify any activity under the license, such as by imposing additional requirements or restraints on the activity.

(d) *Notice of sanction.* (1) The Administrator will prepare a notice of sanction (NOS) setting forth the sanction to be imposed and the basis therefor. The NOS will state:

(i) A concise statement of the facts believed to show a violation;

(ii) A specific reference to the provisions of the Act, regulation, license, or order allegedly violated;

(iii) The nature and duration of the proposed sanction;

(iv) The effective date of the sanction, which is 30 days after the date of the notice unless the Administrator establishes a different effective date under paragraph (d)(4) or paragraph (e) of this section;

(v) That the licensee has 30 calendar days from receipt of the notice in which to request or waive a hearing, under paragraph (f) of this section; and

(vi) The determination made by the Administrator under paragraph (e)(1) of this section, and any time period that the Administrator provides the licensee under paragraph (e)(1) of this section to correct a deficiency.

(2) If a hearing is requested in a timely manner, the sanction becomes effective under paragraph (g) of this section, unless the Administrator provides otherwise under paragraph (d)(4) of this section.

(3) The NOS will be served personally or by registered or certified mail, return receipt requested, on the licensee. The Administrator will also publish in the **Federal Register** a notice of his intention to impose a sanction.

(4) The Administrator may make the sanction effective immediately or otherwise earlier than 30 days after the date of the NOS if the Administrator finds, and issues an emergency order summarizing such finding and the basis therefor, that an earlier date is necessary to:

(i) Prevent a significant adverse effect on the environment; or

(ii) Preserve the safety of life and property at sea.

If the Administrator acts under this paragraph (d)(4), the Administrator will serve the emergency order as provided in paragraph (d)(3) of this section.

(5) The NOS will be accompanied by a copy of regulations governing civil enforcement procedures, this subpart and the applicable provisions of Subpart J of this part.

(e) *Opportunity to correct deficiencies.* (1) Prior to issuing the NOS, the Administrator will determine whether the reason for the proposed sanction is a deficiency which the licensee can correct. Such determination, and the basis therefor, will be set forth in the NOS.

(2) If the Administrator determines that the reason for the proposed sanction is a deficiency which the licensee can correct, the Administrator will allow the licensee a reasonable period of time, up to 180 days from the date of the NOS, to correct the deficiency. The NOS will state the effective date of the sanction, and that the sanction will take effect on that date unless the licensee corrects the deficiency within the time prescribed or unless the Administrator grants an extension of time to correct the deficiency under paragraph (e)(3) of this section.

(3) The licensee may, within the time period prescribed by the Administrator under paragraph (e)(2) of this section, request an extension of time to correct the deficiency. The Administrator may, for good cause shown, grant an extension. If the Administrator does not grant the request, either orally or in writing before the effective date of the sanction, it will be considered denied.

(4) When the licensee believes that the deficiency has been corrected, the licensee shall so advise the Administrator in writing. The Administrator will, as soon as practicable, determine whether or not the deficiency has been corrected and advise the licensee of such determination.

(5) If the Administrator determines that the deficiency has not been corrected by the licensee within the time prescribed under paragraph (e)(2) or (e)(3) of this section, the Administrator may:

(i) Grant the licensee additional time to correct the deficiency, for good cause shown;

(ii) If no hearing has been timely requested under paragraph (f)(1) of this section, notify the licensee that the sanction will take effect as provided in paragraph (e)(2) or (e)(3) of this section; or

(iii) If a request for a hearing has been timely filed under paragraph (f)(1) of this section, and hearing proceedings have not already begun, or if the Administrator determines under paragraph (f)(3) of this section to hold a hearing, notify the licensee of the Administrator's intention to proceed to a hearing on the matter.

(f) *Opportunity for hearing.* (1) The licensee has 30 days from receipt of the NOS to request a hearing. However, no hearing is required with respect to matters previously adjudicated in an administrative or judicial hearing of which the licensee has been given notice and has had an opportunity to participate.

(2) If the licensee requests a hearing, a written and dated request shall be served either in person or by certified or registered mail, return receipt requested, at the address specified in the NOS. The request shall either attach a copy of the relevant NOS or refer to the relevant NOAA case number.

(3) If no hearing is requested under paragraph (f)(2) of this section, the Administrator may nonetheless order a hearing if the Administrator determines that there are material issues of fact, law, or equity to be further explored.

