AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

11-13-81
Vol. 46 No. 219
Pages 55913-56152

federal register

Friday
November 13, 1981

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55913 **Establishment of the National Productivity Advisory Committee** Executive order.

55915 **Continuation of Iran Emergency** Presidential notice.

55917 **Government Employees Health Insurance** OPM postpones 1981 open season for new and changed enrollments.

56148 **Income Tax** Treasury/IRS clarifies special rules for leases under the Economic Recovery Tax Act of 1981. (Part V of this issue)

56008, 56009 **Grant Programs—Education** DOE invites preapplications and applications for new and noncompeting continuation awards under Comprehensive Program of the Fund for Improvement of Postsecondary Education. (2 documents)

55959 **Demonstrations and Special Events in Washington, D.C.** Interior/NPS clarifies procedures for obtaining permits.

56140 **Energy Conservation** DOE/WAPA issues final guidelines and acceptance criteria for customer conservation and renewable energy programs. (Part IV of this issue)

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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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The **Federal Register** will be furnished by mail to subscribers, free of postage, for $75.00 per year, or $45.00 for six months, payable in advance. The charge for individual copies is $1.00 for each issue, or $1.00 for each group of pages as actually bound. Remit check or money order, made payable to 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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55958 **Pensions—Multiemployer Plans** PBGC adopts interest rates and factors affecting valuation of plan benefits.

55944 **Electric Power** DOE/FERC adopts rules on "short-form" license applications for certain water power projects.

55926 DOE/FERC amends licensing rules to expedite hydropower development.

56132 **Public Lands** Interior/BLM simplifies livestock grazing administration. (Part III of this issue)

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56004 CITA halts imports of certain wool apparel products from Socialist Republic of Romania.

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Presidential Documents

Title 3—

The President

Executive Order 12332 of November 10, 1981

Establishment of the National Productivity Advisory Committee

By the authority vested in me as President by the Constitution of the United States of America, and in order to establish in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), an advisory committee on strategies for increasing national productivity in the United States, it is hereby ordered as follows:

Section 1. *Establishment.* (a) There is established the National Productivity Advisory Committee. The Committee shall be composed of distinguished citizens appointed by the President, only one of whom may be a full-time officer or employee of the Federal Government.

(b) The President shall designate a Chairman from among the members of the Committee.

Section 2. *Functions.* (a) The Committee shall advise the President and the Secretary of the Treasury through the Cabinet Council on Economic Affairs on the Federal Government's role in achieving higher levels of national productivity and economic growth.

(b) The Committee shall advise the President, the Secretary of the Treasury and the President's Task Force on Regulatory Relief with respect to the potential impact on national productivity of Federal laws and regulations.

(c) The Committee shall advise and work closely with the Cabinet Council on Economic Affairs (composed of the Secretaries of the Treasury, State, Commerce, Labor, and Transportation, the United States Trade Representative, the Chairman of the Council of Economic Advisers, and the Director of the Office of Management and Budget), the Assistant to the President for Policy Development, and other governmental offices the President may deem appropriate.

(d) In the performance of its advisory duties, the Committee shall conduct a continuing review and assessment of national productivity and shall advise the Secretary of the Treasury and the Cabinet Council on Economic Affairs.

Section 3. *Administration.* (a) The heads of Executive agencies shall, to the extent permitted by law, provide the Committee such information with respect to productivity as it may require for the purpose of carrying out its functions.

(b) Members of the Committee shall serve without compensation for their work on the Committee. However, members of the Committee who are not full-time officers or employees of the Federal Government shall be entitled to travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in government service (5 U.S.C. 5701–5707).

(c) Any administrative support or other expenses of the Committee shall be paid, to the extent permitted by law, from funds available for the expenses of the Department of the Treasury.

(d) The Executive Secretary of the Cabinet Council on Economic Affairs shall serve as the Executive Secretary to the National Productivity Advisory Committee.

Section 4. *General.* (a) Notwithstanding any other Executive Order, the responsibilities of the President under the Federal Advisory Committee Act, as amended, except that of reporting annually to the Congress, which are applicable to the advisory committee established by this Order, shall be performed by the Secretary of the Treasury in accordance with guidelines and procedures established by the Administrator of General Services.

(b) The Committee shall terminate on December 31, 1982, unless sooner extended.

Ronald Reagan

THE WHITE HOUSE,
November 10, 1981.

[FR Doc. 81-32955
Filed 11-10-81; 3:28 pm]
Billing code 3195-01-M

Presidential Documents

Notice of November 12, 1981

Continuation of Iran Emergency

On November 14, 1979, by Executive Order No. 12170, President Carter declared a national emergency to deal with the threat to the national security, foreign policy and economy of the United States constituted by the situation in Iran. Notice of the continuation of the national emergency beyond November 14, 1980 was transmitted by President Carter to the Congress and published in the **Federal Register** on November 12, 1980. Because our relations with Iran have not yet been normalized and the process of implementing the January 19, 1981 agreements with Iran is still under way, the national emergency declared November 14, 1979 must continue in effect beyond November 14, 1981. Therefore, pursuant to section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am signing this notice of the continuation of the national emergency declared November 14, 1979, and causing such notice to be published in the **Federal Register** and transmitted to the Congress.

Ronald Reagan

THE WHITE HOUSE,
November 12, 1981.

[FR Doc. 81-33027
Filed 11-12-81; 12:43 pm]
Billing code 3195-01-M

Rules and Regulations

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

Federal Employees Health Benefits Program; Opportunities to Register To Enroll and Change Enrollment; Open Season

Note.—This document originally appeared in the **Federal Register** for Thursday, November 12, 1981. It is reprinted in this issue to meet requirements for publication on the Tuesday/Friday schedule assigned to the Office of Personnel Management.

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with comments invited for consideration in final rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is amending its Federal Employees Health Benefits (FEHB) regulations to authorize changes in the regularly scheduled open season by announcement of the Director of OPM through an FPM Bulletin specifying the reasons and conditions for the change. The open season scheduled for 1981 is postponed to a time to be announced later or to the applicable period during 1982, whichever is earlier.

This change in regulations is necessary for the following reasons: (1) Fiscal constraints, benefits reevaluations, and the potential for adverse financial impact upon employees and annuitants have resulted in the negotiation of contracts for 1982 FEHB plans that contain significant changes in benefits levels, deductibles, coinsurance requirements, rates, and other material aspects of the FEHB program; (2) the negotiation of contracts for most of the 1982 FEHB plans was not completed until October 31, 1981, a date that is significantly later in the year than usual; (3) the contracts for some plans are still the subject of pending litigation and until these lawsuits reach a stage of final disposition, significant aspects of the 1982 FEHB program will remain indefinite and undetermined; (4) it will be impossible, in light of the foregoing, for full and complete open season informational brochures to be distributed to employees and annuitants in time for the scheduled open season between November 9, 1981 and December 11, 1981; and (5) the fair and proper conduct of open season requires the prior publication and early distribution of accurate information concerning rates, benefits, and other terms of all health insurance plans to employees and annuitants. These interim regulations postpone the open season for the 1982 FEHB program to prevent unfairness and potential financial disadvantage to the participants. Developments relating to the 1981 open season further suggest that OPM should have the flexibility to alter the regularly scheduled open season in future years by issuing a Federal Personnel Manual (FPM) Bulletin specifying the reasons and conditions for the change.

DATES: Effective date: November 12, 1981 and until final regulations are issued. Comment date: December 14, 1981.

ADDRESS: Send or deliver written comments to Craig B. Pettibone, Assistant Director, Office of Pay and Benefits Policy, Compensation Group, Office of Personnel Management, P.O. Box 57, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Lauretta Hall, Issuances and Instructions Branch, (202) 632-4684.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 1103(b)(3) and § 1105 by reference to 5 U.S.C. 553(d)(3), it is hereby declared that good cause exists for making this amendment effective in less than 30 days for the reasons stated above. Under authority of 5 U.S.C. 8913 and 8905(e), it is proposed to revise 5 CFR 890.301(d), to provide that open season which has heretofore been held from the Monday of the second full workweek in November through the Friday of the first full workweek in December may be changed when announced by the Director of OPM for reasons and based on conditions specified in an FPM Bulletin. Further, that the open season scheduled for 1981 is postponed to a time to be announced later or to the applicable period during 1982, whichever is earlier.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule for the purpose of E.O. 12291, Federal Regulation, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions, or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

I certify that these regulations will not have a significant impact on a substantial number of small entities, including small businesses, small organizational units, and small governmental jurisdictions.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Accordingly, OPM is amending § 890.301, by revising paragraph (d), to read as follows:

§ 890.301 Opportunities to register and enroll and change enrollment.

* * * * *

(d) Open season. An open season shall be held from the Monday of the second full workweek in November through the Friday of the first full workweek in December, unless otherwise announced by the Director of the Office of Personnel Management for reasons and based on conditions specified in a Federal Personnel Manual (FPM) Bulletin. The open season scheduled for 1981 is postponed to a time to be announced later or to the applicable period during 1982, whichever is earlier. During this open season:

(1) An eligible unenrolled employee may register to be enrolled;

(2) An enrolled employee or annuitant may change to another plan, another

option, from self only to self and family, or any combination of these changes.

* * * * *

(5 U.S.C 8913)

[FR Doc. 81-32828 Filed 11-10-81; 9:53 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 331

Mediterranean Fruit Fly

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Removal of emergency regulations and withdrawal of proposal.

SUMMARY: This document removes emergency regulations which were promulgated for the purpose of restricting the interstate movement of certain articles from an area in Hillsborough County, Florida because of the Mediterranean fruit fly, and withdraws a proposal to quarantine the State of Florida and to establish final regulations to restrict the interstate movement of such articles from the area in Hillsborough County. The emergency regulations and the proposal were issued for the purpose of preventing the artificial spread of the Mediterranean fruit fly into noninfested areas of the United States. However, based on trapping and sampling surveys it has been determined that the Mediterranean fruit fly has been eradicated from Hillsborough County, and that the regulations and proposal are no longer necessary.

DATES: Effective date: November 13, 1981. Written comments concerning this action must be received on or before January 12, 1982.

ADDRESSES: Written comments should be submitted to Thomas Lanier, Chief Staff Officer, Regulatory Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 635, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

Written comments received may be inspected at Room 635 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Shannon Wilson, Emergency Programs Coordinator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 610, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-6365.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This action is issued in conformance with Executive Order 12291 and Secretary's Memorandum No. 1512-1, and has been determined to be not a "major rule." Based on information compiled by the Department it has been determined that this action will have an effect on the economy of less than $5,500; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and would not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication of this document without opportunity for a public comment period because otherwise there would be unnecessary restrictions imposed on the interstate movement of certain articles. This situation requires immediate action to delete such unnecessary restrictions.

Further, pursuant to the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this action are impracticable and contrary to the public interest; and good cause is found for making this action effective less than 30 days after publication of this document in the Federal Register. Comments have been solicited, and a final document discussing comments received and any changes required will be published in the Federal Register as soon as possible.

In addition, because of the need for immediate action, it is impracticable for the Department to follow the procedures established in Executive Order 12291.

Certification under the Regulatory Flexibility Act

Dr. H. C. Mussman, Adminstrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action involves removing restrictions on the interstate movement of specified articles from a certain area in Hillsborough County, Florida. There are thousands of small entities that move such articles interstate from other States. However, based on information compiled by the U.S. Department of Agriculture and the Florida Department of Agriculture and Consumer Services, it has been determined that fewer than 15 small entities move such articles interstate from the regulated area in Hillsborough County. Further, the overall economic impact from this action is estimated to be less than $5,500.

Background

As a result of trapping surveys by inspectors of the U.S. Department of Agriculture and officials of the Florida Department of Agriculture and Consumer Services, an infestation of the Mediterranean fruit fly was found in Hillsborough County, Florida in August, 1981. Consequently, action was taken to prevent the artifical spread of the fly.

Pursuant to the Federal Plant Pest Act, emergency Mediterranean fruit fly regulations imposing restrictions on the interstate movement of regulated articles from regulated areas in Florida became effective on August 12, 1981 (46 FR 41021-41029), and an emergency amendment to the regulations became effective on August 21, 1981 (46 FR 42438-42439).

These documents also proposed to quarantine Florida and establish regulations under the Plant Quarantine Act and the Federal Plant Pest Act, imposing the same restrictions as those contained in the emergency regulations. In addition, these documents announced that a public hearing was scheduled to consider such a quarantine and final regulations.

Written comments concerning these actions were solicited until October 20, 1981. Also, a public hearing was held in Tampa, Florida, on September 15, 1981. No written comments were received in response to the documents and no comments were made at the public hearing.

Under the emergency regulations which were set forth in 7 CFR 331.1 through 331.1-10, a large number of fruits, nuts, vegetables, and berries were listed as regulated articles. Also, the following area in Hillsborough County, Florida, was listed as a regulated area:

Hillsborough County. Township 29 South, Range 19 East (including Seddon Island); the West ½ of Township 29 south, Range 20 East; that portion of Township 29 South, Range 18 East located East of Hillsborough River; and including all of Davis Island.

Following the discovery of the infestation in Florida, officials of the U.S. Department of Agriculture and the Florida Department of Agriculture and Consumer Services conducted an intensive eradication program in the infested area in Hillsborough County, including ten aerial treatments with the

pesticide Malathion. Also, an intensive trapping and fruit sampling system was implemented for the purpose of detecting the presence of any flies or larvae.

Based on trapping and sampling surveys, it has been determined that the Mediterranean fruit fly has been eradicated from the previously infested area in Hillsborough County. No evidence of the fly has been found since a fly was trapped on August 14, 1981. Also, based on departmental expertise, it has been determined that sufficient time has passed without flies or other evidence of infestation having been found to conclude that the fly no longer occurs in the area.

Under these circumstances there is no longer a basis for imposing restrictions on the movement of articles from the specified area in Hillsborough County because of the Mediterranean fruit fly. Therefore, in order to relieve unnecessary restrictions on the interstate movement of articles from this area it is necessary as an emergency measure to remove the emergency Mediterranean fruit fly regulations contained in 7 CFR 331.1 through 331.1–10 and to withdraw the proposal to quarantine Florida and to establish final regulations.

PART 331—PLANT PEST REGULATIONS GOVERNING INTERSTATE MOVEMENTS OF CERTAIN PRODUCTS AND ARTICLES

§§ 331.1—331.1–10 (Subpart—Mediterranean Fruit Fly) [Removed]

Accordingly, "Subpart—Mediterranean Fruit Fly" in 7 CFR 331.1 through 331.1–10 is removed and the proposal set forth in documents published in the **Federal Register** (46 FR 41021–41029, 42438–42439) to quarantine Florida and to establish regulations because of the Mediterranean fruit fly is withdrawn.

(Sec. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); Secs. 105 and 106, 71 Sat. 32 and 33 (7 U.S.C. 150dd, 150ee); 37 FR 28464, 28477, as amended; 38 FR 19141)

Done at Washington, D.C., this 6th day of November 1981.

H. L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 81-32958 Filed 11-12-81; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 905

[Orange, Grapefruit, Tangerine and Tangelo Regulation 5, Amendment 1]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Amendment of Tangerine Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to interim rule.

SUMMARY: This amendment lowers the minimum diameter requirement for Florida Dancy tangerines from 2$^{9}/_{16}$ inches to 2$^{5}/_{16}$ inches during the period November 9 through November 15, 1981. This action recognizes demand conditions and the size composition of the available supply in the interest of growers and consumers.

EFFECTIVE DATE: November 9, 1981.

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

SUPPLEMENTARY INFORMATION: This final action has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

This amendment is issued under the marketing agreement and Order No. 905, (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Citrus Administrative Committee, and upon other available information. It is hereby found that the regulation of Florida Dancy tangerines, as hereinafter provided, will tend to effectuate the declared policy of the Act.

Interim regulation 5, setting minimum grade and size requirements for Florida Dancy tangerines, is effective for the period October 19, 1981, through December 6, 1981. The final rule is proposed to become efffective on and after December 7, 1981. Comments on the interim rule and the proposed final rule have been requested through November 12, 1981. The interim rule provides, among other things, that the minimum diameter of Florida Dancy tangerines be not smaller than 2$^{9}/_{16}$ inches.

This amendment would lower the minimum diameter requirement for Dancy tangerines to 2$^{5}/_{16}$ inches for the period November 9, 1981, through November 15, 1981. The committee reports that Dancy tangerines are just beginning to pass Florida maturity tests and the total supply is limited. Also, the committee reports that handlers are experiencing problems packing to the 2$^{9}/_{16}$ inch minimum diameter requirement. Thus, relaxation of the regulation is necessary to allow a greater proportion of the available supply to reach the market.

It is anticipated that during subsequent weeks larger supplies of Dancy tangerines will be available for market and such fruit will likely attain larger sizes. Hence, this action provides for the resumption of the 2$^{9}/_{16}$ inch minimum size for Dancy tangerines for the period November 16, 1981, through December 6, 1981, to assure availability of the sizes preferred by consumers. The proposed final rule will continue the 2$^{9}/_{16}$ inch minimum diameter for shipments of Florida Dancy tangerines.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the amendment at an open meeting. This amendment relieves restrictions on the handling of Florida Dancy tangerines. Handlers have been apprised of such provisions and the effective date.

Information collection requirements (reporting or recordkeeping) under this part are subject to clearance by the Office of Management and Budget and are in the process of review. These information requirements shall not become effective until such time as clearance by the OMB has been obtained.

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Accordingly, the provisions of § 905.305 (Orange, Grapefruit, Tangerine and Tangelo Regulation 5); (46 FR

50359), paragraph (a), Table I is amended as follows:

§ 905.305 Orange, grapefruit, tangerine, and tangelo regulation 5.

(a) * * *

TABLE I

(1) Variety	(2) Regulation period	(3) Minimum grade	(4) Minimum diameter (inches)
* * *	* * *	* * *	
Tangerines:			
Dancy	Nov. 9, 1981, thru Nov. 15, 1981.	U.S. No. 1.	2⅛
Dancy	Nov. 16, 1981, thru Dec. 6, 1981.	U.S. No. 1.	2⅛
* * *	* * *	* * *	

* * * * *

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

Dated: November 6, 1981.

D. S. Kuryloski,

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

[FR Doc. 81-32768 Filed 11-12-81; 8:45 am]

BILLING CODE 3410-02-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 333; Lemon Reg. 332, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period November 15–21, 1981, and increases the quantity of lemons that may be shipped during the period November 8–14, 1981. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective November 15, 1981, and the amendment is effective for the period November 8–14, 1981.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 7, 1981. A regulatory impact analysis on the marketing policy is available from William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on November 9, 1981, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

Information collection requirements (reporting or recordkeeping) under this part are subject to clearance by the Office of Management and Budget and are in the process of review. These information requirements shall not become effective until such time as clearance by the OMB has been obtained.

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. Section 910.633 is added as follows:

§ 910.633 Lemon Regulation 333.

The quantity of lemons grown in California and Arizona which may be handled during the period November 15, 1981, through November 21, 1981, is established at 230,000 cartons.

2. Section 910.632 Lemon Regulation 332 (46 FR 55082) is revised to read as follows:

§ 910.632 Lemon Regulation 332.

The quantity of lemons grown in California and Arizona which may be handled during the period November 8, 1981, through November 14, 1981, is established at 235,000 cartons.

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

Dated: November 10, 1981.

D. S. Kuryloski,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 81-33028 Filed 11-12-81; 2:24 pm]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 109

Employment Authorization; Revision to Classes of Aliens Eligible

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule adds to the classes of aliens who may be authorized employment and clarifies the conditions under which they may seek employment authorization. The revision is necessary to provide codification of the implied authority which exists by statute. Under this rule, certain aliens, paroled into the United States, and those granted voluntary departure may, under certain conditions of economic need, be granted work authorization.

EFFECTIVE DATE: November 12, 1981.

FOR FURTHER INFORMATION CONTACT: For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, D.C. 20536, Telephone: (202) 633–3048.

For Specific Information: Richard R. Spurlock, Immigration Examiner, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, D.C. 20536, Telephone: (202) 633–2361.

SUPPLEMENTARY INFORMATION: On May 5, 1981, the Immigration and Naturalization Service published its final rule, "Part 109—Employment

Authorization" in the Federal Register (46 FR 25079). Part 109 codified the procedures and criteria for granting employment authorization to aliens in the United States. This new part became effective June 4, 1981.

Subsequently, it became evident that aliens paroled into the United States temporarily for emergent reasons or for reasons deemed strictly in the public interest were not explicitly covered as a class under Part 109. Although section 212(d)(5)(A) of the Act authorizes the exercise of discretion regarding the conditions of parole for such alien, and which implies work authorization, this new class of aliens is added to Part 109 of 8 CFR to avoid any uncertainty. Similarly, the new rule also provides that an alien who is deportable, and has been granted voluntary departure, either *prior to* hearing, or *after* hearing, may be granted work authorization for that period of time up to the date set for voluntary departure. This includes extending the work authorization where the district director grants an extension or extensions of the departure date.

The Poverty Income Guidelines (45 CFR 1060.2) referred to in paragraph (c) are based upon the official poverty line established by the Office of Management and Budget and revised by the Secretary of Health and Human Services at least annually as required under section 673(2) of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35, 95 Stat. 512.

Accordingly, this revision to Part 109 of 8 CFR adds a new subparagraph (4) to § 109.1(b) regarding work authorization for parolees; renumbers former subparagraph (4) to subparagraph (5); adds a new subparagraph (6) to expand upon the conditions under which a deportable alien who has been granted voluntary departure may be authorized employment; renumbers former subparagraph (6) to (7); and adds paragraph (c) *Basic criteria to establish economic necessity.* Other minor editorial changes are also made to improve readability and the entire § 109.1 is republished for reader convenience.

Compliance with 5 U.S.C. 553 as to notice of proposed rule making and delayed effective date is not required because the rule is interpretative.