(g) *Hearing and decision.* (1) If a timely request for a hearing under paragraph (f) of this section is received, or if the Administrator orders a hearing under paragraph (f)(3) of this section, the Administrator will promptly begin proceedings under this section in the manner provided in § 970.1102.

(2) The hearing and appeal procedures in § 970.1102 apply to any hearing held under this section.

(3) If the proposed sanction is the result of a correctable deficiency, the hearing will proceed concurrently with any attempt to correct the deficiency unless the parties agree otherwise or the administrative law judge orders differently.

(4) The Administrator will serve notice of the initial and final decision on the licensee in the manner described by paragraph (d)(3) of this section.

§ 970.1104 Remission of forfeitures.

(a) *Application of subpart.* (1) Authorized enforcement officers are empowered by section 304 of the Act to seize any vessel (together with its gear, furniture, appurtenances, stores, and cargo) which reasonably appears to have been used in violation of the Act, if necessary to prevent evasion of the enforcement of this Act, or of any regulation, order or license issued pursuant to the Act. Enforcement agents may also seize illegally recovered or processed hard mineral resources, as well as other evidence related to a violation. Section 306 of the Act provides for the judicial forfeiture of vessels and hard mineral resources. This section establishes procedures for filing with the Administrator a petition for

relief from forfeitures incurred or pending.

(2) For purposes of this subpart, the "remission or mitigation of a forfeiture" or "relief from forfeiture" means action by the Administrator, following coordination as necessary with other Federal agencies and the courts, to release from the custody of the United States property seized and subject to forfeiture under the Act, or part of such property, upon compliance with any terms and conditions set by the Administrator, such as payment of a stated amount in settlement of the forfeiture aspects of a violation. Although the Administrator may properly combine consideration of a petition for relief from forfeiture with other consequences of a violation of the Act, the Administrator's remission or mitigation of a forfeiture is not dispositive of a criminal charge under section 303 of the Act, or a civil penalty or sanction under this subpart, unless the Administrator expressly so states in the decision. Remission or mitigation of a forfeiture is in the nature of executive clemency granted in the sole discretion of the Administrator only when consistent with the purposes of the Act and the provisions of this section.

(b) *Petition for relief from forfeiture.* (1) Any person having an interest in a vessel, hard mineral resource, or other property seized and subject to forfeiture under the Act may file a petition for relief from the forfeiture. The petition shall be addressed to the Administrator and filed, within 60 days after the seizure, by mailing or delivering it to the Director, Office of Ocean Minerals and Energy at the address specified in § 970.200(b).

(2) The petition need not be in any particular form, but shall set forth the following:

(i) A description of the property seized;

(ii) The date and place of the seizure;

(iii) The interest of petitioner in the property, supported as appropriate by bills of sale, contracts, mortgages, or other satisfactory evidence;

(iv) The facts and circumstances relied upon by the petitioner to justify the remission or mitigation;

(v) Any request for release under paragraph (f) of this section of all or part of the seized property pending final decision on the petition, together with any offer of payment to protect the Government's interest that petitioner makes in return for such release, and the facts and circumstances relied upon by petitioner in the request; and

(vi) The signature of petitioner, petitioner's attorney, or other authorized agent.

(3) A false statement in a petition will subject petitioner to prosecution under 18 U.S.C. 1001.

(c) *Investigation.* The Administrator will promptly investigate the facts and circumstances shown by the petition and the seizure, and may appoint an examiner to find the facts, by informal hearing on sworn testimony or otherwise, and to prepare a report with recommendations.

(d) *Decision on petition.* (1) After the investigation specified in paragraph (c) of this section, the Administrator will decide the matter and notify petitioner. The Administrator may remit or mitigate the forfeiture, on such terms and conditions as under the Act and the circumstances the Administrator deems reasonable and just, if the Administrator finds:

(i) That the forfeiture to which the property is subject was incurred without willful negligence and without any intention on the part of the petitioner to violate the Act, regulation, order, or license;

(ii) That other circumstances justify remission or mitigation of the forfeiture.

(2) Unless the Administrator determines no valid purpose would thereby be served, the Administrator will condition a decision to remit or mitigate a forfeiture upon the submission by petitioner of an agreement, in a form satisfactory to the Administrator, to hold the United States and its officers or agents harmless from any claim based on loss of or damage to seized property. If the petitioner is not the beneficial owner of the property, the Administrator may also require petitioner to submit such an agreement executed by the beneficial owner.