In accordance with 5 U.S.C. 605(b) the Commissioner of Immigration and Naturalization certifies that this rule will not have a significant economic impact on a substantial number of small entities.

This rule is not a major rule within the meaning of section 1(b) of E.O. 12291.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 109—EMPLOYMENT AUTHORIZATION

1. Part 109 is amended by revising § 109.1 to read as follows:

§ 109.1 Classes of aliens eligible.

(a) *Aliens authorized employment incident to status.* The employment authorization is limited solely to the extent and conditions described for the corresponding classifications in section 101(a)(15) of the Act, 8 CFR Part 214, 22 CFR Part 41, and 22 CFR 514.24. The following classes of aliens are authorized to be employed in the United States as a condition of their admission or subsequent change to one of the indicated classes, and specific authorization need not be requested:

(1) A lawful permanent resident alien.

(2) An alien admitted to the United States as a refugee under section 207 of the Act.

(3) An alien paroled into the United States as a refugee.

(4) An alien granted asylum under section 208 of the Act.

(5) An alien admitted to the United States as a nonimmigrant fiance or fiancee.

(6) An alien admitted in one of the following classifications, or whose status has been changed to such classification under section 247 or 248 of the Act:

(i) A foreign government official (A-1), or (A-2).

(ii) An employee of a foreign government official (A-3).

(iii) A nonimmigrant visitor for business (B-1).

(iv) A nonimmigrant crewman (D-1).

(v) A nonimmigrant treaty trader or investor (E-1), or (E-2).

(vi) A representative of an international organization (G-1), (G-2), (G-3), or (G-4).

(vii) A personal servant of an employee or representative of an international organization (G-5).

(viii) A temporary worker or trainee (H-1), (H-2), or (H-3).

(ix) An information media representative (I).

(x) An exchange visitor (J-1).

(xi) An intra-company transferee (L-1).

(b) *Aliens who must apply for work authorization.* Any alien within a class of aliens described in this section must apply for work authorization to the district director in whose district the alien resides:

(1) Any alien maintaining a lawful nonimmigrant status in one of the following classes may be granted permission to be employed:

(i) Alien spouse or unmarried dependent son or daughter of a foreign government official (A-1), or (A-2) as provided in § 214.2(a) of this chapter.

(ii) Alien nonimmigrant student (F-1) as provided in § 214.2(f) of this chapter.

(iii) Alien spouse or an unmarried dependent son or daughter of an officer or employee of an international organization (G-4) as provided in § 214.2(g) of this chapter.

(iv) Alien spouse of an exchange visitor (J-2) as provided in § 214.2(j) of this chapter.

(2) Any alien who has filed a non-frivolous application for asylum pursuant to Part 208 of this chapter may be granted permission to be employed for the period of time necessary to decide the case.

(3) Any alien who has properly filed an application for adjustment of status to permanent resident alien may be granted permission to be employed for the period of time necessary to decide the case.

(4) Any alien paroled into the United States temporarily for emergent reasons or for reasons deemed strictly in the public interest: *Provided,* The alien establishes an economic need to work.

(5) Any alien who has applied to an immigration judge under § 242.17 of this chapter for suspension of deportation pursuant to section 244(a) of the Act may be granted permission to be employed for the period of time necessary to decide the case: *Provided,* The alien establishes an economic need to work.

(6) Any deportable alien granted voluntary departure, either prior to hearing or after hearing, for reasons set forth in § 242.5(a)(2) (v), (vi), or (viii) of this chapter may be granted permission to be employed for that period of time prior to the date set for voluntary departure including any extension granted beyond such date. Factors which may be considered in granting employment authorization to an alien who has been granted voluntary departure:

(i) Length of voluntary departure granted;

(ii) dependent spouse and/or children in the United States who rely on the alien for support;

(iii) reasonable chance that legal status may ensue in the near future; and

(iv) reasonable basis for consideration of discretionary relief.

(7) Any alien in whose case the district director recommends

consideration of deferred action, an act of administrative convenience to the government which gives some cases lower priority: *Provided*, The alien establishes to the satisfaction of the district director that he/she is financially unable to maintain himself/herself and family without employment.

(c) *Basic criteria to establish economic necessity.* Title 45—Public Welfare, Poverty Income Guidelines, 45 CFR 1060.2 shall be used as the basis criteria to establish economic necessity for employment authorization requests where the alien's need to work is a factor. The applicant shall submit a signed statement listing his/her assets, income, and expenses as evidence of his/her economic need to work. Permission to work granted on the basis of the applicant's statement may be revoked under § 109.2 upon a showing that the information contained in the statement was not true and correct.

(Sec. 103, 66 Stat. 173 (8 U.S.C. 1103); sec. 212, 66 Stat. 182, as amended (8 U.S.C. 1182); sec. 245, 66 Stat. 217, as amended (8 U.S.C. 1255))

Dated: October 19, 1981.

Doris M. Meissner,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 81-32826 Filed 11-12-81; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. 77-765C]

Hog Scald Agents, Poultry Scald Agents, Denuding Agents

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule by the Food Safety and Inspection Service, USDA. The primary focus of the rule is to amend the Federal meat and poultry inspection regulations by permitting the use of additional substances in scalding hog and poultry carcasses, and denuding beef and lamb tripe. This correction will only affect the chart of approved poultry scald agents contained in § 381.147(f)(3) of the poultry products inspection regulations (9 CFR 381.147(f)(3)).

FOR FURTHER INFORMATION CONTACT: Donald D. Derr, Deputy Director, Food Ingredient Assessment Division, Science Program, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-7680.

SUPPLEMENTARY INFORMATION:

Background

In the October 5, 1981, **Federal Register** (46 FR 48901) the Food Safety and Inspection Service published a final rule amending the Federal meat inspection regulations to permit the use of additional substances for scalding hog carcasses and denuding beef and lamb tripe. It also amended the Federal poultry products inspection regulations to permit the use of specified substances for scalding poultry carcasses. Further, the chemical name of specific substances were revised to coincide with new nomenclature. The Federal poultry products inspection regulations were amended to be consistent with the Federal meat inspection regulations by requiring the containers of any of those substances permitted to be used in the poultry scalding process to bear labels showing the substance's name, and the concentration of the substance to be used in the process. The rule also amended the Federal meat and poultry products inspection regulations to require the container labels to show use directions reflecting any limitations on substances contained in the preparation.

This correction of an inadvertent error only affects the table listing the restrictions on the use of substances in poultry products in § 381.147(f)(3) of the Federal poultry products inspection regulations (9 CFR 381.147(f)(3)) which appears on page 48904. The table should be corrected as follows: under the "Class of substance" titled "Poultry scald agents; must be removed by subsequent cleaning operations"; the amount of the substance "Potassium hydroxide", should be changed from "Do" to read "Sufficient for purpose".

All other information contained in the final rule remains unchanged.

Done at Washington, DC, on November 9, 1981.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 81-32832 Filed 11-12-81; 8:45 am]

BILLING CODE 3410-DM-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Deregulation of Lending Policies, Amortization and Payment of Loans, and Lines of Credit; Correction

AGENCY: National Credit Union Administration.

ACTION: Final rule; correction.

SUMMARY: This document corrects a citation in § 701.24, NCUA's Refund of Interest Regulation. The cited subsection was recently redesignated (46 FR 38673) but the sentence substituting the new numbering for the old numbering in the Refund of Interest Regulation was inadvertently deleted. This document corrects the refund of interest regulation to comport with the new numbering.

FOR FURTHER INFORMATION CONTACT: Barbara A. Burrows, Attorney-Advisor, Office of General Counsel, National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456, Telephone: (202) 357-1030.

Dated: November 6, 1981.

Rosemary Brady,

Secretary of the NCUA Board.

(12 U.S.C. 1757)

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

Accordingly, 12 CFR 701.24 is corrected by revising paragraph (b) to read as follows.

§ 701.24 Refund of Interest.

* * * * *

(b) The amount of interest refund to each member shall be determined as a percentage of the interest paid by the member. Such percentage may vary according to classifications of loans established pursuant to 12 CFR 701.21-1(b).

* * * * *

[FR Doc. 81-32775 Filed 11-12-81; 8:45 am]

BILLING CODE 7535-01-M

12 CFR Part 721

Insurance and Group Purchasing Activities; Extension of Effective Date

AGENCY: National Credit Union Administration.

ACTION: Extension of effective date.

SUMMARY: The National Credit Union Administration Board has extended the effective date of revised Part 721, insurance and group purchasing activities, of the Rules and Regulations to April 1, 1982.

EFFECTIVE DATE: The effective date of these regulations is extended to April 1, 1982.

ADDRESS: National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Linda M. Cohen, Director, Office of Consumer Affairs, at the above address. Telephone: (202) 357-1080.

SUPPLEMENTARY INFORMATION: On September 16, 1981 the NCUA Board revised Part 721 of the NCUA Rules and Regulations. The revised regulation changes the requirements for federal credit unions that choose to offer insurance and group purchasing plans to their members. The regulation was published in the **Federal Register** on September 28, 1981. The effective date was November 17, 1981.

Subsequently, it was determined that the effective date did not give federal credit unions enough time to conduct investigations of existing insurance and group purchasing plans in order to formally endorse them by November 17, 1981. Accordingly, the NCUA Board has extended the effective date of the revised regulation to April 1, 1982.

Regulatory Procedures

Pursuant to 5 U.S.C. 553(b)(B), public comment is unnecessary because this action merely extends the effective date of a regulation on which there has already been extensive public comment.

Pursuant to 5 U.S.C. 553(d)(1), this action is effective immediately because it relieves a regulatory burden on federal credit unions.

(12 U.S.C. 1757(15), 1766, and 1789)

Approved by the National Credit Union Administration Board, the 5th day of November, 1981.

Rosemary Brady,

Secretary of the Board.

[FR Doc. 81-32827 Filed 11-12-81; 8:45 am]

BILLING CODE 7535-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1301

Ban of Unstable Refuse Bins; Partial Revocation of the Rule as it Applies to Certain Front-Loading, Small-Capacity, Straight-Sided Refuse Bins

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission partially revokes its rule banning unstable refuse bins as the rule applies to certain front-loading, small capacity, straight-sided refuse bins without trunnion bars.[1] Presently available information shows that inclusion in the rule of these straight-sided refuse bins is not reasonably necessary to reduce an unreasonable risk of injury from crushing caused by the bins tipping over that is associated with rear-loading, slant-sided unstable refuse bins.

DATES: The partial revocation is effective November 13, 1981.

FOR FURTHER INFORMATION CONTACT: Paul Galvydis, Division of Regulatory Management, Consumer Product Safety Commission, Washington, D.C., 20207 (301) 492-6400.

SUPPLEMENTARY INFORMATION:

A. Background: Ban of Unstable Refuse Bins

At 16 CFR 1301 (42 FR 30296, June 13, 1977) the Commission issued a regulation that declares certain unstable refuse bins to be banned hazardous products under sections 8 and 9 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2057, 2058). The Commission issued this regulation after granting a petition (CP 75-14) from Dr. Stephen R. Redmond, the Commissioner of Health of Dutchess County, New York. The purpose of the regulation is to ban those refuse bins that present an unreasonable risk of injury or death from crushing due to tip-over. At the time the ban was issued, the Commission had examined 19 in-depth investigation reports of accidents associated with the tip-over of unstable refuse bins, involving 21 victims and 13 deaths. Twenty of the 21 victims were children 10 years of age and under. The Commission records also showed three death certificates for victims under 5 years of age who were killed by unstable refuse bins tipping over. The Commission's records showed that accidents were associated only with slant-sided metal refuse bins that use trunnion bars for lifting filled refuse bins up to the openings of rear or side loading refuse collection trucks. The Commission's investigation also showed that certain refuse bins such as front-loading, roll-off, box, and other types of large or broad based refuse bins, are likely to be inherently stable because of their configuration, bulk, and weight.

The regulation declaring certain refuse bins to be banned hazardous products applies to metal refuse bins having an internal volume of one cubic yard or more that would tip over if tested according to procedures specified in the rule. The test procedures, based on a standard developed by the American National Standards Institute (ANSI) Z245.3-1976 subcommittee, require the application of a horizontal force of 70 pounds and a vertical force of 191 pounds, applied separately to the bin in the directions most likely to cause tipping. These test procedures represent forces that two eight-year old children may be capable of exerting that could lead to tip-over. In issuing the rule, the Commission observed that unstable refuse bins can be retrofitted in any permanent manner that would enable them to pass the test procedures. The banning regulation did not include refuse bins of less than one cubic yard capacity or plastic refuse bins, since the lack of injury information associated with these bins showed they presented little hazard of tip-over and crushing.

B. Proposed Partial Revocation of the Ban

On March 30, 1981, the Commission proposed to partially revoke the ban as it applied to certain front-loading, 1, 1½, and 2 cubic yard straight-sided refuse bins (46 FR 19247). The Commission published the proposal after granting a petition from the Greater Los Angeles Solid Wastes Management Association (CP 80-1). The Commission's proposal was based on a review of available injury information, engineering information submitted by the petitioner, and economic information.

At the present time, the Commission has received reports of 58 incidents associated with tip-over of refuse bins. In 39 of these incidents, the refuse bins were reported to be slant-sided. There is no evidence to indicate that any of the remaining 19 cases involved small capacity, straight-sided refuse bins. The Commission is not aware of any injuries that are associated with the bins that would be covered by the partial revocation.

The Commission's Division of Human Factors identified the single most frequent hazard pattern as swinging on or hanging from the front of a slant-sided bin. Persons playing in this manner are likely to use the trunnion bar as a handle. Other hazard patterns involve victims pushing or leaning against the bin, climbing onto or into the bin, or trying to prevent the bin from falling. Most of the refuse bins that would be exempted from the ban by the partial revocation are shorter than the refuse bins involved in the reported incidents. The refuse bins covered by the partial revocation are all straight-sided. These factors—height and configuration—mean that the vertical forces that could be exerted by children on the bins covered by the partial revocation are less likely to result in tip-over than in the case of slant-sided refuse bins. As the height of the bin is lowered, only small children would be able to hang from the side or front of the bin with their full weight (the most

[1] Chairman Nancy Harvey Steorts and Commissioners R. David Pittle, Stuart Statler, and Samuel Zagoria voted for the partial revocation. Commissioner Edith Barksdale Sloan voted against this action, for the reasons stated in her dissent of June 27, 1980, in voting against granting Petition CP 80-1.

common fatality scenario). Therefore, since small children are light, they are less likely to exert the force necessary to tip over the bin.

The petitioner included engineering tests showing that some straight-sided refuse bins have a lower center of gravity than slant-sided refuse bins. To cause a straight-sided refuse bin to tip over, a child would be required to pull on the bin at an angle substantially away from the vertical. However, the overhanging front edge of a slant-sided bin allows the bin to tip over when the child merely hangs on the front edge. Children are far more likely to swing on or hang from the bins than to pull on them. Refuse bins that are straight-sided, low in height and lack trunnion bars from which children can swing, such as those covered by the partial revocation, are less likely to tip over and cause injury than are slant-sided bins. Some of the hazard patterns resulting from typical play of children around slant-sided refuse bins, as recorded in injury information, would be less likely to occur, and perhaps could not occur, around front-loading, small-capacity, straight-sided refuse bins.

At the present time, the only quantitative economic information available to the Commission on the effects of the partial revocation is for those refuse bins in the Southern California area to which the petitioner referred, even though the partial revocation would apply to these specified refuse bins in all parts of the country. The Commission's review of the available economic information shows that between 122,000 and 185,000 refuse bins in Southern California are front-loading, straight-sided refuse bins with 1–2 cubic yard capacities. Under the present regulations, if there is no partial revocation, between 53,200 and 80,500 of these refuse bins would require retrofit actions, with a total cost between 2.1 million and 4 million dollars. The cost would be an estimated $6,000 to $7,500 for a refuse collection company with 5 trucks. The partial revocation of the refuse bin regulation should make bins more readily available, and should assist small refuse haulers in controlling future costs to clients.

C. Comments on the Proposal

In response to the proposal, the Commission received two comments from interested persons. Both of these comments supported the proposal.

One comment, from the Director of Enviromental Health of a county health department, supported the revocation and stated that there is no evidence that the bins covered by the partial revocation present a safety hazard. The commenter stated that the revocation should apply to refuse bins, as described in the proposal, that do not have trunnion bars. The text of the regulation, as proposed, did not specifically describe the refuse bins covered by the partial revocation as refuse bins without trunnion bars. However, in the preamble to the proposal, the Commission discussed the lack of trunnion bars as a factor making it less likely that children could swing from the bins and tip them over. In support of the partial revocation, the petitioner contended that straight-sided refuse bins are inherently stable since they do not have trunnion bars for children to use as handholds to swing from. In order to help clarify any ambiguity in coverage, the Commission has specifically stated in the text of the final regulation that the partial revocation applies to refuse bins without trunnion bars.

The other comment received by the Commission, from a trade association, also supported the proposed revocation and concluded that there is little likelihood that a front-loading container has ever been involved in accidents resulting in personal injury or death. The commenter stated that two of the three refuse bin models covered by the partial revocation are much lower in height than the refuse bins under consideration when the test conditions of the ban were developed. The commenter also contended that most examples of the three bin models passed the stability test without retrofitting, and of those few models that did fail, failures were by six pounds or less.

The Commission did not receive any comments that urged that the partial revocation be extended to cover additional refuse bins other than those described in the proposal. The Commission at this time has not extended the partial revocation to include other types of refuse bins.

D. Statutory Findings

In order to revoke a consumer product safety rule, section 9(h) of the CPSA (as amended by Pub. L. 97–35) provides that the Commission must find that the regulation is not reasonably necessary to reduce or eliminate an unreasonable risk of injury. The Commission has found at § 1301.3(a) of its banning regulation that unstable refuse bins with an internal volume of one cubic yard or greater present an unreasonable risk of injury or death from crushing due to tip-over. However, none of the crushing injuries are associated with low, straight-sided, front-loading refuse bins of 1, 1½, and 2 cubic yard capacity, even though large numbers of these bins have been in use for many years. Moreover, the low height, straight-sided configurations, and lack of trunnion bars for these bins indicate that children generally would not be able to swing from them as they do from other refuse bins. All of the data available to the Commission at this time indicate that the likelihood of actual injury from the bins covered by this partial revocation is small. Thus, application of the ban to these bins would not have a significant potential for reducing injuries associated with refuse bins.

The available information also shows that the partial revocation will have the effect of decreasing the total costs to businesses, and could avoid possibly severe economic hardships for some firms, since companies in the refuse collection business would not be required to retrofit the refuse bins that would be subject to the ban. In addition, the partial revocation of the ban should generally make refuse bins more available, and should help small refuse haulers in controlling future costs to clients.

Having carefully considered all of the available information described above concerning the degree and nature of the risk of injury and the relevant economic factors, the Commission finds that the coverage under the banning rule of the refuse bins described below in the partial revocation is not reasonably necessary to reduce an unreasonable risk of injury or death due to crushing from tip-over of unstable refuse bins.

E. Impact on Small Businesses

When an agency undertakes a rulemaking proceeding, the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 et. seq.) generally requires the agency to prepare a regulatory flexibility analysis describing the impact of the proposed rule on small businesses. The purpose of the Regulatory Flexibility Act, as stated in section 2(b) (5 U.S.C. 601 note), is to require agencies, consistent with their objective, to fit the requirements of regulations to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. Section 605 of the act provides that an agency is not required to prepare a regulatory flexibility analysis if the head of an agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

In the **Federal Register** notice proposing to partially revoke the regulation banning certain unstable refuse bins, the Commission certified that the rule, if issued, will not have a

significant adverse economic impact on a substantial number of small entities. A copy of the certification and the reasons for the certification are available in the Office of the Secretary of the Commission. The basis for the certification is that the partial revocation should generally save refuse haulers, many of which are small businesses, the cost of having to retrofit refuse bins that are covered by the partial revocation. In the Southern California area alone, the savings for the estimated 53,200 to 80,500 straight-sided bins requiring retrofit would be between 2.1 million and 4 million dollars. The partial revocation should also have the effect of making refuse bins more readily available and should assist small refuse haulers in controlling future costs to clients.

F. Environmental Considerations

The partial revocation of the regulations banning certain unstable refuse bins falls within the categories of Commission action described at 16 CFR 1021.5(c)(1) that have little or no potential for affecting the human environment. As a result, the revocation does not require either an environmental assessment or an environmental impact statement.

G. Effective Date

Section 4 of the Administrative Procedure Act (APA), 5 U.S.C. 553, provides that the delayed effective date provisions for substantive rules are inapplicable to rules which relieve a restriction. Since this rule relieves a restriction within the meaning of this section, it is effective immediately. Accordingly, as provided by 5 U.S.C. 553(d)(1), the effective date of the Commission's partial revocation is November 13, 1981.

H. Conclusion

PART 1301—BAN OF UNSTABLE REFUSE BINS

In accordance with section 9(h) of the Consumer Product Safety Act (Sec. 9(h), Pub. L. 97–35, Pub. L. 92–573, 86 Stat. 1215, 15 U.S.C. 2058(h), and the Administrative Procedure Act (5 U.S.C. 553), the Commission partially revokes the consumer product safety rule declaring that certain unstable refuse bins are banned hazardous products. The partial revocation applies to certain front-loading, straight-sided refuse bins of 1, 1½, and 2 cubic yard capacity without trunnion bars. The Commission partially revokes the rule by adding a new paragraph (e) to § 1301.1 of Part 1301 of Title 16, Chapter II, Subchapter B, Code of Federal Regulations as follows:

§ 1301.1 Scope and application.