(e) *Compliance with decision.* A decision by the Administrator to remit or mitigate the forfeiture upon stated conditions, as upon payment of a specified amount, is effective for 60 days after the date of the decision. If the petitioner does not within such period comply with the stated conditions, in the manner prescribed by the decision, or make arrangements satisfactory to the Administrator for later compliance, the matter will promptly be referred to the Attorney General of the United States to effect judicial forfeiture in full of the seized property to the United States under section 306 of the Act.

(f) *Release of seized property pending decision.* (1) Upon request in the petition for relief from forfeiture, and taking account of any interim report or recommendation of an examiner appointed under paragraph (c) of this section, the Administrator may order the release, pending final decision on the petition, of all or part of the seized property upon payment by petitioner of the full value of the property to be released or such lesser amount as the Administrator in the Administrator's sole discretion deems sufficient to protect the interests served by the Act.

(2) If the Administrator grants the request, the Administrator will deposit the amount paid by petitioner in a suspense account maintained for that purpose. The amount deposited will for all purposes be considered to represent property seized and subject to forfeiture under the Act, and payment of the amount by petitioner constitutes a waiver of any claim of defective seizure, custody and control, commingling of proceeds, or related defenses. The Administrator will keep records of amounts deposited in the suspense account and will retain the deposits pending the Administrator's further order under section 304 of the Act or a court order under section 306 of the Act.

(3) The provisions of paragraph (d)(2) of this section apply to a release of property made under this paragraph (f).

§ 970.1105 Observers.

(a) *Purpose of observers.* Each licensee shall allow, at such times and to such extent as the Administrator deems reasonable and necessary, an observer (as used in this section, the term "observer" means "one or more observers") duly authorized by the Administrator to board and accompany any vessel used by the licensee in exploration activities (hereafter referred to in this section as a "vessel"), for the purposes of observing and reporting on:

(1) The effectiveness of the terms, conditions, and restrictions of the license;

(2) Compliance with the Act, regulations and orders issued under the Act, and the license terms, conditions, and restrictions; and

(3) The environmental and other effects of the licensee's activities under the license.

(b) *Notice to licensee.* (1) The Administrator may notify a licensee that the Administrator plans to place an observer aboard a vessel.

(2) The Administrator normally will issue any such notice as far in advance of placement of the observer as is practicable.

(3) *Contents of notice.* The notice given by the Administrator may include, among other things,

(i) The name of the observer, if known at the time the notice is issued;

(ii) The length of time which the observer likely will be aboard the vessel.

(iii) Information concerning activities the observer is likely to conduct, such as:

(A) Identification of special activities that the observer will monitor;

(B) Planned tests of equipment used for monitoring; and

(C) Activities of the observer that are likely to require assistance from the vessel's personnel or crew or use of the vessel's equipment; and

(iv) Information concerning the monitoring equipment that will be brought aboard the vessel, such as a description of the monitoring equipment, and any special requirements concerning the handling, storage, location or operation of, or the power supply for, the equipment.

(c) *Licensee's response.* Upon request by the Administrator, a licensee shall facilitate observer placement by promptly notifying the Administrator regarding the timing of planned system tests and the departure date of the next exploration voyager, or, if the vessel is at sea, suggesting a time and methods for transporting the observer to the vessel.

(d) *Duties of licensee, owner or operator.* Each licensee, owner or operator of a vessel aboard which an observer is assigned shall:

(1) Allow the observer access to and use of the vessel's communications equipment and personnel when the observer deems such access necesssary for the transmission and receipt of messages;

(2) Allow the observer access to and use of the vessel's navigation equipment and personnel when the observer deems such access necessary to determine the vessel's location;

(3) Provide all other reasonable cooperation and assistance to enable the observer to carry out the observer's duties; and

(4) Provide temporary accommodations and food to the observer aboard the vessel which are equivalent to those provided to officers of the vessel.

(e) *Reasonableness of observer activities.* (1) To the maximum extent practicable, observation duties will be carried out in a manner that minimizes interference with the licensee's activities under the license.

(2) The Administrator will assure that equipment brought aboard a vessel by the observer is reasonable as to size, weight, and electric power and storage requirements, taking into consideration the necessity of the equipment for carrying out the observer's functions.