* * * * *

(e) This rule, effective November 13, 1981, is partially revoked and therefore does not apply to front-loading, straight-sided refuse bins without trunnion bars having an internal volume capacity of 1, 1½, or 2 cubic yards, of the following external dimensions:

Internal volume	Length (inches)	Width (inches)	Height [1]		Weight (lbs)
			High side (inches)	Low side (inches)	
1 cubic yard	70–72	21–23	29–31	29–31	313–347
1½ cubic yards	70–72	29–31	33–36	29–32	346–382
2 cubic yards	70–72	32–35	39–43	31–36	409–453

[1] Does not include height of wheels.

(Sec. 9(h), Pub. L. 97–35, Pub. L. 92–573, 86 Stat. 1215, 15 U.S.C. 2058(h))

Dated: November 6, 1981.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 81-32702 Filed 11-12-81; 8:45 am]

BILLING CODE 6355-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 8, 9, 15, 16, 17, 18, 21, 33, 145, 147, 155, 166, and 180

Regulation of Domestic Exchange-Traded Commodity Options

Correction

In FR Doc. 81–31778 appearing at page 54500 in the issue for Tuesday, November 3, 1981, please make the following corrections:

(1) On page 54506, in the middle column, in the first full paragraph, in the 24th line, the phrase "was to imprecise" should have read "was too imprecise".

(2) On page 54507, in the first column, in the continuation of footnote 16 which appears at the bottom of the column, in the third line, the phrase "is a commodity" should have read "in a commodity".

(3) On page 54511, in the first column, in the sixth line from the top of the column, the word "covered" should have read "cover".

(4) On page 54512, in the first column, in the third paragraph, in the sixth line, the word "types" should have been "type".

(5) In § 1.3(bb), on page 54516, in the first column, in the 12th line of the paragraph, remove the comma which appears after the word "regular".

(6) In § 1.17(c)(1)(iii), on page 54517, in the first column, in the third line from the top of the page, the word "of" should have been "or".

(7) In § 1.17(c)(5)(x)(A), which appears on page 54517 in the middle column, in the first line of paragraph (A), the phrase "For an application" should have read "For an applicant".

(8) In § 1.17(e), on page 54518, in the first column, in the fifth line from the top of the page, "computed pursuant of" should have read "computed pursuant to".

(9) In § 1.17(j)(2), on page 54518, in the first column, in the fifth line of paragraph (i), "of (B) the purchase" should have read "or (B) the purchase", and in the eleventh line, "of (C) the ownership" should have read "or (C) the ownership".

(10) In § 1.35(b)(1), on page 54522, in the first column, in the first line on the page, "of credits" should have been "or credits".

(11) In § 1.37, on page 54523, in the first column, in the sixteenth line of paragraph (a), "show that name" should have read "show the name".

(12) In § 33.4, on page 54531, in the middle column, in paragraph (g), insert a period at the end of the last line.

(13) In § 33.7, in the Options Disclosure Statement, on page 54532, in the middle column, after the "*Contents of Disclosure Statement*" entries, the next three paragraphs should have read as follows:

(1) *SOME OF THE RISKS OF OPTION TRADING*

THE GRANTOR OF AN OPTION SHOULD BE AWARE THAT A COMMODITY OPTION MAY BE EXERCISED AT ANY TIME FROM THE TIME IT IS GRANTED UNTIL IT EXPIRES.

THE PURCHASER OF A PUT OR A CALL IS SUBJECT TO THE RISK OF LOSING THE ENTIRE PURCHASE PRICE OF THE OPTION—THAT IS THE PREMIUM PAID FOR THE OPTION PLUS ALL TRANSACTION COSTS.

(14) In § 33.7, on page 54533, in the middle column, in the ninth line of paragraph (c), the word "merchants" should have read "merchant".

(15) In § 33.7, on page 54533, in the third column, in the third line of paragraph (f), the word "of" should be "or".

(16) In § 33.9, on page 54533, in the third column, in the third line of

paragraph (b), the words "or, of" should have read "of, or".

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 4, 5, 16, and 131

[Docket No. RM80-39; Order No. 184]

Application for License for Major Unconstructed Projects and Major Modified Projects; Application for License for Transmission Lines Only; and Application for Amendment to License

Issued: November 6, 1981.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) amends the regulations governing three kinds of licensing under Part II of the Federal Power Act (Act) for: (1) Major water power projects that have an installed generating capacity greater than 1.5 megawatts and that would either utilize the water power potential of a dam that, at the time application is filed, is not constructed ("major unconstructed project") or that would change the state of existing project works so as to produce a significant increase in the normal maximum surface area or elevation of an impoundment or otherwise produce a significant environmental impact ("major modified project"); (2) only the transmission lines that transmit power from a licensed water power project or other hydroelectric project authorized by Congress to the point of junction with the distribution system or with the interconnected primary transmission system; and (3) any amendment to a license that would entail a change in the physical features, plans, mode of operation, or construction period of the project or its boundary.

The rule would also make conforming changes in §§ 4.31, 4.50, 16.7, 131.2, and Appendix A of Part 2 of the Commission's requirements. The regulations would reorganize the license applications. The regulations are designed to ease the burden of preparing applications and to assist the Commission in processing applications for license. The rulemaking is therefore expected to expedite hydropower development.

DATE: This rule is effective December 14, 1981.

FOR FURTHER INFORMATION CONTACT:

Ronald Corso, Director, Division of Hydropower Licensing, Office of Electric Power Regulation, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, D.C. 20426, (202) 376-9171

James Hoeker, Division of Rulemaking & Legislative Analysis, Office of the General Counsel, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, D.C. 20426, (202) 357-9342

SUPPLEMENTARY INFORMATION:

Issued: November 6, 1981.

The Federal Energy Regulatory Commission (Commission) amends three regulations governing applications for license under Part I of the Federal Power Act (Act). First, the Commission revises the licensing regulations governing major water power projects with an installed generating capacity greater than 5 megawatts (MW) that would utilize the water power potential of a dam that, at the time application is filed, is not constructed ("major unconstructed project") or that would change the state of existing project works so as to produce a significant increase in the normal maximum surface area or elevation of an impoundment or otherwise produce a significant environmental impact ("major modified project"). Second, the Commission revises the regulations governing applications for license for transmission lines that transmit power from a licensed water power project or other hydroelectric project authorized by Congress to the point of junction with the distribution system or with the interconnected primary transmission system. Third, the Commission revises the regulations governing applications for any amendment to a license that would entail a change in the physical features, plans, mode of operation, or construction period affecting the project or its boundaries.

The rule would also make conforming changes in §§ 4.31, 4.50, 16.7, 131.2, and Appendix A of Part 2 of the Commission's regulations.

I. Background

This final rule is the third phase of a program of licensing reform for all projects within the Commission's jurisdiction built for the generation of electric power by means of water power. The Commission issued its Notice of Proposed Rulemaking in this docket on January 23, 1981 (46 FR 10165, February 2, 1981).

The first phase of the program was instituted in 1978, when the Commission issued the so-called "short-form" application procedures for all "minor" projects, *i.e.*, those with a capacity of 1.5 MW or less.[1] On October 22, 1979, the Commission issued procedures applicable to both preliminary permit and license applications, and which simplify the procedures for application for preliminary permits, amendments to permits, and cancellations of permits.[2]

On November 19, 1979, the Commission issued rules which established application procedures for licensing major projects that are located at existing dams and have a generating capacity greater than 1.5 MW.[3]

The Commission has also issued related rules to encourage development of specialized kinds of hydroelectric facilities. It recently established procedures to exempt from all, or part of, Part I of the Act any small conduit hydroelectric facility that has a generating capacity of 15 MW or less.[4] Similarly, the Commission issued rules on November 7, 1980, setting forth procedures to exempt from licensing and other requirements of the Act any small hydroelectric power projects having a proposed generating capacity of 5 MW or less.[5]

The existing requirements for the types of license applications which are affected by the rulemaking in this

[1] Order No. 11, "Regulations Governing Applications for Short-form License (Minor)" (Docket No. RM78-9), issued September 5, 1978, 43 FR 40215, September 11, 1978. The 1.5 MW capacity criterion was based on the fact that the Commission is authorized under Section 10(i) of the Act (16 U.S.C. 803(i)) to ease certain requirements for minor projects. "Minor" projects should not be confused with so-called "small" hydroelectric power projects with an installed capacity of 30 MW or less at existing dams which are encouraged under the Public Utility Regulatory Policies Act of 1978 ("PURPA") (16 U.S.C. 2705 et seq.). PURPA mandates simplified and expeditious licensing for such small water power projects, and, as amended by the Energy Security Act of 1980 (94 Stat. 611), permits the Commission to exempt from licensing and other requirements of the Act certain small hydroelectric power projects 5 MW or less. The first phase of the Commission's reforms therefore covered only a portion of the projects identified under PURPA.

[2] Order No. 54, "Regulations Prescribing General Provisions for Preliminary Permit and License Applications; and Regulations Governing Applications for Amendments to and Cancellation of Permits" (Docket No. RM79-23), issued October 22, 1979, 44 FR 61328, October 25, 1979.

[3] Order No. 59, "Regulations Governing Applications for License for Major Projects—Existing Dams" (Docket No. RM79-36), issued December 18, 1979, 45 FR 75363, December 20, 1979.

[4] Order No. 76, "Exemptions of Small Conduit Hydroelectric Facilities from Part I of the Federal Power Act" (Docket No. RM79-35), issued April 18, 1980, 45 FR 28065, April 28, 1980.

[5] Order No. 106, "Exemption from All or Part of Part I of the Federal Power Act of Small Hydroelectric Power Projects with an Installed Capacity of 5 Megawatts or Less" (Docket No. RM80-65), issued November 7, 1980, 45 FR 76115, November 18, 1980.

docket are located in various parts of Title 18 of the Code of Federal Regulations. Subtantive requirements applicable to one or all of these applications are found in §§ 2.80 and 2.81, Appendix A to Part 2, §§ 4.40, 4.41, 4.70, 4.71, 5.1 through 5.4, 16.7, 131.2, 131.3, and 131.4 of the Commission's regulations. A potential applicant now faces the prospect of meeting information requirements embodied in up the 23 separate exhibits.

The final rule set forth in this docket is designed to ease the burden of compliance in several ways. First, it reduces the information needed for the Commission to carry out its duties under law in an informed and responsible manner.[6] For example, the provisions requiring extensive documentation of the nature of the applicant and its authority to file the application have been eliminated or reduced, and requirements relating to evidence of compliance with state laws have been simplified.[7] In any case, an applicant will continue to be obligated to comply with any applicable state law not preempted by Part I of the Act.

Second, the Commission has consolidated the requests for information according to related subject matter. All paragraphs and exhibits requesting information on environmental matters[8] have been consolidated into Exhibit E (Environmental Report), required under § 4.41(f). Improved organization of the application requirements should reduce confusion and redundancy in the materials submitted.

Finally, the rule will help minimize the element of subjective interpretation in the Commission's requirements by reducing the requests for information, where possible, to simple, objective, descriptions of what is necessary. The Commission believes that clearer, simpler requirements and cooperation between the Commission and applicants will help avoid the application deficiencies that have slowed the licensing process in the past.

Projects to the type covered by this rulemaking usually result in more significant environmental impacts than do water, power projects at existing dams which do not entail significant construction or alteration of the impoundment level. Under the new regulations, the Commission therefore requires of any applicant for license for a major unconstructed project or a major modified project an Environmental Report of considerably greater detail than it does for smaller projects and most projects at existing dams. Under any of the Commission's hydropower licensing regulations, the Environmental Report (Exhibit E) submitted by the applicant must be commensurate with the size and type of water power project for which the applicant seeks a license or with the scope of any proposed amendment to an existing license.[9]

Under the final rule, an applicant for license for any project with an installed generating capacity of 5 megawatts or less may file under the Commission's abbreviated application procedures.

The Commission has issued a companion rulemaking which provides abbreviated application procedures for all projects with a total generating capacity of 5 MW or less.[10]

However, this change will not alter the current requirement that a more extensive Environmental Report (Exhibit E) be filed for any major unconstructed or major modified project with an installed capacity in excess of 1.5 MW.

II. Analysis of Comments

Most commenters express overall approval of the Commission's efforts to simplify licensing requirements pursuant to section 405 of PURPA. The single greatest source of concern is the type and amount of information required of a license applicant. A variety of comments declare that the Commission's proposed license application requirements are too burdensome. Others argue that more information should be required.

A. License application for Major Unconstructed Projects and Major Modified Projects

1. *Exhibit E. (Environmental Report)*

a. *General Comments.*

Exhibit E, the Environmental Report, received particular attention. Some public utilities claim that the proposed rule represents an increase in the amount and level of detail of data over that required in existing license requirements. This is an incorrect assumption. The final rule does not contemplate submittal of a greater variety of information than that required under existing §§ 4.40 and 4.41. Specifically, the data requirements under former Exhibits R, S, V, and W and the environmental report set forth in Appendix A of § 2.81, have been consolidated and reorganized. The Commission has reduced filing requirements, where possible, consistent with its previous hydroelectric rulemakings. However, of all of the revised Exhibits E established to date, the environmental report required for projects included in this rulemaking is the least susceptible to major reductions in data requirements because of the environmental consequences associated with the construction of a new dam and impoundment.

Most of the data now required under Appendix A, including that related to the temporary and permanent impacts of project construction on water use and quality, fish and wildlife resources, historic resources, socioeconomic and aesthetic features, is necessary to perform a thorough environmental analysis of a project that will fundamentally alter the ecology and geography of an area. The applicant's Exhibit E will form the basis for the Environmental Impact Statement that will usually be prepared for projects licensed under this rule. The data required is also important to the success of the consultation with agencies having responsibility to review project impacts that occurs during any licensing proceeding. In light of the variety of impacts that flow from dam construction and the creation or substantial alteration of the affected impoundment, an applicant must supply the Commission with a complete, self-explanatory description and analysis of the project and its impact in order to expedite consideration of the proposal

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[6] Section 405 of the Public Utility Regulatory Policies Act of 1978 (PURPA) (16 U.S.C. 2705) provides that the Commission's simplified licensing procedures must be "consistent with the applicable provisions of law" and that no project covered by the procedures will be exempted from "any requirement applicable to any such project under the National Environmental Policy Act of 1969, the Fish and Wildlife Coordination Act, the Endangered Species Act, or any other provision of Federal Law."

[7] *See* existing §§ 4.40(b) and 4.41—Exhibits A–F. These requirements have been distilled to simple statements in the initial portion of the application under § 4.41(a). Since the entire application is subscribed and verified under § 1.16 of our rules, the applicant's statements will suffice as evidence. Additional information will be requested in cases where it is needed. Consistent with the policy announced in the Notice of Proposed Rulemaking in Docket No. RM81–15, issued February 20, 1981, 46 FR 14751, March 3, 1981, the Commission will request from municipalities evidence of competency under state law to engage in the electric power business.

[8] *See* existing §§ 2.80, 2.40(k) and (l), 4.41 (Exhibits H, R, S, V, and W), and Appendix A to Part 2.

[9] Section 2.80 through 2.82 constitute most of the Commission's existing environmental review regulations, under the National Environmental Policy Act of 1969 (NEPA). Under this rulemaking, the environmental report requirement of Appendix A of Part 2 will cease to apply to any application relating to hydroelectric project licensing and will be replaced by the specialized Exhibit E in each licensing regulation.

[10] "Regulations Governing Applications for License for Minor Water Power Projects and Major Water Power Projects 5 Megawatts or Less," (Docket No. RM81–10), issued January 21, 1981. Many of the section numbers cross-referenced in the rules in this docket and in Docket No. RM81–10 derive from the new, rather than existing, regulations.

under NEPA, the Fish and Wildlife Coordination Act, the Endangered Species Act and other Federal laws.

Some commenters, including the Environmental Protection Agency (EPA), suggest that an applicant be permitted to incorporate by reference environmental documentation containing the information required in the Exhibit E. While the applicant is not precluded from referring to standardized and reliable information, Exhibit E should be a self-explanatory exhibit which adequately describes the anticipated environmental impacts of the individual proposed project. Submittal of a satisfactory exhibit will require case-specific studies and an application that lends itself to a well-rounded understanding of the nature and effects of project development.

As a number of commenters emphasize, the rule requires only information which is commensurate with the scope of the proposed project. The final rule so specifies. However, it is important to note that projects with the greatest potential impacts on the environment will be licensed under this rule and an applicant should be prepared to explain the omission of any required data or analysis. If the applicant's own analysis, in light of consultation with state or Federal agencies, indicates that the effect on resources (e.g., historical resources, water quality, etc.) would be minimal, the report to the Commission may be reduced accordingly.

In commenting on the Initial Regulatory Flexibility Analysis, the law offices of Spiegel and McDiarmid (Spiegel) argues that the Commission's distinction between "major" and "minor" projects is unreasonable and proposes that a more meaningful delineation would be between "constructed" and "unconstructed" projects for purposes of assessing environmental impacts. The Commission notes that section 10(i) of the Federal Power Act provides that the Commission may waive certain conditions and requirements of the Act for projects with an installed capacity of 2000 horsepower (1.5 MW) or less. Historically, the Federal Power Commission and this Commission have utilized this statutory language to reduce the application requirements for any license for such "minor" projects and to impose less stringent conditions on their continued operations, regardless of whether a particular dam was proposed or existing. However, the Commission has also carefully differentiated in its rules between "constructed" and "unconstructed" projects that would have an installed capacity in excess of 1.5 MW, so-called "major" projects. The license application requirements, including data requests, are substantially less for projects at existing dams. (§§ 4.50 and 4.51.) This rulemaking extends to projects under 5 MW the benefits of abbreviated license applications, although an Exhibit E under § 4.41(f) will be required for unconstructed major projects and projects otherwise subject to major modification. The "major-minor" distinction will also continue to delineate differences in standard terms and conditions of license, barring any future change in section 10(i).

Some commenters propose that Exhibit E seek information in more general terms or require only "estimates" rather than quantified data. The Commission rulemakings cited above have produced significant reductions in the level and volume of information required of applicants for license for minor projects and major projects at existing dams. While this final rule accomplishes similar goals, major unconstructed and modified projects present a different set of environmental, engineering, and regulatory problems. Such projects typically are "major Federal actions significantly affecting the quality of the human environment" within the meaning of Section 102 of the NEPA. In order to expedite project licensing and minimize deficencies and delay, Exhibit E is clearer and more specific in its data requests than prior equivalent exhibits, without imposing data-gathering requirements that are unnecessary to the Commission's statutory duties. However, adequate review of a proposed project requires that the information submitted be specific, accurate, and sufficiently quantified to convey a precise picture of the project and its probable effects. To the extent that an application contains generalities, the Commission must resort to time-consuming data requests.

On several occasions, commenters claim that the consultation requirements of the proposed regulations are both too open-ended and do not require agencies to respond to the applicant's requests for consultation and documentation within a "reasonable" time. The Commission has consequently amended the consultation requirements in its licensing regulations to require that the applicant need only wait for a specified time period after requesting an agency to consult and to provide documentation of the consultation process before submitting an application containing its own evidence of consultation. The applicant may submit a summary of the consultation process or attempts to consult with designated agencies, if agencies are not responsive. The Commission emphasizes, however, that, apart from the consultation process, all interested agencies have an opportunity to comment on any filed application. The pre-application consultation is designed to expedite this process.

The Commission disagrees with some commenters who believe that the consultation process represents an additional, unnecessary burden on the applicant. Pre-application consultation is a necessary element in the application process to avoid the costly and time-consuming delays in licensing and to promote expeditious environmental evaluation of proposed laws of development. Other interested agencies would be disadvantaged by being notified of a project development only after the plan is filed. The consultation process is also designed to prevent premature application-related expenditures by an applicant who might find, after discussions with appropriate agencies, that the project is wholly or partly infeasible. Consultation is required by the Fish and Wildlife Coordination Act and the Endangered Species Act and is advisable whenever other Federal or state agencies have responsibilities under law which affect project development and operation.

The Commission recognizes the point made by commenters that pre-application consultation may involve placing a prospective applicant's plan in the public record of another agency, thereby affording competitors an opportunity to examine those plans. Some commenters fear that the availability of such information will provide unfair advantages to a party who would utilize another's data as its own. However, the Commission believes that the benefits which derive from consultations countervail the potential problems which may result from them. An applicant who determines that an unfair advantage may accrue to persons who might resort to plagarism may seek whatever protections may be available. The Commission expects that each applicant will perform its own studies and present its own application for license; however, each applicant is also expected to pursue effective pre-application consultation.

Spiegel states that the consultation requirements may not satisfy the requirements of section 9(b) of the Act under which the applicant must submit evidence of compliance with state laws governing beds and banks, and the appropriation, diversion and use of

water for power purposes and competency to engage in the power business. The Commission points out that consultation normally does not serve to obtain such information. It is a process designed to provide a basis for analysis of the environmental problems relating to certain Federal actions. Portions of the Initial Statement in license applications, such as § 4.41(a)(5), request submittal of the appropriate information required by section 9(b).

Terrestrial Environmental Specialists, Inc. (TES) inquires whether requiring the applicant, not the Commission, to consult is contrary to the Fish and Wildlife Coordination Act. Once an application is filed, all interested agencies are served with the application by the Commission or the applicant and provided time to comment directly. This is the primary means by which the Commission consults with other agencies under this and other statutes. However, the Commission uses the pre-application consultation process to promote compliance with the provisions of that act and other laws, in an expeditious manner. Consultation has proven its value to applicants and agencies alike by promoting more thorough consideration and understanding of environmental issues.

In response to several comments that expressed confusion over the administration of the consultation process, the Commission points out that the applicant should carry out the consultation by contacting the agency, presenting the proposal for comment, and providing a reasonable opportunity for the agency to comment and to provide documentation of the applicant's consultation efforts. The Commission will provide a list of appropriate agencies with which to consult but it is not itself an environmental agency and prefers not to mediate between the applicant and agencies consulted. The applicant should expect agency comments to address those issues which the agency is competent to discuss. The applicant's response to the agencies' positions should be stated in the application, and the Commission will review the issues and resolve any disputes through informed decision making.

b. *Report on water use and quality.*

Numerous comments propose clarifying and corrective amendments to portions of Exhibit E.