(3) The observer will have no authority over the operation of the vessel or its activities, or the officers, crew or personnel of the vessel. The observer will comply with all rules and regulations issued by the licensee, and all orders of the Master or senior operations official, with respect to ensuring safe operation of the vessel and the safety of its personnel.

(f) *Non-interference with observer.* Licensees and other persons are reminded that the Act (see, for example, sections 301(3) and 301(4)) makes it unlawful for any person subject to section 301 of the Act to interfere with any observer in the performance of the observer's duties.

(g) *Confidentiality of information.* NOAA recognizes the possibility that an observer, in performing observer functions, will record information which the licensee considers to be proprietary. NOAA intends to protect such information consistent with applicable law. The Administrator may in appropriate cases provide the licensee an opportunity:

(1) To review those parts of the observer's reports which may contain proprietary information; and

(2) To request confidential treatment of such information under § 970.902.

§ 970.1106 Proprietary enforcement information.

(a) Proprietary and privileged information seized or maintained under Title III of the Act concerning a person or vessel engaged in exploration will not be made available for general or public use or inspection.

(b) Although presentation of evidence in a proceeding under this subpart is not deemed general or public use of information, the Administrator will, consistent with due process, move to have records sealed, under § 970.1101(e)(13) or other applicable provisions of law, in any administrative or judicial proceeding where the use of proprietary or privileged information is required to serve the purposes of the Act.

§ 970.1107 Advance notice of civil actions.

(a) *Actions against alleged violators.* (1) No civil action may be filed in a United States District Court under section 114 of the Act against any person for alleged violation of the Act, or any regulation, or license term, condition, or restriction issued under the Act, until 60 days after the Administrator and any alleged violator receive written and dated notice of alleged violation.

(2) The notice shall contain:

(i) A concise statement of the facts believed to show a violation;

(ii) A specific reference to the provisions of the Act, regulation or license allegedly violated; and

(iii) Any documentary or other evidence of the alleged violation.

(b) *Actions against the Administrator.* (1) No civil action may be filed in a United States District Court under section 114 of the Act against the Administrator for an alleged failure to perform any act or duty under the Act which is not discretionary until 60 days after receipt by the Administrator of a written and dated notice of intent to file the action.

(2) The notice shall contain:

(i) A specific reference to the provisions of the Act, regulation or license believed to require the Administrator to perform a nondiscretionary act or duty;

(ii) A precise description of the nondiscretionary act or duty believed to be required by such provision;

(iii) A concise statement of the facts believed to show a failure to perform the act or duty; and

(iv) Any documentary or other evidence of the alleged failure to perform the act or duty.

[FR Doc. 81-26793 Filed 9-14-81; 8:45 am]

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federal register

Tuesday
September 15, 1981

Part V

National Labor Relations Board

Procedural Rules; Restatement and Clarification

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Procedural Rules; Restatement and Clarification

AGENCY: National Labor Relations Board.

ACTION: Final rule.

SUMMARY: These revisions to National Labor Relations Board (NLRB) procedural rules (1) restate the standard applicable to determine when a hearing on objections to an election or on challenges to ballots is to be conducted, (2) clarify the rules defining the contents of the record before the Board in representation proceedings, and (3) clarify the circumstances under which a party may augment the record before the Board in a proceeding in which no hearing is held on post-election issues.

EFFECTIVE DATE: September 14, 1981.

FOR FURTHER INFORMATION CONTACT: John C. Truesdale, Executive Secretary, 1717 Pennsylvania Avenue, NW, Room 701, Washington, D.C. 20570, Telephone: (202) 254–9430.

SUPPLEMENTARY INFORMATION:

I. *The Standard for Conducting a Post-Election Hearing.* The Board has recently been criticized on several occasions by the Courts for not holding hearings on election objections in situations when, in the opinions of the courts, the "substantial and material factual issues" standard of § 102.69(d) of the rules required it to do so. The rule changes restate this standard to make clear that *ex parte* investigations are not to be used to resolve "substantial and material factual issues," particularly when the factual issues turn on credibility. The proposed procedural changes are as follows:

A. 1. A time limit of 5 days after the filing of objections for the submission of supporting evidence has been incorporated in § 102.69(a). This reflects existing practice.