The EPA voices concern that applicants may not analyze the eutrophication potential behind the dam and the downstream water quality impacts of the project. The Commission expects both aspects of water quality impact to be addressed under § 4.41(f)(2)(iv), to the extent practicable. That section specifically mentions the thermal, turbidity, and nutrient effects of the project.

Two comments focus on the requirement to describe mitigation measures under § 4.41(f)(2)(v). R. W. Beck and Associates (Beck) states that the cost of mitigation measures should be a line item in the applicant's discussion of project costs. While the costs of mitigation are relevant to project development, the Commission believes any presentation of such costs is speculative. It does not preclude the need for a narrative description of measures proposed by agencies and the applicant. Commission review of this item is important for establishing terms and conditions for the license. Pacific Gas & Electric Company (PG&E) argues that the regulations should not require detailed mitigation information at the time of application. However, Commission staff must know the scope of proposed mitigation measures at the earliest possible time to fully understand the impacts that may occur due to development and operation of the project. Such mitigation measures may be the outcome of the pre-application consultation and will clarify the overall evaluation of project viability. This, of course, does not preclude an applicant from performing further study after an application is submitted.

c. *Report on fish, wildlife and botantical resources.*

Alabama Power Co. (Alabama) states that mitigation or environmental protection measures should be described by applicants only if adverse impacts are expected. The Commission believes that at least some adverse impacts are inevitable from the kinds of construction which would be authorized under this regulation. Rather than invite argument over the nature of these impacts and suffer delays due to deficiencies in the filed application, the application requirements should be complete and fully explanatory. If there were no impacts, there would of course be no proposed mitigation measures.

In order to avoid any duplicative requirement, the Commission deletes from § 4.41(f)(3)(iii) of the final rule any reference to archaeological resources since that topic is the focus of § 4.41(f)(4). In response to comments, the Commission also clarifies the data requirement in § 4.41(f)(3)(i) to require analysis of impacts on fish species important because of their commercial or recreational value.

Some commenters find § 4.41(f)(3) unclear, as proposed. It requires a separate and detailed description of impacts on fish, wildlife and botanical resources, including possible effects on the size, distribution, or reproductive capacity of these ecological features. The term "production," rephrased "reproduction," refers to the amount of aquatic life the project area is able to sustain. One commenter recommends elimination of this data request in favor of an approach advocated by the U.S. Fish and Wildlife Service as an alternative to population estimates. We conclude that this "carrying capacity" analysis is a valid means of determining mitigation requirements in a variety of circumstances where loss of habitat value is a possibility. This analysis would effectively supplement information on the impacts on fish and wildlife populations. The Commission, however, is not of the view that other information requested in paragraph (f)(3)(i) is unnecessary. The complexity of the effects arising from dam construction requires a more circumspect analysis of possible environmental damage than would be afforded by the carrying capacity analysis alone.

In response to a procedural inquiry, the Commission notes that any drawings submitted in this exhibit need not conform to the specifications in § 4.32.

d. *Report on historic and archaeological resources*

Some commenters anticipate that lack of access to any private property at the project site could be a hindrance to performing the archaeological survey work required under § 4.41(f)(4). The Commission has not found evidence that any lack of access to the site has been an insurmountable problem. Were an applicant unable to gain physical access, information on such resources is generally available elsewhere. It is essential that such information be collected in order to ascertain the probable impacts on archaeological resources and to devise means to mitigate those impacts. Environmental protection and efficient processing of applications countervail the suggestion that such information be obtained after filing because of the possibility that an applicant's development plans might, to some extent, be revealed when it requests permission to enter onto private land.

EEI suggests that on-site surveys should be required only in areas where a "high probability" of historic or archaeological resources exists and that, before submittal of an application, only an overview of the site should be required. The Commission believes that delaying detailed analysis of environmental resources in favor of a cursory examination and a

determination of what constitutes a "high probability" of sensitive environmental features would be an inefficient use of Commission resources that would delay the licensing procedure. Applications should be as complete as possible when submitted. However, even on-site inspections are fallible. For example, historic and archaeological resources are not always discoverable until unearthed by construction. This is the exception to the rule, however.

The Commission agrees with EEI that references to the Heritage Conservation and Recreation Service, recently dissolved, should be deleted from the final rule. The National Park Service is substituted, where appropriate. The requirement that the applicant consult with the State Archaeologist is deleted as well. Consultation with the State Archaeologist may be an advisable step to expedite preparing and processing the application; however, consultation with the State Historic Preservation Officer as provided by statute will serve to protect archaeological resources.

The Commission wishes to note that it foresees little of the difficulties anticipated by one commenter with respect to the requirements of the Commission and those of the Bureau of Land Management regarding rights-of-way for linear project features like transmission lines. The Commission finds the requirements of the two agencies to be generally consistent and subject to any necessary reconciliation during the consultation process.

e. *Report on socio-economic impact.*

Commenters criticize the socio-economic reporting requirement in § 4.41(f)(5) of Exhibit E as being too difficult to provide and having no legal basis. As a general proposition, standard economic projections and accepted forecasting procedures are sufficient to perform the analysis required in the report. Much of this information may be obtained as part of the required consultation process, from data compiled by local and state agencies. The socio-economic information requested in the new Exhibit E is not greater than that normally required under existing regulations.

It has long been the policy of the Commission to consider in licensing determinations the relative socio-economic impacts of proposed projects, such as the probable effects on local economies and human resources. The Commission issues licenses based on a variety of factors; it believes that socio-economic information is an important element in the determination of the feasibility and practicability of the proposed project. Under the NEPA, agencies must use a systematic, interdisciplinary approach, including the natural and social sciences, to evaluate actions that significantly affect the quality of the human environment. NEPA therefore contemplates the analysis of socio-economic impacts for such major actions. Moreover, the Commission has responsibilities under the Federal Power Act to protect life, health, and property and to obtain a range of information to assist its statutory duties to issue licenses for hydropower development. The information required in this rulemaking is more comprehensive than that required for projects at existing dams since the environmental impacts associated with new construction are usually more significant.

f. *Report on geological and soil resources.*

Some commenters believe the geological and soils data required in § 4.41(f)(6) should be placed in Exhibit F, which consists of design drawings. However, the soil and geological data required in Exhibit E does not address the structural limitations of the project site as depicted in Exhibit F, but instead depicts the qualitative aspects of the project lands. The proposal has therefore not been adopted.

g. *Report on recreational resources.*

Several commenters termed unnecessary the "buffer zone" requirement of § 4.41(f)(7). This requirement is continued from existing regulations. It was established by the Commission in Order No. 313,[11] pursuant to the Commission's responsibilities under section 10(a) of the Act and the policy on outdoor recreation and resources delared by the Congress.[12] Order No. 313 states that applicants are required to provide such buffer zones within the project boundary. Whether there are factors that make such buffer zones unneeded or uneconomical for a particular project must be determined on the basis of the information submitted by the applicant. The new regulation does not change the policy of Order No. 313, but simply requires that the matter be addressed at the outset of a licensing proceeding when preparing the application.

Washington Water Power Company (Washington) suggests that § 4.41(f)(7)(iii) should pertain only to "reasonable" public access. The standard articles included in a project license [13] condition approval of a project on the provision of reasonable public access to the project area, consistent with the protection of life, health and property. These conditions are not provided specifically in the application requirements. The applicant should instead suggest what might constitute reasonable access with such considerations in mind.

Alabama argues that it would be fruitless to describe recreational facilities and land uses that will abut the project in the future since it might not own the abutting property. The Commission recognizes that the applicant will not necessarily have the authority to commit abutting properties to specific land uses. As a matter of practicality, the applicant need only provide such information to the extent that the applicant has knowledge of any proposed plans or prospective agreements.

In response to another inquiry by Alabama regarding detailed cost estimates of the construction, operation, and maintenance of existing and proposed recreation facilities, the Commission believes that such information is an important indication of the quality of facilities and the parties responsible for dependable operation and maintenance of them. The recreation report should be sufficiently detailed to describe the facilities and the recreation plan for the project. This does not preclude the applicant from filing "as-built" drawings after construction.

Spiegel argues that the Commission is without authority to condition a license on consideration of the needs of the handicapped. The Commission previously ruled in Order No. 508 [14] that recreation facilities at hydroelectric projects must be designed to accomodate the handicapped. This is a policy worth continuing and is not designed to provide a "barrier-free wilderness," as the commenter argues, but reasonable access to major recreational features.

h. *Alternatives to location and design.*

The new regulations introduce a new section addressing "alternatives" to the location and design of the project and to hydropower development itself (§ 4.41(f)(10)). NEPA requires agencies to consider alternatives to proposed actions. The Commission has created this provision to deal separately with those alternatives that focus on issues other than the strictly environmental

[11] 30 FR 16198, December 22, 1965, 34 FPC 1546 (1965).

[12] Section 1, Outdoor Recreation Programs Act of May 28, 1963, 16 U.S.C. 460.

[13] Form L-1, Articles 17 and 18, Order No. 540, 40 FR 51998, November 7, 1975.

[14] Form L-1, Article 17, 54 FPC 1799, 1804 (1975); 18 CFR 2.7(b), 51 FPC 1425 (1974), 39 FR 16338, May 8, 1974.

ones, such as designs and site locations. Most commenters suggest that all references to alternatives should be located in this section. Some commenters argue that a discussion of alternative sites for a project is superfluous since the viability of another hydropower site should not preclude development of the proposed site.

The requirement that applications discuss alternative sites does not suggest that development of the proposed site would preclude the future development of any other site, but only that, in the interest of comprehensive and efficient utilization of limited water resources, the Commission must analyze the process of site selection in relation to other available sites and possible developments.

2. *Exhibit F.*

Some commenters appear to misunderstand the Commission's requirements with respect to final design drawings for the project. It should be noted that the regulations do not require final design drawings prior to licensing. Final drawings are required before construction may begin. The supporting design report required to be filed with the Exhibit F in § 4.41(g)(3) should be consistent with the drawings submitted. If the drawings are preliminary in nature, the report should be preliminary also.

B. General Comments on the Rulemaking

Several commenters suggest that the Commission provide a chart explaining the various changes made to the regulations. Two such charts have been developed to indicate the various options available to a prospective applicant under the Commission's former regulations and the revised licensing regulations. They are attached as an Appendix to the copies of this rule that are available at the Commission's Office of Public Information during regular business hours.

Sections 1.5 and 1.16 of the Commission's rules of practice and procedure apply to all filings made with the Commission, including license applications. Niagara Mohawk Power Company (Niagara) recommends that the rule be revised to be consistent with existing § 1.5 of the Commission's regulations which requires an application to be in writing and under oath. It is unnecessary to repeat the subscription requirement in those sections again in § 4.41. The Commission also points out that 18 U.S.C. 1621 prohibits any false subscription to a material fact made in a statement under oath and submitted to the Federal Government, with resulting civil and criminal sanctions for a violation of the statute.

Niagara also suggests that applicants be required to recite the statutory provisions under which a filing is made. This provision of § 1.5 tends to be superfluous. Given the organization of the Part 4 regulations and the requirement that each Initial Statement be clearly labeled according to the type of authorization sought, statutory citations would be of assistance to neither the applicant nor the Commission. Section 1.5 is proposed to be replaced (*See*, Notice of Proposed Rulemaking in Docket No. RM78–22, issued March 4, 1981). Applications lacking the citations required in that provision will not, for that reason, be deemed deficient.

The Commission has also added paragraph (a)(6) to § 4.71 to require evidence of compliance with applicable state laws in accordance with the requirements of section 9(b) of the Act. This conforms to similar application requirements in §§ 4.41 and 4.51.

TES states that the regulations should require information on a transmission line "corridor" rather than a specific right-of-way under §§ 4.41 or 4.71. Such information is acceptable. It is the normal procedure for the Commission to authorize transmission line construction within a corridor, leaving later acquisition of a right-of-way within that corridor to the licensee. Therefore, an applicant may depict a preferred corridor in the application, rather than a right-of-way as such.

One commenter argues that the change in the title of Appendix A to Part 2, an environmental report requirement, is a major change in the Commission's NEPA provisions because it imposes environmental requirements on actions undertaken by the Commission or a regulated entity pursuant to sections 202(b), 210, 211 and 212 of the Federal Power Act. The proposed amendment was designed only to indicate that Appendix A is replaced by the Exhibits E in Part 4, for water power projects, leaving other actions under the Act covered by Appendix A, to the extent an environmental report may be required. A change in title alone imposes no substantive requirements to prepare an Environmental Report for, say, wheeling or interconnection cases. It may otherwise be determined that these actions would entail construction which must be investigated under NEPA. Nevertheless, the title is revised to avoid this misunderstanding.

C. Amendment of License

Most comments on the regulations governing amendments to license suggest establishing a threshold level of proposed modification beyond which a licensee would be subject to competition by interested parties. Spiegel states that any proposed change in capacity of 1.5 MW or greater should be considered a "new project" subject to competition under the general licensing regulations.

The Commission acknowledges that a licensee's proposal to change the configuration or operation of its licensed project may not, in all cases, be consistent with the plan of development contemplated when the project was licensed. As a general matter, amendments to a license, whether they add capacity, change project works, or otherwise reshape the project, are not so fundamental as to create a different licensed project, thereby necessitating public notice, intervention, and protest procedures. It would, in any case, be very difficult to prescribe universal criteria applicable to all projects indicating which amendments are permissible and which are not. For example, an increase of 1.5 megawatts of installed capacity may be incidental in one case and important in another. Such a change might necessitate major operational changes or virtually none at all, depending on the size, location or operational characteristics of the project. In any case, section 6 of the Act prohibits amendment of a project license without the mutual consent of the licensee and the Commission. In those instances where significant new project works are proposed to be added or a major change in existing works or mode of operation is proposed, the Commission may withhold its assent or issue public notice in order to permit participation in a proceeding by interested persons. However, the Commission may not initiate a process that might defeat a license based on a proposed amendment.[15] The final rule does not establish, in terms of installed capacity or other criteria, a threshold beyond which a new license is required rather than an amendment to an existing license. The Commission requests that, prior to submittal of any application for amendment, the licensee consult with the Commission to ascertain whether the proposed changes in the license is

[15] The reference to § 4.33 in existing § 5.4, which a commenter pointed out, is an errant and outdated cross-reference and does not imply that the competing application provisions in existing § 4.33 apply to any amendments of license, as such. Part 5 is revoked by this rule.

within the scope of the project. The final rule also encourages such a practice.

PG&E argues that the amendment of license requirements should not apply except to changes in capacity greater than 5 MW. As stated above, the consequences of change in project operation or configuration will vary from project to project. Terms and conditions may permit a change in one instance but not in another. Therefore, the Commission is reluctant to arbitrarily establish a threshold for applicability of §§ 4.200 and 4.201 based only on an amount of proposed installed capacity.

Some commenters express uncertainty about whether the installed capacity levels referred to in proposed § 4.201(b) pertain to the increment of additional capacity proposed in an application for amendment of license or the total installed capacity including any new generating capacity proposed by the licensee. The Commission clarifies this provision to indicate that *total* installed capacity after the amendment of a license is what determines the appropriate exhibits for submittal.

In response to a comment from EEI, the regulations now permit, in the interest of flexible application of the requirements and minimizing unnecessary filings, an applicant to submit only the revised portion of an exhibit affected by the amendment. The Commission maintains in its permanent records all exhibits and amendments submitted by an applicant-licensee.

D. Paperwork Reduction Act of 1980 (PRA)

One commenter perceives the revised Exhibit E, § 4.41(f), as an undue paperwork burden and requests review and approval of the regulation by the Office of Management and Budget under the PRA. The Commission has long recognized the practical need for, and legislative interest in, the reduction or elimination of unnecessary regulatory burdens. The final rules in this docket and in Docket No. RM81–10 manifest this recognition. The rulemaking in this docket completes the major portion of the Commission's three-year program to reorganize, clarify, and reduce all of its preliminary permit and license application requirements.

The Commission's revised hydropower regulations have thus far helped reduce, by an average of 50 percent, the time which the Commission requires to process preliminary permit and licensing applications for all types of projects. Regulatory delay increases the capital expenditures on projects by as much as one percent per month, if a 12 to 15 percent inflation rate is assumed. The duplicative, lengthy, and discursive hydropower application requirements which existed before the Commission's recent revisions (existing §§ 4.40 and 4.41 being the vestigial remains of those regulations) not only imposed an undue burden on applicants, they resulted in poorer quality applications, deficiency letters, and a lengthier period between filing and a final Commission order. It is important to note that the final rule in this docket, in conjunction with that in Docket No. RM81–10, also permits up to 50 percent of all major unconstructed projects to be licensed under the so-called "short-form" application procedures.

The provisions of the Exhibit E are designed to carry forward the same policies and to conform to the same format established in previous Commission orders revising the hydropower licensing requirements.[16] Those orders resulted in substantial savings to applicants by requiring only such information as the Commission considers essential to carry out its statutory responsibilities under the Federal Power Act and the numerous environmental statutes which relate directly to its licensing authority. The Commission anticipates that its final action in this docket will provide similar regulatory relief, first, by making its requirements clear and, second, by enabling the Commission to act expeditiously on applications.[17]

The construction of a dam and impoundment involves an intricate network of ecological, socio-economic, and aesthetic ramifications which the Commission is obligated by statute to study and help mitigate. Its responsibilities range from considerations of public health and safety to protection of wild and scenic rivers, endangered species, and anadromous fish runs. A proposal to develop capacity at an existing dam does not entail the level of engineering and environmental problems, and normally does not occasion the amount of public interest and participation, as does a proposed new dam. This accounts for the greater detail requested under the new § 4.41, particularly Exhibit E. The Commission has taken into account both the level of information which it considers necessary to discharge its responsibilities and that which an applicant for license can reasonably be expected to provide, given the nature and complexity of the kinds of projects to be approved for construction under the final rule.

With respect to OMB review of agency forms, the Commission will comply with all applicable provisions of law.

E. Regulatory Flexibility Act (RFA)

One commenter claims that the Commission's Initial Regulatory Flexibility Analysis (Initial Analysis), contained in the Notice of Proposed Rulemaking in Docket No. RM81–10 but applicable to this rulemaking also, is deficient in estimating the burdens and benefits of the rules and in analyzing reasonable alternatives. The commenter also asserts that the requirements proposed in this docket constitute an entry barrier to small entities interested in developing hydroelectric power projects and that the distinction made between major and minor projects based on installed capacity is unreasonable.

A Final Regulatory Flexibility Analysis of the two rulemakings has been prepared as required by section 604 of the RFA and is published in the preamble to the final rule in Docket No. RM81–10. The Commission's analysis in that document bears on the issues raised by the commenter, including consideration of alternatives to the proposed rule and the regulatory burden on small entities. The Commission also offers the following views.

As stated above, in its discussion of the Paperwork Reduction Act, the Commission's basis for undertaking this rulemaking is to reduce the regulatory burden on all prospective non-Federal developers, not to devise new and expensive filing requirements as prerequisites to a license. The Commission believes that the final rules are more easily understood and better organized than previous licensing provisions; requests for superfluous information such as articles of incorporation and rate schedule information are deleted; exhibits are consolidated and the requirements clarified, without an overall increase in the volume of data requested. The exhibits on socio-economic and recreational impacts and access to project waters are not new, as the commenter supposes. They spring from statutory requirements that such values be studied. The Commission subscribes to the statutory purposes set forth in the RFA but disagrees with the commenter with respect to how those purposes ought to be carried out in the context of a rule such as this.

[16] See, orders cited in Footnote 1, *supra*.

[17] The effects of the hydropower licensing reform program on applicant's costs and the Commission's approval processes is discussed in the Final Regulatory Flexibility Analysis in Docket No. 81–10 which applies to the final rule in this docket as well.

Neither the Federal Power Act nor the RFA contemplate providing authorization to use a public resource without taking into account the maximum effective utilization of that resource consistent with the public interest in producing reliable power, preserving lives, public health and safety, and environmental values.[18] An applicant for license must have a financially and technologically feasible plan of development and be capable of constructing, operating and maintaining a project in a manner consistent with the Congress' environmental mandates. The larger and more complex the proposed project, the greater the Commission's task in assessing its impacts and determining the conditions under which it must operate.

In Hydropower licensing, the need for the information required does not vary according to the nature or size of the applicant but according to the nature of the project. For that reason, the requirements have been segregated according to the installed capacity of the proposed project[19] and whether the plan of development requires that a new dam and impoundment be constructed. The revised requirements in §§ 4.40 and 4.41 are necessary means to evaluate the viability, feasibility, and environmental desirability of major projects without resort to prolonged case-by-case data requests by means of deficiency letters. They form the basis for preparing the Environmental Impact Statement which is almost invariably required under NEPA because authorization of major unconstructed projects is normally a major Federal action significantly affecting the quality of the human environment. Such considerations make it inadvisable to reduce further the amount of information the Commission may obtain about a project, as the commenter advocates, or to reduce the requirements which prospective developers of a certain size must meet, as the commenter implies.

"Small entities", including municipalities under 50,000 population (section 601(5) of the RFA), have not in the past confronted undue barriers to the licensing process. Even under the existing, more cumbersome procedures, such entities constitute up to 60 percent of all applicants for major unconstructed projects. Not only does the final rule simplify the requirements for major unconstructed projects over 5 MW, it places approximately 50 percent of such projects formerly licensed under §§ 4.40 and 4.41 under the "short-form" application requirements which prescribe submittal of four abbreviated exhibits instead of seven lengthier ones. As the Initial Analysis states, this will, if anything, enable small entities to compete more effectively for those kinds of projects in which they have been most interested historically.

In addition, the benefit to "small entities" from this rulemaking is a benefit available to all prospective applicants, just as the burdens are applicable to all applicants. The costs of preparing an application and complying with state and Federal regulatory requirements will vary dramatically depending on the project and its location. Commission staff estimates that the cost of compliance with *all* state and Federal requirements for major unconstructed projects, including the license application provisions, will vary considerably up to as much as $1,500,000. The precise cost-savings to any particular applicant from a more (or less) stringent regulation would therefore be difficult to estimate.

There are, in any case, benefits which flow from a thorough and systematic collection of data. Efficient consultation and effective compliance with state and Federal agency requirements, coordinated through the Commission's processes, will lead to swifter licensing and substantial cost-savings. For example, 12 percent inflation will add one percent per month to the up-front cost of a project; if—as happened pursuant to Order No. 59 for major projects at existing dams—the approval process can be shortened by one year, the eventual licensee of a $10 million project could save as much as $1,200,000 in building the project.

The consultation procedures prescribed in the Commission's revised hydropower licensing rules and the reduction in deficiency letters or rejections which arose from unclear requirements will yield similar benefits to applicants for license for major unconstructed projects in the form of faster preparation and processing of the application and therefore faster development.

In sum, the commenter clearly wants the Commission to go farther in easing its filing requirements. A balanced consideration of the competing interest in expeditious and economical hydropower development and the protection of non-economic values, consistent with the requirements of the RFA, indicates that the approach to data collection originally proposed in this docket serves the best interests of small entities as well as the general public.

III. Final Regulatory Flexibility Analysis

The Commission's statement concerning the impact of this rulemaking on small entities is combined with the analysis of the final rule governing short-form license applications in Docket No. RM81-10, issued as a companion to this rulemaking.

IV. Summary of the Regulations

A. (Subpart E) Major Unconstructed Projects and Major Modified Projects

§ 4.40 Applicability and definitions.

This section states that §§ 4.40 and 4.41 apply to any application for an initial license for a major unconstructed project, and an initial license or new license for a major modified project. Applications for license of major water power projects with an installed generating capacity of 5 MW or less must be filed under §§ 4.60 and 4.61 of the Commission's regulations. Section 4.40 defines "major unconstructed project", "major modified project", "initial license", and "new license", and offers the assistance of the Commission staff in determining whether §§ 4.40 and 4.41 apply to the applicant's proposed project.

§ 4.41 Contents of application.

This section describes the contents of an application for a license for a major unconstructed project or a major

[18] In addition to the Federal Power Act, any of the following statutes may affect the licensing and development of a water power project: National Environmental Policy Act, Federal Water Pollution Control Act (Clean Water Act), Fish and Wildlife Coordination Act, National Historic Preservation Act, National Trails System Act, Water Resources Planning Act, Wilderness Act, Archeological and Historic Preservation Act of 1974, Bureau of Outdoor Recreation Organic Act, Anadromous Fish Act, National Forest Multiple Use Act, Coastal Zone Management Act, Endangered Species Act, Energy Policy and Conservation Act of 1975, Federal Land Management Policy Act, Wild and Scenic Rivers Act, and Energy Security Act.

[19] The Commission and its predecessor, the Federal Power Commission, have maintained a distinction between "major" and "minor" projects based on section 10(i) of the Federal Power Act. That provision permits waiver of some provisions or requirements of the Act for projects with not more than 2000 horsepower or 1.5 megawatts of installed capacity. Such waiver is manifested in the kinds of conditions contained in licenses for projects above ("major") and below ("minor") the 1.5 megawatt demarcation. *See* § 2.9. The "short-form" license application procedures now set forth in § 131.6 will be applied to minor projects and to major projects with an installed capacity of 5 megawatts or less under the final rule in Docket No. RM81-10. However, section 10(i) of the Act will continue to permit the less stringent conditions in licenses for minor projects. The Commission adopts the 5 MW demarcation for license application provisions to parallel Congress' determination that the Commission may grant exemption from all or part of Part I of the Act, including licenses of all water power projects located at existing dams and having a proposed installed capacity of 5 megawatts or less, so-called "small hydroelectric power projects." *See* §§ 4.101 *et seq.* of the Commission's regulations.

modified project. The rule requires applicants to consult with appropriate local, state, and Federal resource agencies, including those responsible for socio-economic impacts such as the State Historic Preservation Officer, prior to filing their applications for license. These regulations follow other Commission procedures by affording other agencies an opportunity to review the proposed development and to be part of the planning process before the application has been filed wth the Commission. Otherwise, proceedings might often be delayed while agencies consider the effects of projects on their areas of responsibility and fashion recommendations. With pre-application consultation, key environmental issues will be identified and addressed at an earlier point in the process and the Commission's own required consultation with other agencies will be expedited.[20] The applicant must allow at least 60 days for each agency consulted to respond to the applicant's request for documentation of the consultation process which must then be submitted. At any subsequent time, however, the applicant may submit a summary of the applicant's consultation efforts. The Commission then will supply to each such agency a copy of the completed application, as filed, in order to provide further opportunity for comment.

(a) *Initial statement.* The initial statement provides certain basic information necessary for identification and orientation purposes, including the nature of the application, the name, business address, and telephone number of the applicant and its authorized agents, the status of the applicant, and the name and location of the project. The applicant is also required to state that it has complied with the laws of the state where the project is located with respect to obtaining property rights and the rights to appropriate, divert, and use water for power purposes, and with respect to obtaining authorization to engage in the business of producing, transmitting, and distributing power, and any other business necessary to accomplish the purposes of the requested license.[21]

(b) *Exhibit A.* This exhibit provides a description of the physical structures and features of the project. It the project includes more than one dam and associated facilities, each such discrete development must be described separately. The exhibit also includes a tabulation of any lands of the United States that are enclosed within the project boundary. This tabulation is necessary in order to record accurately the lands which have been reserved from entry, location, or other disposal pursuant to section 24 of the Act, 16 U.S.C. 818.

(c) *Exhibit B.* A statement of project operation and resource utilization is provided by this exhibit. The exhibit calls for a description of the available water supply and technical documentation of the manner in which the applicant proposes to utilize that water supply for the generation of power. The applicant must also explain how it intends to sell the power. Finally, the applicant must describe any plans it has for future hydroelectric development on the affected stream. The information in this exhibit will assist the Commission in determining whether the applicant's existing or proposed development and operation comport with optimum development of the waterway, as required by section 10(a) of the Act, 16 U.S.C. 803(a).

(d) *Exhibit C.* The third exhibit provides a proposed construction schedule for new construction on the project and a construction history for existing project works, including the dates of commencement and completion of construction and the date of first commercial operation.

(e) *Exhibit D.* This exhibit provides a statement of costs and financing. If the applicant seeks a new license for a proposed change in the existing state of project works or project operations which would result in a significant increase in the normal maximum surface area or elevation of an existing impoundment, and is not a municipality or a state, it must provide an estimate of the amount that would be payable (net investment) if the United States exercised its right to take over the project upon expiration of the license pursuant to section 14 of the Act, 16 U.S.C. 807.

If the applicant seeks an initial license, and any portion of the proposed project consists of previously constructed, unlicensed water power structures or facilities, a statement of the original cost of those project works and the corresponding land and water rights must be provided. The Commission is required by section 4(b) of the Act, 16 U.S.C. 797(b) to obtain information on the original cost of a project in order to determine the economic viability of the project and the quality of the applicant's plan.

Estimated costs of any proposed new development and estimated annual costs must also be provided, as well as information concerning the value of project power to the applicant and the sources and extent of financing and annual revenues available to meet the estimated costs. This information would enable the Commission to assess the economic and financial viability of the project.

(f) *Exhibit E.* This exhibit provides a report on the environmental resources of the project, the effects of the project on those resources, the proposed measures to mitigate the impacts or to protect and enhance the resources, and an environmental assessment of alternative sites, facility designs, and energy options. The greater detail required in this Exhibits E, compared to the Exhibit E for other projects, is justified on the basis that there are greater impacts associated with the construction of dams and the creation of impoundments, or any significant modification of an existing dam which would increase the maximum surface area or elevation of the impoundment or otherwise cause a significant environmental impact. The level of detail required should be commensurate with the nature and scope of the proposed project.

The Environmental Report contains a general description of the environment of the proposed project area and detailed analysis of water use and quality; fish, wildlife and botantical resources; historic and archaeological resources; socio-economic impacts; geological and soil resources; recreational resources; aesthetic resources; and, land uses.

An applicant must explain why it considers any measures proposed by any agency consulted not to be appropriate.

(g) *Exhibit F.* This exhibit consists of general design drawings of the principal project works. The drawings must show plans, elevations, profiles, and sections for each structure, and must be accompanied by sufficient information concerning structural strength and stability and other controlling factors to demonstrate that the structures are safe and adequate for their state function.

The applicant may file either preliminary or final design drawings with the application, and five copies of a

[20] Several statutes, including PURPA, require the Commission to consult with other agencies. Section 405 of PURPA provides that, prior to issuing a license for a project which fits the PURPA criteria, the Commission must "provide opportunity for consultation with the Council on Environmental Quality and the Environmental Protection Agency with respect to the environmental effects of such project." This duty will be carried out in accordance with our established procedures for consultation during the license application review process. Moreover, in certain circumstances, other agencies may have concurrent jurisdiction with respect to authorization of a project. Prior consultation by applicants will facilitate coordination with these other agencies. *See* section 10(c) of the Act, 16 U.S.C. 803(c).

[21] *See* section 9(b) of the Act, 16 U.S.C. 802(b).

supporting design report must accompany the drawings, describing the basis for the design depicted in the design drawings. The supporting design report must include design assumptions and the result of all design analyses in sufficient detail for staff to make an independent assessment of the safety and adequacy of the proposed project works. The final design drawings must be submitted prior to construction of the project.

(h) *Exhibit G.* The final exhibit is a map of the project. The map must show the geographical location of the project, the physical interrelationships of project works and other features, a project boundary enclosing the project purposes, and any lands of the United States that are within the project boundary.

The following table indicates how the information required under the former regulations has been eliminated or transferred to the new regulations:

Former regulations [1]	New regulations [2]
§ 4.40(e)	§ 4.41(b) Exhibit A.
§ 4.41 Required Exhibits:	
A	§ 4.41(a) Initial Statement.
B	§ 4.41(a) Initial Statement.
C	§ 4.41(a) Initial Statement.
D	§ 4.41(a) Initial Statement.
E	§ 4.41(a) Initial Statement.
F	§ 4.41(a) Initial Statement.
G	§ 4.41(a) Exhibit D.
H	§ 4.41(c) Exhibit B.
I	§ 4.41(b) Exhibit A, § 4.41(c) Exhibit B.
J	§ 4.41(h) Exhibit G.
K	§ 4.41(h) Exhibit G.
L	§ 4.41(g) Exhibit F.
M	§ 4.41(b) Exhibit A.
N	§ 4.41(e) Exhibit D.
O	§ 4.41(d) Exhibit C.
P	* * *
Q	* * *
R	§ 4.41(f) Exhibit E.
S	§ 4.41(f) Exhibit E.
T	§ 4.41(c) Exhibit B.
U	§ 4.41(c) Exhibit B.
V	§ 4.41(f) Exhibit E.
W	§ 4.41(f) Exhibit E.

[1] For proposed unconstructed major project.
[2] For major unconstructed projects and major modified projects.

B. Transmission Lines.

Sections 4.70 and 4.71, governing applications for license for transmission lines only, would be revised to direct applicants to use the exhibits provided in § 4.41 or § 4.61, depending upon the installed generating capacity of the project served by the transmission line and whether the line is constructed at the time of a license application. All applications for license for transmission line only must include an initial statement indicating the name and address of the applicant, the name of the project to which the transmission line will be connected, and the proposed market for the power.

An application for license of any unconstructed transmission line connected to a water power project with an installed capacity of more than 5 MW must include the exhibits required under § 4.41, to the extent that those requirements are appropriate to transmission lines. Applications for license for any line that is already constructed or that is unconstructed but proposed to be connected to a project with a capacity of 5 MW or less must include the short-form exhibits required under § 4.61, to the extent that those requirements are appropriate to transmission lines.

The following table illustrates the transfer of Exhibits from the existing to the revised regulations:

Former Regulations [1]	New Regulations [1]
§ 4.71 Required Exhibits:	
A	§ 4.71(a) Initial Statement.
B	§ 4.71(a) Initial Statement.
C	§ 4.71(a) Initial Statement.
D	§ 4.71(a) Initial Statement.
J	§ 4.71(b), § 4.41(h) Exhibit G, § 4.61(d) Exhibit F, § 4.61(e) Exhibit G.
K	§ 4.71(b), § 4.41(h) Exhibit G, § 4.61(d) Exhibit F, § 4.61(e) Exhibit G.
M	§ 4.71(b), § 4.41(b) Exhibit A, § 4.61.
N	§ 4.71(b), § 4.41(e) Exhibit D.
O	§ 4.71(b), § 4.41(d) Exhibit C.
P	* * *
Q	* * *
V	§ 4.71(b), § 4.41(f) Exhibit E, § 4.61(c) Exhibit E.

[1] For transmission line only.

C. Amendment of License

Sections 5.1 through 5.4 are revoked, and the regulations governing applications for amendment of a license are transferred to a new subpart of Part 4 of the regulations. Under new Subpart L, all applications for amendment of a license must include an initial statement indicating the name, address, and telephone number of the applicant, a description of the proposed changes, and the reasons for the changes. Subpart L then refers applicants to §§ 4.41, 4.51, or 4.61 depending upon the installed generating capacity of the project and whether or not the dam and impoundment are constructed at the time the application is filed.

An application for amendment of a license for a major unconstructed or major modified project must include the exhibits required under § 4.41. An application for amendment of a license for a major project—existing dam must include the exhibits required under § 4.51. Lastly, an application for amendment of a license for a minor hydroelectric power project must include the exhibits required under § 4.61, but if the project is between 1.5 MW and 5 MW at the site of a dam proposed to be constructed after the issuance of the amendment, the application must include an Environmental Report (Exhibit E) from § 4.41.

The following table shows how exhibits in the existing regulations governing license amendments are transferred or eliminated:

Former regulations [1]	New regulations [1]
§ 5.1	§ 4.200, § 4.201.
§ 5.2	§ 4.201.
§ 5.3	§ 4.200.
§ 5.4	* * *

[1] For amendment of license.

V. Other Changes and Deletions

In addition to the described amendments to §§4.40, 4.41, 4.70, 4.71, and 5.1 through 5.4, the Commission further amends the existing regulations. Section 4.50, which defines the applicability of the major project—existing dam regulations, is amended to indicate that §§ 4.50 and 4.51 do not apply to those projects that fall within the category of major modified projects. These regulations govern such projects and are referenced in § 4.50(a). Section 4.31 would be amended to reflect the nomenclature of §§ 4.40 and 4.41.

Section 4.51 is amended to make clear the applicant's responsibilities with respect to pre-application consultation with Federal, state, and local agencies. The requirements of the consultation process are noted at the beginning of § 4.51 and explained in detail in the appropriate exhibits.

Section 16.7 is revised to refer applicants for a "nonpower license" to the requirements of § 4.51 ("major project—existing dam").

Finally, the rule revokes four existing provisions of the Commission's regulations. The title of Appendix A to Part 2, which prescribes the Environmental Report required of applicants for license under the Act, is revised because the rule contains a new environmental report (Exhibit E). With the adoption of the final rule, Appendix A no longer applies to any type of hydroelectric license. Section 131.2, which prescribes the proper form for an application for license, is revoked since the proposed rule contains a new application format. Similarly, § 131.5, which prescribes the form for license for transmission line only, the § 131.30, which prescribes the form for amendment of license, are revoked because the final rule contains new formats for both types of applications.

VI. Effective Date

This final rule is effective December 14, 1981.

(Federal Power Act, as amended, 16 U.S.C. 792–828c; Public Utilities Regulatory Policies Act of 1978, 16 U.S.C. 2601–2645; Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12209, 3 CFR 142 (1979))

In consideration of the foregoing, the Commission amends Parts 2, 4, 5, 16, and 131 of Chapter I, Title 18, Code of Federal Regulations, as set forth below, effective December 14, 1981.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 2—GENERAL POLICY AND INTERPRETATIONS

1. Part 2 is amended by revising the title of Appendix A to read:

Appendix A.—Guidelines for the Preparation of Environmental Reports for Applications Under the Federal Power Act, Other Than Applications for Preliminary Permit or License for Water Power Projects

* * * * *

PART 4—LICENSES, PERMITS, EXEMPTIONS, AND DETERMINATION OF PROJECT COSTS

2. Part 4 is amended in the Table of Contents by revising Subparts E and H, and adding a new Subpart L, to read as follows:

* * * * *

Subpart E—Application for License for Major Unconstructed Project and Major Modified Project

Sec.

4.40 Applicability and definitions.

4.41 Contents of application.

* * * * *

Subpart H—Application for License for Transmission Line Only

4.70 Applicability.

4.71 Contents of application.

* * * * *

Subpart L—Application for Amendment of License

4.200 Applicability.

4.201 Contents of application.

4.202 Alteration and extension of license.

3. Subpart E (§§ 4.40 and 4.41) is revised to read as follows:

* * * * *

Subpart E—Application for License for Major Unconstructed Project and Major Modified Project

§ 4.40 Applicability and definitions.

(a) *Applicability.* The provisions of this subpart apply to any application for an initial license for a major unconstructed project that would have a total installed capacity of more than 5 megawatts, and any application for an initial or new license for a major modified project with a total installed capacity more than 5 megawatts. An applicant for license for any major unconstructed or major modified water power project that would have a total installed generating capacity of 5 megawatts or less must submit application under Subpart G (§§ 4.60 and 4.61).

(b) *Definitions.* For the purposes of this subpart:

(1) "Initial license" means any license for a water power project that is issued under the Federal Water Power Act of 1920 or the Federal Power Act.

(2) "Major unconstructed project" means any unlicensed water power project that is proposed to:

(i) Have a total installed generating capacity of more than 1.5 MW; and

(ii) Use the water power potential of a dam and impoundment which, at the time application is filed, has not been constructed.

(3) "Major modified project" means any major project—existing dam, as defined in § 4.50(b)(5) of this chapter, that is proposed to include:

(i) Any repair, modification or reconstruction of an existing dam that would result in a significant change in the normal maximum surface area or the normal maximum surface elevation of an existing impoundment; or

(ii) Any change in existing project works or operations that would result in a significant environmental impact.

(4) "New license" means any license, except an annual license issued under section 15 of the Federal Power Act, for a water power project that is issued under the Federal Power Act after the initial license for that project.

(c) *Guidance from Commission staff.* A prospective applicant for a license for a major unconstructed project or major modified project may seek advice from the Commission's Division of Hydropower Licensing regarding the applicability of this subpart to its project [*see* § 4.31(g)], including the determinations whether any proposed repair, modification or reconstruction of an existing dam would result in a significant change in the normal maximum surface elevation of an existing impoundment, or whether any proposed change in existing project works or operation would result in a significant environmental impact.

(d) *Consultation.* As provided under § 4.41(f) of this chapter, the appropriate Federal, state and local resource agencies must be given the opportunity to comment on the proposed project prior to filing of the application for license for a major unconstructed or major modified project. Information from the consultation must be included in the Exhibit E, as appropriate.

§ 4.41 Contents of application.

Any application under this subpart must contain the following information in the form prescribed:

(a) *Initial statement.*

BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION:
APPLICATION FOR LICENSE FOR MAJOR UNCONSTRUCTED PROJECT OR MAJOR MODIFIED PROJECT

(1) [Name of applicant] applies to the Federal Energy Regulatory Commission for a [license or new license, as appropriate] for the [name of project] water power project, as described in the attached exhibits. [Specify any previous FERC project number designation.]

(2) The location of the proposed project is:
State or territory: _____
County: _____
Township or nearby town: _____
Stream or other body of water: _____

(3) The exact name, business address, and telephone number of the applicant are:

_____

_____

(4) The applicant is a [citizen of the United States, association of citizens of the United States, domestic corporation, municipality, or state, as appropriate. *See* 16 U.S.C. 796].

(5)(i) The statutory or regulatory requirements of the state(s) in which the project would be located and that affect the project as proposed with respect to bed and banks and to the appropriation, diversion, and use of water for power purposes, and with respect to the right to engage in the business of developing, transmitting, and distributing power and in any other business necessary to accomplish the purposes of the license under the Federal Power Act, are: [provide citation and brief identification of the nature of each requirement; if the applicant is a municipality, the applicant must submit copies of applicable state or local laws or a municipal charter or, if such laws or documents are not clear, any other appropriate legal authority, evidencing that the municipality is competent under such laws to engage in

the business of developing, transmitting, utilizing, or distributing power.]

(ii) The steps which the applicant has taken, or plans to take, to comply with each of the laws cited above are: [provide brief description for each requirement]

(b) *Exhibit A* is a description of the project. If the project includes more than one dam with associated facilities, each dam and the associated component parts must be described together as a discrete development. The description for each development must contain:

(1) The physical composition, dimensions, and general configuration of any dams, spillways, penstocks, powerhouses, tailraces or other structures proposed to be included as part of the project;

(2) The normal maximum water surface area and normal maximum water surface elevation (mean sea level), gross storage capacity of any impoundments to be included as part of the project;

(3) The number, type and rated capacity of any proposed turbines or generators to be included as part of the project;

(4) The number, length, voltage and interconnections of any primary transmission lines proposed to be included a part of the project [*See* 16 U.S.C. 796(11)];

(5) The description of any additional mechanical, electrical, and transmission equipment appurtenant to the project; and

(6) All lands of the United States, including lands patented subject to the provisions of section 24 of the Act, 16 U.S.C. 818, that are enclosed within the project boundary described under paragraph (h) of this section (Exhibit G), identified and tabulated by legal subdivisions of a public land survey, by the best available legal description. The tabulation must show the total acreage of the lands of the United States within the project boundary.