2. Section 102.69(c)(1) has been modified to provide for an investigation of objections only when "timely" filed. Challenges still are to be investigated whenever they are sufficient in number to affect the election.

3. The standard for going to a hearing, set forth in § 102.69(d), has been revised to make clear that the Regional Director should go to hearing with respect to those objections or challenges which the Director "concludes raise substantial and material factual issues."

II. *Clarification of Definition of Record in Representation Proceedings.* Several Court decisions have held, although not without divergent views, that the Board is required by its rules to review the entire administrative record in a no-hearing case in ruling upon exceptions or petitions for review. The revisions to §§ 102.68 and 102.69(g) clarify the ambiguity perceived by the Courts in those sections as to what materials are in the record, and also as to who has the responsibility of forwarding those materials to the Board.

a. The phrase "conducted pursuant to the foregoing section" has been added to § 102.68 to make clear that it applies only to preelection proceedings.

b. Section 102.69(g) has been restructured to provide different definitions of the record depending upon whether or not a hearing is held. These definitions are set forth in § 102.69(g)(1)(i) and (ii) respectively. § 102.69(g)(2) then specifically refers to those definitions in setting out the Regional Director's obligation to transmit the record to the Board.

c. The revision to the proposed § 102.69(g)(1)(ii) specifically provides for inclusion in the record in a no-hearing case of documents relied upon by the Regional Director, other than witnesses' statements. Witnesses' statements still are excluded from the record material considered by the Board and certified to the court, unless supplied by the parties under § 102.69(g)(3). The objective of this revision is to meet, to the greatest extent possible, the concerns of the courts, while preserving the confidentiality of affidavits submitted to the Board. It does not expand the record on review automatically to include witnesses' statements because the Board continues to adhere to the policy upheld in the decision of the Supreme Court in *N.L.R.B.* v. *Robbins Tire Co.*, 437 U.S. 214 (1978), which protects investigatory affidavits in the possession of the Board from disclosure where the witness has not testified at a hearing. By providing that the record includes all documentary evidence relied upon by the Regional Director, other than witnesses' statements, all relevant evidentiary material, other than statements protected by *Robbins Tire*, will now become part of the official record in a no-hearing post-election case.

In sum, under this procedure, the question whether the Regional Director properly overruled election objections without an evidentiary hearing will be determined by the Board, and then the court, on the basis of (1) the Director's report and the documents attached thereto, (2) the objecting party's exceptions and (3) affidavits and other documents timely submitted to the Director by the objecting party and attached to its exceptions. If the objections and the evidence in support thereof do not present substantial grounds for setting aside the election, it is clear that the objections were properly overruled without a hearing. On the other hand, if the objections and the supporting evidence do present substantial grounds, the Director ordinarily should either have set the election aside or ordered a hearing thereon (if investigation revealed a material conflict in the evidence); having failed to do so, the case should be remanded to the Director to follow one of those courses. Because the issue before the Board and the court on this review is not whether conduct sufficient to set aside the election in fact occurred, but only whether the objecting party has established that it could produce at a hearing evidence which, if credited, would warrant nullification of the election, there is no unfairness to the objecting party in making that determination on the basis of the evidence presented by it to the Regional Director in support of its objections.

d. The procedures whereby a party may enlarge the record and provide the Board with copies of material timely submitted to the Regional Director but not included in the report or decision, have been clarified and are now set forth in § 102.69(g)(3). The material which may be attached is defined as "documentary evidence," and it is specified that that term includes "affidavits." The section also now includes a statement of the Board's policy that the failure timely to submit documentary evidence to the Regional Director, or to the Board on exceptions or review (if it is not already included in the record by attachment to the report or decision), will preclude reliance on such evidence in a subsequent certification-test proceeding.

PART 102—STATEMENTS OF PROCEDURE, SERIES 8

Accordingly, 29 CFR Part 102 is amended as follows:

1. Section 102.68 is revised.

§ 102.68 Record; what constitutes; transmission to Board.

The record in a proceeding conducted pursuant to the foregoing section shall consist of: the petition, notice of hearing with affidavit of service thereof, motions, rulings, orders, the stenographic report of the hearing and of any oral argument before the regional director, stipulations, exhibits, affidavits of service, and any briefs or other legal memoranda submitted by the parties to the regional director or to the Board, and

the decision of the regional director, if any. Immediately upon issuance by the regional director of an order transferring the case to the Board, or upon issuance of an order granting a request for review by the Board, the regional director shall transmit the record to the Board.