(c) *Exhibit B* is a statement of project operation and resource utilization. If the project includes more than one dam with associated facilities, the information must be provided separately for each discrete development. The exhibit must contain:

(1) A description of each alternative site considered in selecting of the proposed site;

(2) A description of any alternative facility designs, processes, and operations that were considered.

(3) A statement as to whether operation of the power plant will be manual or automatic, an estimate of the annual plant factor, and a statement of how the project will be operated during adverse, mean, and high water years;

(4) an estimate of the dependable capacity and average annual energy production in kilowatt-hours (or mechanical equivalent), supported by the following data:

(i) The minimum, mean, and maximum recorded flows in cubic feet per second of the stream or other body of water at the powerplant intake or point of diversion, with a specification of any adjustment made for evaporation, leakage minimum flow releases (including duration of releases) or other reductions in available flow; a flow duration curve indicating the period of record and the guaging stations used in deriving the curve; and a specification of the critical streamflow used to determine the dependable capacity;

(ii) An area-capacity curve showing the gross storage capacity and usable storage capacity of the impoundment, with a rule curve showing the proposed operation of the impoundment and how the usable storage capacity is to be utilized;

(iii) The estimated hydraulic capacity of the powerplant in terms of flow and efficiency (cubic feet per second at one-half, full and best gate), and the corresponding generator output in kilowatts;

(iv) A tailwater rating curve; and

(v) A curve showing powerplant capability versus head and specifying maximum, normal, and minimum heads;

(5) A statement of system and regional power needs and the manner in which the power generated at the project is to be utilized, including the amount of power to be used on-site, if any, supported by the following data:

(i) Load curves and tabular data, if appropriate;

(ii) Details of conservation and rate design programs and their historic and projected impacts on system loads; and

(iii) The amount of power to be sold and the identity of proposed purchaser(s); and

(6) A statement of the applicant's plans for future development of the project or of any other existing or proposed water power project on the affected stream or other body of water, indicating the approximate location and estimated installed capacity of the proposed developments.

(d) *Exhibit C* is a proposed construction schedule for the project. The information required may be supplemented with a bar chart. The construction schedule must contain:

(1) The proposed commencement and completion dates of any new construction, modification, or repair of major project works;

(2) The proposed commencement date of first commercial operation of each new major facility and generating unit; and

(3) If any portion of the proposed project consists of previously constructed, unlicensed water power structures or facilities, a chronology of original completion dates of those structures or facilities specifying dates (approximate dates must be identified as such) of:

(i) Commencement and completion of construction or installation;

(ii) Commencement of first commercial operation; and

(iii) Any additions or modifications other than routine maintenance.

(e) *Exhibit D* is a statement of project costs and financing. The exhibit must contain:

(1) A statement of estimated costs of any new construction, modification, or repair, including:

(i) The cost of any land or water rights necessary to the development;

(ii) The total cost of all major project works;

(iii) Indirect construction costs such as costs of construction equipment, camps, and commissaries;

(iv) Interest during construction; and

(v) Overhead, construction, legal expenses, and contingencies;

(2) If any portion of the proposed project consists of previously constructed, unlicensed water power structures or facilities, a statement of the original cost of those structures or facilities specifying for each, to the extent possible, the actual or approximate total costs (approximate costs must be identified as such) of:

(i) Any land or water rights necessary to the existing project works;

(ii) All major project works; and

(iii) Any additions or modifications other than routine maintenance;

(3) If the applicant is a licensee applying for a new license, and is not a municipality or a state, an estimate of the amount which would be payable if the project were to be taken over pursuant to section 14 of the Federal Power Act, 16 U.S.C. 807, upon expiration of the license in effect including:

(i) Fair value;

(ii) Net investment; and

(iii) Severance damages;

(4) A statement of the estimated average annual cost of the total project as proposed, specifying any projected changes in the costs (life-cycle costs) over the estimated financing or licensing period if the applicant takes such changes into account, including:

(i) Cost of capital (equity and debt);

(ii) Local, state, and Federal taxes;

(iii) Depreciation or amortization, and

(iv) Operation and maintenance expenses, including interim replacements, insurance, administrative and general expenses, and contingencies;

(5) A statement of the estimated annual value of project power based on a showing of the contract price for sale of power or the estimated average annual cost of obtaining an equivalent amount of power (capacity and energy) from the lowest cost alternative source of power, specifying any projected changes in the costs (life-cycle costs) of power from that source over the estimated financing or licensing period if the applicant takes such changes into account;

(6) A statement describing other electric energy alternatives, such as gas, oil, coal and nuclear-fueled powerplants and other conventional and pumped storage hydroelectric plants;

(7) A statement and evaluation of the consequences of denial of the license application and a brief perspective of what future use would be made of the proposed site if the proposed project were not constructed; and

(8) A statement specifying the sources and extent of financing and annual revenues available to the applicant to meet the costs identified in paragraphs (e) (1) and (4) of this section.

(f) *Exhibit E* is an Environmental Report. Information provided in the report must be organized and referenced according to the itemized subparagraphs below. If information required is not applicable, the applicant must briefly explain why it is not applicable. For application for license for a major unconstructed or major modified project (more than 5 MW) submitted under this subpart or for applications for such projects (5 MW or less) submitted under §§ 4.60 and 4.61 of this part, Exhibit E must be prepared in accordance with the following consultation provisions, after consultation with appropriate Federal, state, and local resource agencies, as indicated in this paragraph. Consultation must be documented by appending to the report a letter from each agency consulted that indicates the nature, extent, and results of consultation. If any agency that an applicant is required to consult fails to consult or fails to provide documentation of the consultation process within a reasonable time after the applicant informs the agency of the proposed project and requests to consult, the applicant may submit a summary of the consultation or attempts to consult, including any recommendations of the agency. An applicant must allow at least 60 days for consultation and documentation, unless the agency indicates that it has no comment. A list of agencies to be consulted can be obtained from the Director of the Commission's Division of Hydropower Licensing. The Environmental Report must contain the following information, *commensurate with the scope of the project:*

(1) *General Description of the Locale.* The applicant must provide a general description of the environment of the proposed project area and its immediate vicinity. The description must include location and general information helpful to an understanding of the environmental setting.

(2) *Report on Water Use and Quality.* The report must discuss water quality and flows and contain baseline data sufficient to determine the normal and seasonal variability, the impacts expected during construction and operation, and any mitigative, enhancement, and protective measures proposed by the applicant. The report must be prepared in consultation with the state and Federal agencies with responsibility for management of water quality and quantity in the affected stream or other body of water. The report must include:

(i) A description of existing instream flow uses of streams in the project area that would be affected by construction and operation; estimated quantities of water discharged from the proposed project for power production; and any existing and proposed uses of project waters for irrigation, domestic water supply, industrial and other purposes;

(ii) A description of the seasonal variation of existing water quality for any stream, lake, or reservoir that would be affected by the proposed project, including (as appropriate) measurements of: significant ions, chlorophyll *a*, nutrients, specific conductance, pH, total dissolved solids, total alkalinity, total hardness, dissolved oxygen, bacteria, temperature, suspended sediments, turbidity and vertical illumination;

(iii) A description of any existing lake or reservoir and any of the proposed project reservoirs including surface area, volume, maximum depth, mean depth, flushing rate, shoreline length, substrate classification, and gradient for streams directly affected by the proposed project;

(iv) A quantification of the anticipated impacts of the proposed construction and operation of project facilities on water quality and downstream flows, such as temperature, turbidity and nutrients;

(v) A description of measures recommended by Federal and state agencies and the applicant for the purpose of protecting or improving water quality and stream flows during project construction and operation; an explanation of why the applicant has rejected any measures recommended by an agency; and a description of the applicant's alternative measures to protect or improve water quality stream flow;

(vi) A description of groundwater in the vicinity of the proposed project, including water table and artesian conditions, the hydraulic gradient, the degree to which groundwater and surface water are hydraulically connected, aquifers and their use as water supply, and the location of springs, wells, artesian flows and disappearing streams; a description of anticipated impacts on groundwater and measures proposed by the applicant and others for the mitigation of impacts on groundwater; and

(vii) As an appendix, either:

(A) A copy of the water quality certificate (or agency statement that such certification is waived) as described in Section 401 of the Federal Water Pollution Control Act (Clean Water Act) [*see* 33 U.S.C. 134]; or

(B) A copy of a dated letter from the applicant to the appropriate agency requesting such certification.

(3) *Report on Fish, Wildlife, and Botanical Resources.* The applicant must provide a report that describes the fish, wildlife, and botanical resources in the vicinity of the proposed project; expected impacts of the project on these resources; and mitigation, enhancement, or protection measures proposed by the applicant. The report must be prepared in consultation with the state agency or agencies with responsibility for these resources, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service (if the proposed project may affect anadromous, estuarine, or marine fish resources), and any state or Federal agency with managerial authority over any part of the proposed project lands. The report must contain:

(i) A description of existing fish, wildlife, and plant communities of the proposed project area and its vicinity, including any downstream areas that may be affected by the proposed project and the area within the transmission line corridor or right-of-way. A map of vegetation types should be included in the description. For species considered important because of their commercial or recreational value, the information provided should include temporal and spatial distributions and densities of

such species. Any fish, wildlife, or plant species proposed or listed as threatened or endangered by the U.S. Fish and Wildlife Service or National Marine Fisheries Service [*see* 50 CFR 17.11 and 17.12] must be identified;

(ii) A description of the anticipated impacts on fish, wildlife and botanical resources of the proposed construction and operation of project facilities, including possible changes in size, distribution, and reproduction of essential population of these resources and any impacts on human utilization of these resources;

(iii) A description of any measures or facilities recommended by state or Federal agencies for the mitigation of impacts on fish, wildlife, and botanical resources, or for the protection or enhancement of these resources, the impact on threatened or endangered species, and an explanation of why the applicant has determined any measures or facilities recommended by an agency are inappropriate as well as a description of alternative measures proposed by applicant to protect fish, wildlife and botanical resources; and

(iv) The following materials and information regarding any mitigation measures or facilities, identified under clause (iii), proposed for implementation or construction:

(A) Functional design drawings;

(B) A description of proposed operation and maintenance procedures for any proposed measures or facilities;

(C) An implementation, construction and operation schedule for any proposed measures or facilities;

(D) An estimate of the costs of construction, operation, and maintenance of any proposed facilities or implementation of any measures;

(E) A statement of the sources and amount of financing for mitigation measures or facilities; and

(F) A map or drawing showing, by the use of shading, crosshatching or other symbols, the identity and location of any proposed measures or facilities.

(4) *Report on Historic and Archaeological Resources.* The applicant must provide a report that discusses any historical and archaeological resources in the proposed project area, the impact of the proposed project on those resources and the avoidance, mitigation, and protection measures proposed by the applicant. The report must be prepared in consultation with the State Historic Preservation Officer (SHPO) and the National Park Service of the U.S. Department of Interior. The report must contain:

(i) A description of any discovery measures, such as surveys, inventories, and limited subsurface testing work, recommended by the specified state and Federal agencies for the purpose of locating, identifying, and assessing the significance of historic and archaeological resources that would be affected by construction and operation of the proposed project, together with a statement of the applicant's position regarding the acceptability of the recommendations;

(ii) The results of surveys, inventories, and subsurface testing work recommended by the state and Federal agencies listed above, together with an explanation by the applicant of any variations from the survey, inventory, or testing procedures recommended;

(iii) An identification (without providing specific site or property locations) of any historic or archaeological site in the proposed project area, with particular emphasis on sites or properties either listed in, or recommended by the SHPO for inclusion in, the National Register of Historic Places that would be affected by the construction of the proposed project;

(iv) A description of the likely direct and indirect impacts of proposed project construction or operation on sites or properties either listed in, or recommended as eligible for, the National Register of Historic Places;

(v) A management plan for the avoidance of, or mitigation of, impacts on historic or archaeological sites and resources based upon the recommendations of the state and Federal agencies listed above and containing the applicant's explanation of variations from those recommendations; and

(vi) The following materials and information regarding the mitigation measures described under paragraph (f)(4)(v) of this section:

(A) A schedule for implementing the mitigation proposals;

(B) An estimate of the cost of the measures; and

(C) A statement of the sources and extent of financing.

(vii) The applicant must provide five copies (rather than the fourteen copies required under § 4.31(b) of the Commission's regulations) of any survey, inventory, or subsurface testing reports containing specific site and property information, and including maps and photographs showing the location and any required alteration of historic and archaeological resources in relation to proposed project facilities.

(5) *Report on Socio-Economic Impacts.* The applicant must provide a report which identifies and quantifies the impacts of constructing and operating the proposed project on employment, population, housing, personal income, local governmental services, local tax revenues and other factors within the towns and counties in the vicinity of the proposed project. The report must include:

(i) A description of the socio-economic impact area;

(ii) A description of employment, population and personal income trends in the impact area;

(iii) An evaluation of the impact of any substantial in-migration of people on the impact area's governmental facilities and services, such as police, fire, health and educational facilities and programs;

(iv) On-site manpower requirements and payroll during and after project construction, including a projection of total on-site employment and construction payroll provided by month;

(v) Numbers of project construction personnel who:

(A) Currently reside within the impact area;

(B) Would commute daily to the construction site from places situated outside the impact area; and

(C) Would relocate on a temporary basis within the impact area;

(vi) A determination of whether the existing supply of available housing within the impact area is sufficient to meet the needs of the additional population;

(vii) Numbers and types of residences and business establishments that would be displaced by the proposed project, procedures to be utilized to acquire these properties, and types and amounts of relocation assistance payments that would be paid to the affected property owners and businesses; and

(viii) A fiscal impact analysis evaluating the incremental local government expenditures in relation to the incremental local government revenues that would result from the construction of the proposed project. Incremental expenditures may include, but are not be limited to, school operating costs, road maintenance and repair, public safety, and public utility costs.

(6) *Report on Geological and Soil Resources.* The applicant must provide a report on the geological and soil resources in the proposed project area and other lands that would be directly or indirectly affected by the proposed action and the impacts of the proposed project on those resources. The information required may be supplemented with maps showing the location and description of conditions. The report must contain:

(i) A detailed description of geological features, including bedrock lithology, stratigraphy, structural features, glacial features, unconsolidated deposits, and mineral resources;

(ii) A detailed description of the soils, including the types, occurrence, physical and chemical characteristics, erodability and potential for mass soil movement;

(iii) A description showing the location of existing and potential geological and soil hazards and problems, including earthquakes, faults, seepage, subsidence, solution cavities, active and abandoned mines, erosion, and mass soil movement, and an identificaiton of any large landslides or potentially unstable soil masses which could be aggravated by reservior fluctuation;

(iv) A description of the anticipated erosion, mass soil movement and other impacts on the geological and soil resources due to construction and operation of the proposed project; and

(v) A description of any proposed measures of facilities for the mitigtion of impacts on soils.

(7) *Report on Recreational Resources.* The applicant must prepare a report containing a proposed recreation plan describing utilization, design and development of project recreational facilities, and public access to the project area. Development of the plan should include consideration of the needs of the physically handicapped. Public and private recreational facilities provided by others that would abut the project should be noted in the report. The report must be prepared in consultation with appropriate local, regional, state and Federal recreation agencies and planning commissions, the National Park Service of the U.S. Department of the Interior, and any other state or Federal agency with managerial responsibility for any part of the project lands. The report must contain:

(i) A description of any areas within or in the vicinity of the proposed project boundary that are included in, or have been designated for study for inclusion in:

(A) The National Wild and Scenic Rivers Systems (*see* 16 U.S.C. § 1271);

(B) The National Trails System (*see* 16 U.S.C. 1241); or

(C) A wilderness area designated under the Wilderness Act (*see* 16 U.S.C. 1132);

(ii) A detailed description of existing recreational facilities within the project vicinity, and the public recreational facilities which are to be provided by the applicant at its sole cost or in cooperation with others no later than 3 years from the date of first commercial opertion of the proposed project and those recreation facilities planned for future development based on anticipated demand. When public recreation facilities are to be provided by other entities, the applicant and those entities should enter into an agreement on the type of facilities to be provided and the method of operation. Copies of agreements with cooperating entities are to be appended to the plan;

(iii) A provision for a shoreline buffer zone that must be within the project boundary, above the normal maximum surface elevation of the project reservoir, and of sufficient width to allow public access to project lands and waters and to protect the scenic, public recreational, cultural, and other environmental values of the reseroir shoreline;

(iv) Estimates of existing and future recreational use at the project, in daytime and overnight visitation (recreation days), with a description of the methodology used in developing these data;

(v) A development schedule and cost estimates of the construction, operation, and maintenance of existing, initial, and future public recreational facilities, including a statement of the source and extent of financing for such facilities;

(vi) A description of any measures or facilities recommended by the agencies consulted for the purpose of creating, preserving, or enhancing recreational opportunities at the proposed project, and for the purpose of ensuring the safety of the public in its use of project lands and waters, including an explanation of why the applicant has rejected any measures or facilities recommended by an agency; and

(vii) A drawing or drawings, one of which describes the entire project area, clearly showing:

(A) The location of project lands, and the types and number of existing recreational facilities and those proposed for initial development, including access roads and trails, and facilities for camping, picnicking, swimming, boat docking and launching, fishing and hunting, as well as provisions for sanitation and waste disposal;

(B) The location of project lands, and the type and number of recreational facilities planned for future development;

(C) The location of all project lands reserved for recreational uses other than those included in paragraphs (f)(7)(vii) (A) and (B) of this section; and

(D) The project boundary (excluding surveying details) of all areas designated for recreational development, sufficiently referenced to the appropriate Exhibit G drawings to show that all lands reserved for existing and future public recreational development and the shoreline buffer zone are included within the project boundary. Recreational cottages, mobile homes and year-round residences for private use are not to be considered as public recreational facilities, and the lands on which these private facilities are to be developed are not to be included within the proposed project boundary.

(8) *Report on Aesthetic Resources.* The applicant must provide a report that describes the aesthetic resources of the proposed project area, the expected impacts of the project on these resources, and the mitigation, enhancement or protection measures proposed. The report must be prepared following consultation with Federal, state, and local agencies having managerial responsibility for any part of the proposed project lands or lands abutting those lands. The report must contain:

(i) A description of the aesthetic character of lands and waters directly and indirectly affected by the proposed project facilities;

(ii) A description of the anticipated impacts on aesthetic resources from construction activity and related equipment and material, and the subsequent presence of proposed project facilities in the landscape;

(iii) A description of mitigative measures proposed by the applicant, including architectural design, landscaping, and other reasonable treatment to be given project works to preserve and enhance aesthetic and related resources during construction and operation of proposed project facilities; and

(iv) Maps, drawings and photographs sufficient to provide an understanding of the information required under this subparagraph. Maps or drawings may be consolidated with other maps or drawings required in this exhibit and must conform to the specifications of § 4.32.

9. *Report on Land Use.* The applicant must provide a report that describes the existing uses of the proposed project lands and adjacent property, and those land uses which would occur if the project is constructed. The report may reference the discussions of land uses in other sections of this exhibit. The report must be prepared following consultation with local and state zoning or land management authorities, and any Federal or state agency with managerial responsibility for the proposed project

or abutting lands. The report must include:

(i) A description of existing land use in the proposed project area, including identification of wetlands, floodlands, prime or unique farmland as designated by the Soil Conservation Service of the U.S. Department of Agriculture, the Special Area Management Plan of the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, and lands owned or subject to control by government agencies;

(ii) A description of the proposed land uses within and abutting the project boundary that would occur as a result of development and operation of the project; and

(iii) Aerial photographs, maps, drawings or other graphics sufficient to show the location, extent and nature of the land uses referred to in this section.

(10) *Alternative Locations, Designs, and Energy Sources.* The applicant must provide an environment assessment of the following:

(i) Alternative sites considered in arriving at the selection of the proposed project site;

(ii) Alternative facility designs, processes, and operations that were considered and the reasons for their rejection;

(iii) Alternative electrical energy sources, such as gas, oil, coal, and nuclear-fueled power plants, purchased power or diversity exchange, and other conventional and pumped-storage hydroelectric plants; and

(iv) The overall consequences if the license application is denied.

(11) *List of Literature.* Exhibit E must include a list of all publications, reports, and other literature which were cited or otherwise utilized in the preparation of any part of the environmental report.

(g) *Exhibit F* consists of general design drawings of the principal project works described under paragraph (b) of this section (Exhibit A) and supporting information used as the basis of design. If the Exhibit F submitted with the application is preliminary in nature, applicant must so state in the application. The drawings must conform to the specifications of § 4.32.

(1) The drawings must show all major project structures in sufficient detail to provide a full understanding of the project, including:

(i) Plans (overhead view);

(ii) Elevations (front view);

(iii) Profiles (side view); and

(iv) Sections.

(2) The applicant may submit preliminary design drawings with the application. The final Exhibit F may be submitted during or after the licensing process and must show the precise plans and specifications for proposed structures. If the project is licensed on the basis of preliminary designs, the applicant must submit a final Exhibit F for Commission approval prior to commencement of any construction of the project.

(3) *Supporting Design Report.* The applicant must furnish, at a minimum, the following supporting information to demonstrate that existing and proposed structures are safe and adequate to fulfill their stated functions and must submit such information in a separate report at the time the application is filed. The report must include:

(i) An assessment of the suitability of the site and the reservoir rim stability based on geological and subsurface investigations, including investigations of soils and rock borings and tests for the evaluation of all foundations and construction materials sufficient to determine the location and type of dam structure suitable for the site;

(ii) Copies of boring logs, geology reports and laboratory test reports;

(iii) An identification of all borrow areas and quarry sites and an estimate of required quantities of suitable construction material;

(iv) Stability and stress analyses for all major structures and critical abutment slopes under all probable loading conditions, including seismic and hydrostatic forces induced by water loads up to the Probable Maximum Flood as appropriate; and

(v) The bases for determination of seismic loading and the Spillway Design Flood in detail sufficient detail to independent staff evaluation.

(4) The applicant must submit five copies (not fourteen copies as required under § 4.31(b) of this part) of the supporting design report described in paragraph (g)(3) of this section at the time preliminary and final design drawings are submitted to the Commission for review. If the report contains preliminary drawings, it must be designated a "Preliminary Supporting Design Report."

(h) *Exhibit G* is a map of the project that must conform to the specifications of § 4.32. If more than one sheet is used, the sheets must be numbered consecutively, and each sheet must bear a small insert sketch showing the entire project and indicating that portion of the project depicted on that sheet. If at any time after the application is filed there is any change in the project boundary, the applicant must submit, within a reasonable period following the completion of project construction, a final Exhibit G showing the extent of such changes. The map must show:

(1) *Location of the project and principal features.* The map must show the location of the project as a whole with reference to the affected stream or other body of water and, if possible, to a nearby town or any other permanent monuments or objects, such as roads, transmission lines or other structures, that can be noted on the map and recognized in the field. The map must also show the relative locations and physical interrelationships of the principal project works and other features described under paragraph (b) of this section (Exhibit A).

(2) *Project boundary.* The map must show a project boundary enclosing all of the principal project works and other features described under paragraph (b) of this section (Exhibit A). If accurate survey information is not available at the time the license application is filed, the applicant must so state and a tentative boundary may be submitted. The boundary must enclose only those lands necessary for operation and maintenance of the project and for other project purposes, such as flowage, public recreation, shoreline control, or protection of environmental resources. If the boundary is on land covered by a public land survey, ties must be shown on the map at sufficient points to permit accurate platting of the position of the boundary relative to the lines of the public land survey. If the lands are not covered by a public land survey, the best available legal description of the position of the boundary must be provided, including distances and directions from fixed monuments or physical features. The boundary must be described as follows:

(i) *Impoundments.* The boundary around a project impoundment must be no more than 200 feet (horizontal measurement) from the exterior margin of the reservoir, defined by the normal maximum surface elevation, except where deviations may be necessary in describing the boundary according to the method used, or where additional lands are necessary for project purposes, such as public recreation. The boundary may be described by any one or a combination of the following methods:

(A) Contour lines, including the contour elevation [preferred method]; or

(B) Specified courses and distances (metes and bounds); or

(C) If the project lands are covered by a public land survey, lines parallel to the lines of the survey.

(ii) *Continuous features.* The boundary around linear project features such as access roads, transmission lines and conduits may be described by

specified distances from center lines or offset lines of the survey. The width of such corridors must not exceed 200 feet, unless good cause is shown for a greater width. Several sections of a continuous feature may be shown on a single sheet, with information showing the sequence of continuous sections.

(iii) *Noncontinuous features.* The boundary around noncontinuous project works such as dams, spillways and powerhouses must enclose only those lands that are necessary for safe and efficient operation and maintenance of the project, or for other specified project purposes, such as public recreation or protection of environmental resources. The boundary may be described by any one or a combination of the following methods:

(A) Contour lines; or

(B) Specified courses and distances; or

(C) If the project lands are covered by a public land survey, lines upon or parallel to the lines of the survey.

(3) *Federal Lands.* Any public lands and reservations of the United States ("Federal lands") [*see* 16 U.S.C. 796 (1) and (2)] that are within the project boundary, such as lands administered by the U.S. Forest Service, Bureau of Land Management, or National Park Service, or Indian tribal lands, and the boundaries of those Federal lands, must be identified as such on the map by:

(i) Legal subdivisions of a public land survey of the affected area (a protraction of identified township and section lines is sufficient for this purpose); and

(ii) The Federal agency, identified by symbol or legend, that maintains or manages each identified subdivision of the public land survey within the project boundary; or

(iii) In the absence of a public land survey, the location of the Federal lands according to the distances and directions from fixed monuments or physical features. When a Federal survey monument or a Federal bench mark will be destroyed or rendered unusable by the construction of project works, at least two permanent, marked witness monuments or bench marks must be established at accessible points. The maps show the location (and elevation, for bench marks) of the survey monument or bench mark which will be destroyed or rendered unusable, as well as of the witness monuments or bench marks. Connecting courses and distances from the witness monuments or bench marks to the original must also be shown.

(4) *Non-Federal Lands.* For those lands within the project boundary not identified under paragraph (h)(3) of this section, the map must identify by legal subdivision:

(i) Lands owned in fee by the applicant and lands that the applicant plans to acquire in fee; and

(ii) Lands over which the applicant has acquired or plans to acquire rights to occupancy and use other than fee title, including rights acquired to be required by easement or lease.

4. Section 4.31 is amended by revising paragraph (a)(2)(iii) to read as follows:

§ 4.31 Acceptance for filing or rejection.

(a) * * *

(2) * * *

(iii) License for a major unconstructed project and a major modified project: §§ 4.40 and 4.41;

* * * * *

5. Section 4.50 is amended by revising paragraph (a) to read as follows:

§ 4.50 Applicability and definitions.

(a) *Applicability.* (1) Except as provided in paragraph (a)(2) of this section, the provisions of this subpart apply to any application for either an initial license or new license for a major project—existing dam that is proposed to have a total installed capacity of more than 5 megawatts.

(2) This subpart does not apply to any major project—existing dam (*see* § 4.40) that is proposed to entail or include:

(i) Any repair, modification or reconstruction of an existing dam that would result in a significant change in the normal maximum surface area or normal maximum surface elevation of an existing impoundment; or

(ii) Any new development or change in project operation that would result in a significant environmental impact.

(3) An applicant for license for any major project—existing dam that would have a total installed capacity of 5 megawatts or less must submit application under Subpart G (§§ 4.60 and 4.61.).

* * * * *

§ 4.50 [Amended]

6. Section 4.50 is amended in paragraph (b)(5) by adding the word "and" at the end of clause (i), by deleting the semicolon at the end of clause (ii), and inserting a period in lieu thereof, and by removing clauses (iii) and (iv).

7. Section 4.51 is amended by revising the introductory statement and paragraph (f) to read as follows:

§ 4.51 Contents of application.

An application for license under this subpart must contain the following information in the form specified. As provided in paragraph (f) of this section, the appropriate Federal, state, and local resource agencies must be given the opportunity to comment on the proposed project, prior to filing of the application for license for major project—existing dam. Information from the consultation process must be included in this Exhibit E, as appropriate.

* * * * *

(f) *Exhibit E* is an environmental report. Information provided in the report must be organized and referenced according to the provisions of this paragraph. If a request for information is not applicable, the applicant must briefly explain why it does not apply. The Environmental Report is prepared after consultation with appropriate Federal, state and local resource agencies. If any agency that an applicant is required to consult fails to consult or fails to provide documentation of the consultation process within a reasonable time after the applicant informs the agency of the proposed project and requests to consult, the applicant may submit a summary of the consultation or attempts to consult, including any recommendations of the agency. An applicant must allow at least 60 days for this consultation and documentation, unless the agency indicates within that period that it has no comment. A list of agencies to be consulted can be obtained from the Director of the Commission's Division of Hydropower Licensing. The Environmental Report must contain the following information, *commensurate with the scope of the proposed project:*

* * * * *

8. Subpart H (§§ 4.70 and 4.71) is revised to read as follows:

* * * * *

Subpart H—Application for License for Transmission Line only

Sec.

4.70 Applicability.

4.71 Contents of application.

* * * * *

Subpart H—Application for License for Transmission Line only

§ 4.70 Applicability.

This subpart applies to any application for license issued solely for a transmission line that transmits power from a licensed water power project or other hydroelectric project authorized by Congress to the point of junction with the distribution system or with the interconnected primary transmission system.

§ 4.71 Contents of application.

An application for license for transmission line only must contain the following information in form specified. As provided in the appropriate Exhibit E requirements, the appropriate Federal, state, and local resource agencies must be given the opportunity to comment on the proposed project prior to filing of the application. A list of the agencies to be consulted may be obtained from the Director of the Commission's Division of Hydropower licensing.

(a) *Initial statement.*

BEFORE THE FEDERAL ENERGY REGULATION COMMISSION; APPLICATION FOR LICENSE FOR TRANSMISSION LINE ONLY

(1) [Name of applicant] applies to the Federal Energy Regulatory Commission for a [license or new license, as appropriate] for the [name of project] transmission line only, as described in the attached exhibits, that is connected with FERC Project No. ———, for which a license [was issued, or application was made, as appropriate] on the ——— day of ———, 19——.

(2) The location of the transmission line would be:

State or territory: ———
County: ———
Township or nearby town: ———

(3) The proposed use or market for the power to be transmitted.

(4) The exact name, business address, and telephone number of the applicant are:

———

———

———

(5) The applicant is a [citizen of the United States, association of citizens of the United States, domestic corporation, municipality, or state, as appropriate, *see* 16 U.S.C. 796].

(6)(i) [For any applicant which, at the time of application for license for transmission line only, is a non-licensee.] The statutory or regulatory requirements of the state(s) in which the project would be located and that affect the project as proposed with respect to bed and banks and to the appropriation, diversion, and use of water for power purposes, and with respect to the right to engage in the business of developing, transmitting, and distribution power and in any other business necessary to accomplish the purposes of the license under the Federal Power Act, are: [provide citation and brief identification of the nature of each requirement; if the applicant is a municipality, the applicant must submit copies of applicable state or local laws or a municipal charter or, if such laws or documents are not clear, other appropriate legal authority, evidencing that the municipality is competent under such laws to engage in the business of developing, transmitting, utilizing, or distributing power.]

(ii) [For any applicant which, at the time of application for license for transmission line only, is a licensee.] The statutory or regulatory requirements of the state(s) in which the transmission line would be located and that affect the project as proposed with respect to bed and banks and to the appropriation, diversion, and use of water for power purposes, are: [provide citations and brief identification of the nature of each requirement.]

(iii) The steps which the applicant has taken or plans to take to comply with each of the laws cited above are: [provide brief descriptions for each law.]

(b) *Required exhibits.* The application must contain the following exhibits, as appropriate:

(1) For any transmission line that, at the time the application is filed, is not constructed and is proposed to be connected to a licensed water power project with an installed generating capacity of more than 5 MW—Exhibits A, B, C, D, E, F, and G under § 4.41 of this chapter;

(2) For any transmission line that, at the time the application is filed, is not constructed and is proposed to be connected to a licensed water power project with an installed generating capacity of 5 MW or less—Exhibits E, F, and G under § 4.61 of this chapter; and

(3) For any transmission line that, at the time the application is filed, has been constructed and is proposed to be connected to any licensed water power project—Exhibits E, F, and G under § 4.61 of this chapter.

9. Part 4 is amended by adding a new Subpart L to read as follows:

* * * * *

Subpart L—Application for Amendment of License

Sec.

4.200 Applicability.
4.201 Contents of application.
4.202 Alteration and extension of license.

* * * * *

Subpart L—Application for Amendment of License

§ 4.200 Applicability.

This part applies to any application for amendment of a license, if the applicant seeks to:

(a) Make a change in the physical features of the project or its boundary, or make an addition, betterment, abandonment, or conversion, of such character as to constitute an alteration of the license;

(b) Make a change in the plans for the project under license; or

(c) Extend the time fixed on the license for commencement or completion of project works.

§ 4.201 Contents of application.

An application for amendment of a license for a water power project must contain the following information in the form specified. As provided in the appropriate Exhibit E requirements, the appropriate Federal, state, and local resource agencies must be given the opportunity to comment on the proposed amendment prior to filing of the application for amendment of license. A list of the agencies to be consulted can be obtained from the Director of the Commission's Division of Hydropower licensing.

(a) *Initial statement.*

BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION; APPLICATION FOR AMENDMENT OF LICENSE

(1) [Name of applicant] applies to the Federal Energy Regulatory Commission for an amendment of license for the [name of project] water power project.

(2) The exact name, business address, and telephone number of the applicant are:

———

———

———

(3) The applicant is a [citizen of the United States, association of citizens of the United States, domestic corporation, municipality, or state, as appropriate, see 16 U.S.C. 796], licensee for the water power project, designated as Project No. ——— in the records of the Federal Energy Regulatory Commission, issued on the ——— day of ———, 19——.

(4) The amendments of license proposed and the reason(s) why the proposed changes are necessary, are: [Give a statement or description]

(5)(i) The statutory or regulatory requirements of the state(s) in which the project would be located that affect the project as proposed with respect to bed and banks and to the appropriation, diversion, and use of water for power purposes are: [provide citation and brief identification of the nature of each requirement.]

(ii) The steps which the applicant has taken or plans to take to comply with each of the laws cited above are: [provide brief description for each law.]

(b) *Required exhibits.* The application must contain the following exhibits, or revisions or additions to any exhibits on

file, *commensurate with the scope of the licensed project:*

(1) For amendment of a license for a water power project that, at the time the application is filed, is not constructed and is proposed to have a total installed generating capacity of more than 5 MW—Exhibits A, B, C, D, E, F, and G under § 4.41 of this chapter;

(2) For amendment of a license for a water power project that, at the time the application is filed, is not constructed and is proposed to have a total installed generating capacity of 1.5 MW or less—Exhibits E, F, and G under § 4.61 of this chapter;

(3) For amendment of a license for a water power project that, at the time the application is filed, is not constructed and is proposed to have a total installed generating capacity of 5 MW or less, but more than 1.5 MW—Exhibits F and G under § 4.61 of this chapter, and Exhibit E under § 4.41 of this chapter;

(4) For amendment of a license for a water power project that, at the time the application for amendment is filed, has been constructed, and is proposed to have a total installed generating capacity of 5 MW or less—Exhibit E, F and G under § 4.61 of this chapter;

(5) For amendment of a license for a water power project that, at the time the application is filed, has been constructed and is proposed to have a total installed generating capacity of more than 5 MW—Exhibits A, B, C, D, E, F, and G under § 4.61 of this chapter.

(c) *Consultation and waiver.* (1) If an applicant for license under this subpart believes that any exhibit required under paragraph (b) of this section is inappropriate with respect to the particular amendment of license sought by the applicant, a petition for waiver of the requirement to submit such exhibit may be submitted to the Commission under § 1.7 of this chapter, after consultation with the Commission's Division by Hydropower Licensing.

(2) A licensee wishing to file an application for amendment of license under this section may seek advice from Commission staff whether the proposed amendment is consistent with the scope of the existing licensed project.

§ 4.202 Alteration and extension of license.

(a) If it is determiend that approval of the application for amendment of license would constitute a significant alteration of license pursuant to section 6 of the Act, 16 U.S.C. 799, public notice of such application shall be given at least 30 days prior to action upon the application.

(b) Any application for extension of time fixed in the license for commencement or completion of construction of project works must be filed with the Commission not less than three months prior to the date or dates so fixed.

PART 5—[REMOVED]

10. Part 5 is removed.

PART 16—PROCEDURES RELATING TO TAKEOVER AND RELICENSING OF LICENSED PROJECTS

11. Section 16.7 is amended by revising the introductory statement to read as follows:

§ 16.7 Application for non-power license.

Each application for a "non-power license" must conform to the requirements of § 4.51 of this chapter and must include the information specified in paragraphs (a) through (c) of this section. The application and all accompanying exhibits must be filed in accordance with § 4.31 of this chapter.

* * * * *

PART 131—FORMS

§ 131.2 [Removed]

12. Section 131.2 is removed.

§ 131.5 [Removed]

13. Section 131.5 is removed.

[FR Doc. 81-32680 Filed 11-12-81; 8:45 am]
BILLING CODE 6717-01-M

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18 CFR Parts 4, 16, 131, and 375

[Docket No. RM81-10; Order No. 185]

Application for License for Minor Water Power Projects and Major Water Projects 5 Megawatts or Less

Issued: November 6, 1981.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission adopts regulations governing so-called "short-form" applications for license for minor water power project and any water power project with an installed generating capacity of 5 megawatts or less. The requirements in the Commission's existing regulations are clarified by these regulations and the threshold installed capacity requirement for use of the short-form application is raised. This rulemaking is designed to expedite hydropower development by easing the burden of preparing an application for license and by assisting the Commission in more rapid processing of applications.

DATE: This rule is effective December 14, 1981.

FOR FURTHER INFORMATION CONTACT:

Ronald Corso, Director, Division of Hydropower Licensing, Office of Electric Power Regulation, Federal Energy Regulatory Commission, 825 N. Capital Street, NE, Washington, D.C. 20426 (202) 379-9171;

James Hoecker, Division of Rulemaking and Legislative Analysis, Office of the General Counsel, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE, Washington, D.C. 20426 (202) 357-9342.

SUPPLEMENTARY INFORMATION:

Order No. 185

Issued: November 6, 1981.

In the matter of regulations governing applications for license for minor water power projects and major water power projects 5 megawatts or less.

The Federal Energy Regulatory Commission (Commission) amends the regulations governing applications for licenses under Part I of the Federal Power Act (Act) for water power projects with an installed generating capacity of 5 megawatts or less. The rule also revises §§ 4.60 and 4.61, and affects §§ 4.31, 4.50, 4.51, 16.12, 131.6, and 375.308 of the Commisson's regulations.

I. Background and Summary

On September 5, 1978, the Commission initiated the first phase of a program to revise its regulations to simplify and expedite hydropower licensing by adopting regulations governing so-called "short-form" application for license.[1] The Commission continued that program by completing additional rulemakings to revise the regulations governing the authorization of hydropower development.[2]

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[1] Order No. 11, "Regulations Governing Applications for Short-form License (Minor)" (Docket No. RM78-9), issued September 5, 1978, 43 FR 40215, September 11, 1978.

[2] Order No. 54, "Regulations Prescribing General Provisions for Preliminary Permit and License Applications; and Regulations Governing Applications for Amendments to and Cancellation of Permits" (Docket No. RM79-23), issued October 22, 1979, 44 FR 61328, October 25, 1979.

Order No. 59, "Regulations Governing Applications for License for Major Projects—Existing Dam" (Docket No. RM79-36), issued December 18, 1979, 45 FR 75383, December 20, 1979;

Order No. 76, "Exemptions of Small Conduit Hydroelectric Facilities from Part I of the Federal Power Act" (Docket No. RM79-35), issued April 18, 1980, 45 FR 28085, April 28, 1980;

Order No. 106, "Exemption from All or Part of Part I of the Federal Power Act of Small Hydroelectric Power Projects with an Installed Capacity of 5 Megawatts or Less" (Docket No. RM80-65), issued November 7, 1980, 45 FR 76115, November 18, 1980.

The Commission believes that further changes in the abbreviated license application requirements would expedite hydropower development. Consequently, it issued a Notice of Proposed Rulemaking in this docket on January 21, 1981 to expand the applicability of the "short-form" application to all projects of 5 megawatts or less, among other things.[3] The final rule established pursuant to that notice is designed to simplify the regulations and bring them into general conformance with other revisions to the license application regulations. Specifically, the exhibits required as attachments to an application have been redesignated as Exhibit A (description of the project and mode of operation), Exhibit E (Environmental Report)[4], Exhibit F (project drawings), and Exhibit G (maps). Most important, the final rule expands the applicability of the abbreviated or "short-form" application provisions to include all minor water projects and major water power projects with an installed generating capacity of 5 megawatts or less.[5] However, the Commission recognizes that proposed major (more than 1.5 megawatts) projects that have, at the time of application for license, no previously constructed dam or impoundment, and major modified projects that utilize existing dams but involve construction or operation changes that would significantly increase the maximum surface area or elevation of an existing impoundment, will usually have different and more substantial environmental impacts than will other major water power projects. The Commission will therefore require an application for license for such major unconstructed or major modified projects with an installed capacity between 1.5 and 5 megawatts to include an Environmental Report under § 4.41(f), rather than the short-form Exhibit E under § 4.61(c) which is otherwise applicable to all projects under 5 megawatts.

[3] 46 FR 9637, January 29, 1981.

[4] The Environmental Report has been revised slightly to be consistent with the report required under the Commission's rule governing case-by-case procedures for exempting small hydroelectric power projects from all or part of Part I of the Act. *See* 18 CFR 4.107(e)[Exhibit E].

[5] The Commission and its predecessor, the Federal Power Commission, have maintained a distinction between "major" and "minor" projects based on section 10(i) of the Federal Power Act. That provision permits waiver of some provisions or requirements of the Act for projects with not more than 2000 horsepower or 1.5 megawatts of installed capacity. Such waiver is manifested in the kinds of conditions contained in licenses for projects above ("major") and below ("minor") the 1.5 megawatt demarcation. *See* § 2.9. The "short-form" license application procedures now set forth in § 131.6 were previously applied only to minor projects. Under this rule, those procedures also apply (with the exception of an Exhibit E for unconstructed projects) to major projects with an installed capacity of 5 megawatts or less. However, section 10(i) will continue to permit the construction or operation under less stringent license conditions of minor projects.

II. Comment Analysis

Commenters generally favor simplifying the license application requirements for minor projects and major projects 5 megawatts or less as proposed. However, some disagreement was expressed with respect to specific provisions of the rule, as follows.

A. Consultation Requirements

Several commenters state that the consultation requirements of the new rules do not define what is a "reasonable" time period within which resource agencies that must be contacted must in turn respond with pre-application comments on the proposed project. The proposed rule states that that period may in no case be less than 30 days. However, the Commission has revised the final rule to clarify that the applicant need only wait a specified time period after requesting that an agency consult before the applicant submits an application and substitutes its own documentation of the consultation process for that requested from the agency. After 30 days, the applicant may submit a summary of the consulation process or its attempts to consult with designated agencies. This does not foreclose further agency comment because all interested agencies are consulted by the Commission after an application is filed.