2. Section 102.69 is amended by revising paragraphs (a), (c)(1), (2), (3) and (4), (d), (g)(1)(i), (ii), (2) and (g)(3) to read as follows:

§ 102.69 Election procedure; tally of ballots; objections; certification by regional director; report on challenged ballots; report on objections; exemptions; action of the Board; hearing.

(a) Unless otherwise directed by the Board, all elections shall be conducted under the supervision of the regional director in whose region the proceeding is pending. All elections shall be by secret ballot. Whenever two or more labor organizations are included as choices in an election, either participant may, upon its prompt request to and approval thereof by the regional director, whose decision shall be final, have its name removed from the ballot: Provided, however, that in a proceeding involving an employer-filed petition or a petition for decertification the labor organization certified, currently recognized, or found to be seeking recognition may not have its name removed from the ballot without giving timely notice in writing to all parties and the regional director, disclaiming any representation interest among the employees in the unit. Any party may be represented by observers of his own selection, subject to limitations as the regional director may prescribe. Any party and Board agents may challenge, for good cause, the eligibility of any person to participate in the election. The ballots of such challenged persons shall be impounded. Upon the conclusion of the election, the regional director shall cause to be furnished to the parties a tally of ballots. Within 5 days after the tally of ballots has been furnished, any party may file with the regional director an original and three copies of objections to the conduct of the election or conduct affecting the results of the election which shall contain a short statement of the reasons therefor. Such filing must be timely whether or not the challenged ballots are sufficient in number to affect the results of the election. Copies of such objections shall immediately be served on the other parties by the party filing them, and a statement of service shall be made. Within 5 days after the filing of objections, or such additional time as the regional director may allow, the party filing objections shall furnish to the regional director the evidence available to it to support the objections.

* * * * *

(c) * * *

(1) If timely objections are filed to the conduct of the election or conduct affecting the result of the election, or if the challenged ballots are sufficient in number to affect the result of the election, the regional director shall, consistent with the provisions of § 102.69(d), initiate an investigation, as required, of such objections or challenges.

(2) If a consent election has been held pursuant to § 102.62(b), the regional director shall prepare and cause to be served on the parties a report on challenged ballots or objections, or both, including his recommendations, which report, together with the tally of ballots, he shall forward to the Board in Washington, D.C. Within 10 days from the date of issuance of the report on challenged ballots or objections, or both, or within such further period as the Board may allow upon written request to the Board for an extension received not later than 3 days before such exceptions are due in Washington, D.C., with copies of such request served on the other parties, any party may file with the Board in Washington, D.C., eight copies of exceptions to such report, with, if desired, supporting documents as permitted by § 102.69(g)(3) and/or a supporting brief, which shall be printed or otherwise legibly duplicated, except that carbon copies of typewritten matter shall not be filed and if submitted will not be accepted. Immediately upon the filing of such exceptions and supporting documents, if any, the party filing the same shall serve a copy thereof together with a copy of any brief filed on the other parties and shall file copies with the regional director. A statement of service shall be made to the Board simultaneously with the filing of exceptions. Within 7 days from the last date on which exceptions and any supporting documents and/or supporting brief may be filed, or such further period as the Board may allow, a party opposing the exceptions may file an answering brief, with supporting documents as permitted by § 102.69(g)(3), if desired, with the Board in Washington, D.C.; except that if personal service of the exceptions and any supporting brief is made upon the Board, 10 days will be allowed. However, 3 days as provided in § 102.114 will not be added to the prescribed time for filing an answering brief. Such brief, and any supporting documents, shall be submitted in eight copies, printed or otherwise legibly duplicated, except that carbon copies shall not be filed and if submitted will not be accepted. Immediately upon the filing of such brief and supporting documents, the party filing the same shall serve a copy thereof on the other parties and shall file a copy with the regional director. A statement of service shall be made to the Board simultaneously with the filing of the answering brief. In no exceptions are filed to such report, the Board, upon expiration of the period for filing such exceptions, may decide the matter forthwith upon the record or may make other disposition of the case. The report on challenged ballots may be consolidated with the report on objections in appropriate cases.

(3) If the election has been conducted pursuant to a direction of election issued following any proceeding under § 102.67, the regional director may (i) issue a report on objections or challenged ballots, or both, as in the case of a consent election pursuant to paragraph (b) of § 102.62, or (ii) exercise his authority to decide the case and issue a decision disposing of the issues, and directing appropriate action or certifying the results of the election.

(4) If the regional director issues a report on objections and challenges, the parties shall have the rights set forth in paragraph (c)(2) of this section, and in § 102.69(f); if the regional director issues a decision, the parties shall have the rights set forth in § 102.67 to the extent consistent herewith, including the right to submit documents supporting the request for review or opposition thereto as permitted by § 102.69(g)(3).

(d) In issuing a report on objections or challenged ballots, or both, following proceedings under §§ 102.62(b) or 102.67, or in issuing a decision on objections or challenged ballots, or both, following proceedings under § 102.67, the regional director may act on the basis of an administrative investigation or upon the record of a hearing before a hearing officer. Such hearing shall be conducted with respect to those objections or challenges which the regional director concludes raise substantial and material factual issues.

* * * * *

(g)* * *

(1)* * *

(i) In a proceeding pursuant to this section in which a hearing is held, the record in the case shall consist of the notice of hearing, motions, rulings, orders, stenographic report of the hearing, stipulations, exhibits, together with the objections to the conduct of the election or to conduct affecting the results of the election, any report on

such objections, any report on challenged ballots, exceptions to any such report, any briefs or other legal memoranda submitted by the parties, the decision of the regional director, if any, and the record previously made as defined in § 102.68. Materials other than those set out above shall not be a part of the record.

(ii) In a proceeding pursuant to this section in which no hearing is held, the record shall consist of the objections to the conduct of the election or to conduct affecting the results of the election, any report on objections or on challenged ballots and any exceptions to such a report, any regional director's decision on objections or challenged ballots and any request for review of such a decision, any documentary evidence, excluding statements of witnesses, relied upon by the regional director in his decision or report, any briefs or other legal memoranda submitted by the parties, and any other motions, rulings or orders of the regional director. Materials other than those set out above shall not be a part of the record, except as provided in paragraph (g)(3) of this section.

(2) Immediately upon issuance of a report on objections or challenges, or both, upon issuance by the regional director of an order transferring the case to the Board, or upon issuance of an order granting a request for review by the Board, the regional director shall transmit to the Board the record of the proceeding as defined in paragraph (g)(1) of this section.

(3) In a proceeding pursuant to this section in which no hearing is held, a party filing exceptions to a regional director's report on objections or challenges, a request for review of a regional director's decision on objections or challenges, or any opposition thereto, may support its submission to the Board by appending thereto copies of documentary evidence, including copies of any affidavits, it has timely submitted to the regional director and which were not included in the report or decision. Documentary evidence so appended shall there upon become part of the record in the proceeding. Failure to timely submit such documentary evidence to the regional director, or to append that evidence to its submission to the Board in the representation proceeding as provided above, shall preclude a party from replying on such evidence in any subsequent related unfair labor proceeding.

* * * * *

Dated, Washington, D.C., September 9, 1981.

By direction of the Board.

National Labor Relations Board.

John C. Truesdale,

Executive Secretary.

[FR Doc. 81-26823 Filed 9-14-81; 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 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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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: The Maritime Administration will begin Mon./Thurs. publication as of Oct. 1, 1981.

**Note: As of September 14, 1981, documents received from Food Safety and Inspection Service (formerly Food Safety and Quality Service) will no longer be assigned to the Tues./Fri. publication schedule.

REMINDERS

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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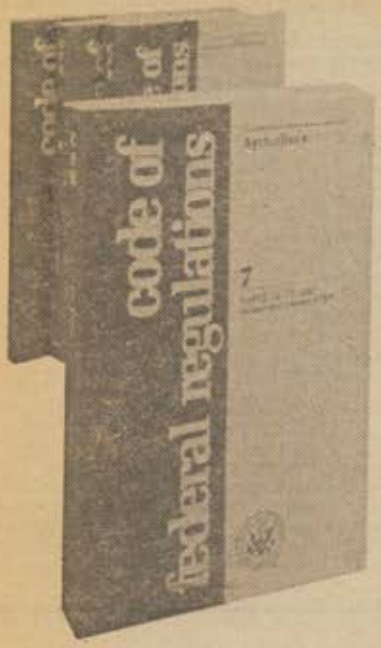

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