Pacific Gas and Electric (PG&E) believes that the pre-application consultation process is unfair to "initial" applicants since it enhances the possibility that any competitor may utilize information that is important to the initial applicant's proposal. The Commission recognizes that the pre-application consultation process might give another interested party an opportunity to plagiarize ideas. However, significant contervailing considerations militate against eliminating, or otherwise restricting, the requirement that a filed application be based in part on pre-application consultations. For example, pre-application consultation helps to avoid costly and time-consuming delays in the licensing process. It is designed to prevent premature application-related expenditures by an applicant who might find, after discussions with appropriate agencies, that the project is wholly or partly infeasible or otherwise poses unforeseen environmental problems. Consultation helps ensure better applications and expedites the final interagency consultation, such as that required by the Fish and Wildlife Coordination Act (16 U.S.C. 662) and Endangered Species Act (16 U.S.C. 1536). In any case, the Commission expects that all applicants will perform studies and consult with the appropriate resource agencies, regardless of the source of its plan of development, in order to help expedite the Commission's consultations and determinations.

The Department of the Interior (DOI) recommends that the Commission require applicants to consult with existing site owners to facilitate planning for future project operations. An applicant for license is not required to own the project site but is expected to acquire all necessary rights as a licensee, sometimes by exercise of eminent domain powers. At times this means that an applicant's and an owner's interests conflict. Therefore, the Commission may only urge that such coordination as DOI proposes take place. Generally, private negotiations for purchase or entry onto the land are conducted between the interested parties. The Commission will not undertake to require or supervise such consultation, however.

B. Procedures

Proposed § 4.61(a)(2) requires service of the filed application on Federal, state, and local agencies in order to help expedite the processing time necessary for "short-form" license applications by ensuring the earliest possible consideration of each plan of development by interested agencies. Niagara Mohawk Power Company (Niagara) voices concern over the logistics of service on the various agencies. Niagara urges the Commission to distribute copies of the application itself, claiming that it would be duplicative for the applicant to do so, having just consulted the agencies.

The Commission is particularly interested in avoiding the delays attendant to transmitting the large numbers of applications submitted for projects covered by this rule. It has therefore prepared a list of agencies to be consulted; it is available at any time from the Commission's Division of Hydropower Licensing. Because applicants have consulted with the agencies specified by the Commission during preparation of the application, they are in a good position to deliver copies of the application to those resource agencies. It is far less necessary that the straightforward

short-form application be scrutinized by Commission staff before resource agencies are given the document. Both the applicant and the agencies will benefit from this method of distribution.

The final rule has been revised at § 4.60(c) to reflect the request of the Environmental Protection Agency (EPA) that the regulations require the applicant to furnish copies of the application when requested. In addition, that revised section addresses the concern expressed by DOI that the proposed reference to notification by "public notice procedures" did not include direct service of a notice of the application on interested agencies. Service of the notice is currently provided to interested agencies and no change in that policy is contemplated.

The Washington Department of Ecology (Washington) states that it prefers to continue processing applications for hydro-power projects under its state environmental policy act (SEPA). The Commission also wishes to continue the pre-application consultation that has worked so well with states such as Washington. The final rule will not affect the ongoing consultation practices designed to help protect environmental values.

C. Applicability and Installed Capacity

Commenters question how new increments of capacity added to existing licensed projects will affect the applicability of the short-form applications. PG&E advocates applying the short-form requirements based on increments of new capacity (*i.e.*, 5 MW or less) rather than the total installed capacity of the licensed project. It also argues that, if such small amounts of additional capacity are added, the Commission should require only the filing of a notice, as it proposed to do for projects exemptible under the categorical exemption rule of Docket No. RM81–7.[6]

In response, it should first be noted that a new licensing proceeding is not required for every increase in capacity. Increases in capacity for licensed projects may be provided for in the license or authorized as an amemdment to a license.[7]

The requirements for amending licenses and for licensing new projects, however, are established according to the total proposed installed capacity of the project and whether the dam and impoundment have been constructed. The Commission has determined that projects over 5 MW generally require greater scrutiny and more complex terms and conditions than smaller projects due to the magnitude of project construction, probable inundation, and other impacts. Incremental changes in capacity have effects that vary with the size, location, and type of development, thereby it is difficult to establish by rule the appropriate data needed in all cases. Nevertheless, the amount of data filed and the conditions imposed may be adjusted to suit site-specific characteristics under the regulation proposed.

PG&E also recommends that a minor license should be subject only to the same terms and conditions applied to categorically exempted projects. The privileges and obligations of a licensee and those of the owner of an exempted project are quite different. Licensees are held strictly accountable for the use of public resources. The Congress has allowed the Commission only limited discretion to exempt certain hydroelectric power projects from licensing. In implementing the exemption authority, the Commission has applied streamlined terms and conditions to two categories of projects with specific characteristics found by the Commission not to affect significantly the quality of the human environment. Licensing potentially applies to a greater assortment of projects than the limited exemption provisions and therefore requires greater scrutiny of a proposed project in order for the Commission to carry out its responsibilities to protect water resources, lives, public health and safety, and the environment.

In a related matter, DOI recommends that the Commission require all projects 5 MW or less to be sized to the "maximum economic potential." The concerns of DOI are anticipated in the Commission review of any proposal to ensure "comprehensive" development of water resources, consistent with protection of environmental values. The Commission will not favor a clearly undersized project, particularly when a better plan of development is proposed for the same or a mutually exclusive site. In both licensing and exemptions from licensing, the highest feasible installed capacity is encouraged both by the rules of competition and the economic realities of the marketplace which militate against building two or more small projects when one large one is practicable. However, the Commission looks to a variety of factors, including environmental considerations, to ascertain which is the best adapted plan of development. Moreover, "maximum economic potential" is a changeable kind of standard which may defy quantification and foster lengthy debate. The recommendation is therefore not adopted.

D. Reporting Requirements

The Wisconsin Public Service Corporation (WPSC) argues that the requirement for mapping the project boundary should not be eliminated in § 4.61(e)(3) for projects with a capacity of 1.5 MW or less because conflicts between state and local governmental units might arise with respect to taxing authority. It appears to the Commission that there is little legitimate need for an extensive mapping requirement due to the limited area affected by such projects. The project boundaries for minor projects are generally regarded as the shoreline. The Commission wishes no broader application of its terms and conditions and, in any case, considers a project boundary to have little significance beyond the Commission's licensing provisions. If an applicant confronts special problems of this kind and therefore desires to have a boundary approved, it may ask for such consideration.

EPA suggests that the regulations allow an applicant to submit maps or photographs of environmentally sensitive areas to expedite review of the Exhibit E. The Commission revises the final rule accordingly to include this provision in § 4.61(c)(2)(ii). EPA also recommends that the project description include all roads. The final rule does so in § 4.61(e)(1).

Niagara proposes that the regulations in § 4.61(a)(3) be clarified to allow maintenance and repairs on existing project works prior to receipt of a license from the Commission. The final rule has been changed to reflect this suggestion by prohibiting prelicense construction work only on "proposed" project works. Repair of an existing dam which would be part of a proposed project could significantly affect the plan of development and the environment. Such work should be undertaken only to the extent necessary to protect lives or preserve the structural integrity of the dam. The project works

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[6] Notice of Proposed Rulemaking, "Exemption from Licensing Requirements of Part I of the Federal Power Act of Certain Categories of Hydroelectric Power Projects with an Installed Capacity of 5 Megawatts or less," issued December 22, 1980, 46 FR 1291, January 6, 1981.

[7] The final rule in Docket No. RM80–39, which accompanies this rule, revises the relevant license amendment regulations and permits greater flexibility in their application.

Order No. 184, "Regulations Governing Application for License for Major Unconstructed Projects and Major Modified Projects; Application for License for Transmission Line Only; and Application for Amendment to License," (Docket No. RM80–39), issued November 6, 1918.

as described in the application should not be changed substantially while the Commission reviews an applicant's proposal.

DOI requests that the application refer specifically to the National Inventory of Potential Wild and Scenic Rivers in order to facilitate protection of those resources. The Commission is aware of its responsibility to consult DOI on this and other environmental features potentially affected by developments. The breadth of information requested in the proposed exhibits is sufficient to enable the Commission and DOI to identify any possible threat to wild and scenic rivers and more specific references would not enhance further the protection of such resources.

DOI also proposes that the application contain more information on physical project works for use in evaluating the safety of dams. The proposed rule contained such data requests in § 4.6(a)(4) and the final rule is revised to require such information in an Exhibit A. Moreover, the projects licensed under this rule may also be subject to on-site inspection.

E. Other

DOI recommends a standard licensing article requiring the licensee to provide free public access to the project lands and waters. The Commission presently provides such access in Article 18 ("major license") and Article 13 ("Minor License") and will continue to do so.

Given the variety of new rules recently adopted by the Commission, two charts are provided to describe the options available under the former and revised regulations. They are attached as an appendix to the copies of the final order available at the Commission's Division of Public Information. The charts are filed as part of the original document.

III. Final Regulatory Flexibility Analysis for Docket Nos. RM81-10 and RM80-39

This analysis of the impact of the two rulemakings on "small entities" is prepared pursuant to the Regulatory Flexibility Act (RFA),[8] which requires certain statements, descriptions, and analyses of proposed rules that will have "a significant economic impact on a substantial number of small entities." These RFA requirements apply only to rules for which a notice of proposed rulemaking is issued on or after January 1, 1981. The broad purpose of the RFA is to ensure more careful and informed agency consideration of regulations that may significantly affect small business and small government entities, to encourage agency analysis of the burdens associated with regulations, and consideration of alternative approaches that would minimize the significant economic effects on these small entities.

In the preambles to both the final rule in this docket and the rule governing applications for license for major unconstructed and major modified water power projects[9], the Commission has presented its reasons for revising its hydropower licensing requirements, the legal basis for the rulemakings, and the reporting, recordkeeping, and other compliance requirements which they impose. An Initial Regulatory Flexibility Analysis (Initial Analysis) was prepared and published in the Notice of Proposed Rulemaking in this docket, in accordance with the requirements of section 603(b) of the RFA. Public comment on the Initial Analysis is addressed in the comment analysis in each docket and summarized below.

A Final Regulatory Flexibility is required by section 604(a) of the RFA to contain (1) A statement of the need for, and the objectives of, the rule; (2) a summary of public comment on the Initial Analysis and the agency's responses to such comment, and (3) an evaluation of alternatives to the action considered by the agency and the reasons for rejecting them. As stated in the Initial Analysis, both rules constitute part of the Commission's program to extend to all applicants for license for hydropower projects the benefits of the mandate of section 405 of the Public Utility Regulatory Policies Act of 1978 (PURPA) to provide simplified and expeditious licensing procedures for small hydroelectric power projects, consistent with the Act and other applicable laws. The common objective of both final rules is to ease the burden of applying for a license, particularly for those projects with a comparatively small installed capacity, by clarifying and consolidating the exhibits that must be filed and by extending the benefits of the "short-form" application requirement from licenses for projects of 1.5 megawatts or less to licenses for any water power project with an installed capacity of 5 megawatts or less. The Commission believes that these changes will have an impact on the non-Federal development of hydroelectric facilities, including development by small businesses and small governmental entities that may seek to build, own, and operate many of them; the impact of the revised requirements will primarily be the reduction of the regulatory and compliance costs associated with hydroelectric development.

Specifically, the major purpose of this rule, as proposed, is to "establish differing compliance . . . requirements . . . that take into account the resources available to small entities," and to "clarify, consolidate, or simplify compliance and reporting requirements . . . for small entities"—precisely the approach which the RFA seeks to encourage.[10] Applications for license for the kind of water power projects that would be covered by the procedures proposed in this docket number approximately 150 each year. Of these applications, possibly 75% are filed by entities that qualify as "small entities", including, within the meaning of section 601 of the RFA, municipalities under 50,000 population. The greatest simplification of the application requirements—applying the short-form licensing rule with its abbreviated initial statement and only four short exhibits to projects between 1.5 and 5 megawatts—will affect those projects for which small entities most frequently seek licenses.

The Commission receives annually between 10 and 15 applications for license for the major unconstructed water power projects covered by the rule in Docket No. RM80-39. Between 50 percent and 60 percent of these applicants are "small entities", including municipalities. The Commission's responsibilities to protect lives, public health and safety, and the environment, and to ensure comprehensive development of the Nation's water resources, require that the filing requirements for such projects be generally more extensive than for projects with smaller installed generating capacities built at existing dams. Nevertheless, applicants for license for major unconstructed projects will be subject to greatly clarified requirements with fewer and better organized exhibits and fewer duplicative and unnecessary data requests. The Commission anticipates that it will receive under this rule, as it has under other revised applications rules, better and more complete applications which do not contain the applicant's subjective interpretations of the regulations. As a result, licensing will become a more efficient and less financially wasteful process.

The Commission considered various alternatives to the proposed rule which might help minimize any adverse economic impact on small entities. From the viewpoint of regulatory flexibility, the alternatives to the proposed rules

[8] 5 U.S.C. 601-612.

[9] *See* Footnote 7, *supra*.

[10] *See e.g.*, 5 U.S.C. 603(c) (1) and (2).

are to leave the existing provisions intact, to further simplify the licensing regulations, or to tailor application requirements according to the type of applicant. The first would contradict the objectives of regulatory reform. The second, a further reduction in the amount of information requested in the exhibits, would seriously impair the Commission's ability to fulfill its responsibilities under its primary jurisdictional statutes and relevant environmental laws. The Fish and Wildlife Coordination Act, the Endangered Species Act, the Wilderness Act, the Wild and Scenic Rivers Act, the Clean Water Act, the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and similar statutes, necessitate a certain circumspection in authorizing development of public water resources.

A third alternative is available to the Commission. Two kinds of short-form license provisions for facilities 5 megawatts and smaller could be established, one for applications for "small entities" within the meaning of the RFA, and another for applications filed by larger entities. As stated in the Initial Analysis, the Commission does not believe this represents a viable approach. The RFA encourages regulations which fit the scale of the business or governmental unit which is subject to regulation. However, in this instance, the information collected is related only to the nature and size of the proposed project, not the size or resources of the applicant. It is the project, not the small entity, that is the subject of regulation.

Relatively small entities commonly seek to develop major unconstructed or major modified projects, with all the attendant impacts of such projects. Those impacts and the relevant public interest concerns do not diminish according to the size of the applicant. NEPA, for example, does not enable the Commission to waive the Environmental Impact Statement requirement for actions that might significantly affect the quality of human environment based on who can bear the regulatory costs. Moreover, this alternative would create an unnecessary multiplicity of license application forms for projects 5 megawatts and smaller, and result in an undesirable proliferation of categories that would complicate, not simplify, hydroelectric regulation. In any event, the benefits of savings in time and money which derive from the shortform procedures should be equally available to all entities, small and large, which seek these licenses.

The Commission received some criticism of its Initial Analysis as it pertains to the proposed rule in Docket No. RM80-39. One commenter found the Initial Analysis inadequate in assessing the costs and benefits which the rule would confer on "small entities." The commenter suggested that the alternative of further reducing filing requirements was not considered. As a result of the Commission's alleged failure to comply with the RFA in these ways, the commenter asserts that small entities are confronted with a barrier to entry into the field of hydropower development.

The Commission has reviewed the rule in Docket No. RM80-39 in light of these comments and concluded that the concerns expressed are anticipated in the rule. The primary objective of the rule in that docket, as in this, is to provide regulatory relief. The license application requirements for major unconstructed projects are written in clear but detailed prose which may appear to constitute an overall increase in the volume of information requested despite the reduction in the number of the exhibits. This perception is fundamentally inaccurate. The amount of data requested overall is diminished under the final rule. The application requirements now include reference to the significant amount of information typically requested and obtained by individual requests after applications are found deficient. Another benefit of a highly explanatory application requirement is to minimize the element of subjective interpretation which arises from ambiguous or incomplete instructions. The degree of diminution of the requested information is admittedly not as great as in the Commission's revisions in Order Nos. 11, 54, and 59.[11] This is due not to any lack of commitment to regulatory reform but to the particular engineering and environmental characteristics of the construction and operation of major unconstructed and major modified projects in relation to the Commission's regulatory responsibilities under law.

"Small entities" are not distinguished from other license applicants in terms of the extent of the filing or consultation requirements which must be met. The Commission believes that such a distinction, which recognizes the relative abilities of applicants to comply, might be appropriate for other kinds of regulations but not for those which pertain to authorization to construct, operate, and maintain a particular kind of facility, especially when the statutory scheme of the Federal Power Act contemplates competition for a single development among different kinds of applicants and the utilization of public water resources.

Alternatives to the final rule have been considered and rejected, either because they would result in delays in the licensing process which are costly to applicants for license or because statutory requirements limit further reduction of the filing requirements for the kinds of projects licensed pursuant to the final rule in Docket No. RM80-39.

IV. Section-by-Section Analysis

The final rule primarily revises Subpart G or Part 4 and sets forth what is required of a non-Federal applicant seeking a license for development of a water power project 5 megawatts or less.

Applicability and definitions. § 4.60

This section states that §§ 4.60 and 4.61 apply to any application for either an initial or new license for a water power project with an installed generating capacity of 5 megawatts or less. The section defines "minor water power project", "new license", and "initial license". Under § 4.50(a) and § 4.40(a), as revised in Docket No. RM80-39, an applicant for a major project with an installed capacity of 5 megawatts or less must use the abbreviated application requirements provided in §§ 4.60 and 4.61

Contents of application. § 4.61

This section contains the specific regulations governing the contents of the abbreviated application for license for water power projects with a total installed generating capacity of 5 megawatts or less. The requirements are embodied in the general instructions, an initial statement, and three lettered exhibits.

(a) *General instructions.* The general instructions prescribe the number of copies of the application that must be filed with the Commission, and explain the level of detail required of the applicant in describing the project. The applicant is required to consult with appropriate Federal, State, and local agencies with expertise in environmental matters and submit with its abbreviated application for license documentation of or a summary of the consultation process.

(b) *Initial statement.* The initial statement provides basic information, including the nature of the application, the names, addresses, and telephone numbers of the applicant and its authorized agents, the nature of the applicant, and the name and location of

[11] *See* Footnotes 1-3, *supra.*

the project. A brief project description and construction dates are required, together with a list of any public lands or reservations affected by the project a copy of the applicant's water quality certificate or a copy of a letter from the applicant to the appropriate agency requesting the certification evidence of competence under State law, and information on other State requirements.

(c) *Exhibit A.* Exhibit A is new. It now contains the project description and mode of operation information formerly in the General instructions and the Initial Statement.

(d) *Exhibit E.* This exhibit provides a report on the environmental resources of the project and the impacts of the project on those resources. Applicants for license of uncontested or modified projects between 1.5 megawatts and 5 megawatts ("major") must file an Environmental Report as required under the Commission's regulations governing major unconstructed projects and major modified projects.[12] Applicants for license for projects with an installed capacity of 1.5 megawatts or less and for most major projects at existing dams must file a less extensive Environmental Report, as outlined in the proposed Exhibit E. The more stringent requirements are necessary for major unconstructed and major modified projects because there are greater impacts associated with the construction of dams and the creation of impoundments, or any subsequent significant increase in the size of an impoundment.

The environmental report is required to contain a description of the steps taken by the applicant in consulting with Federal, State, and local natural resources agencies, and the applicant must furnish copies of any letters containing the comments of those agencies or, where appropriate, other documentation of the consultation.

(e) *Exhibit F.* This exhibit consists of general design drawings of the principal project works. The drawings must show a plan, elevation, profile, and section of the dam structure and powerplant, but the drawings need not conform to the specifications of § 4.32 of the Commission's regulations. Instead, the exhibit must be a simple drawing, and may be displayed on smaller sheets.

(f) *Exhibit G.* The final exhibit is a map of the project. The map need not conform to the specifications of § 4.32. If the project is proposed to have an installed capacity of 1.5 MW or less, and will not occupy any public lands or reservations, a definitive project boundary need not be shown. All other projects must include a project boundary defined by contours, courses, and distances, or a public land survey, depending upon the project works involved.

[12] *See* § 4.41(f) of Docket No. RM80-39.

V. Other amendments to the regulations

In addition the described amendments to §§ 4.60 and 4.61, the Commission further changes to the existing regulations. Section 4.31 is amended to reflect the nomenclature in §§ 4.60 and 4.61. In the rulemaking in Docket No. RM80-39, § 4.50(a), which now defines the applicability of the regulations for major projects—existing dam, requires use of the abbreviated application for license for any such project with a generating capacity of not more than 5 megawatts.

Section 16.12 is revised to reflect the nomenclature of §§ 4.60 and 4.61. Section 131.6, which prescribes the existing abbreviated application for license, is revoked, since the proposed rule contains a new application format that obviates § 131.6. Finally, § 375.308 is revised to omit the reference to § 131.6, which contains the existing short-form application requirements.

VI. Effective date

This final rule is effective December 14, 1981.

(Federal Power Act, as amended, 16 U.S.C. 782-828c; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601-2645; the Department of Energy Organization Act, 42 U.S.C. 7101-7352; E.O. 12209, 3 CFR 142 (1978).)

In consideration of the foregoing, the Commission amends Parts 4, 16, 131, and 375 of Chapter I, Title 18, Code of Federal Regulations, as set forth below, effective December 14, 1981.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 4—LICENSES, PERMITS, EXEMPTIONS, AND DETERMINATION OF PROJECT COSTS.

1. Part 4 is amended in the table of contents by revising Subpart G to read as follows:

* * * * *

Subpart G—Application for License for Minor Water Power Projects and Major Water Power Projects 5 Megawatts or Less

Sec.

4.60 Applicability and Definitions

4.61 Contents of Application

* * * * *

2. Subpart G is revised to read as follows:

* * * * *

Subpart G—Application for License for Minor Water Power Projects and Major Water Power Projects 5 Megawatts or Less

§ 4.60 Applicability and Definitions.

(a) *Applicability.* The provisions of this subpart apply to any application for an initial license or a new license for:

(1) a minor water power project, as defined in paragraph (b) of this section;

(2) any major project—existing dam, as defined in § 4.50(b)(5), that has a total installed capacity of 5 megawatts or less; or

(3) any major unconstructed project or major modified project, as defined in § 4.40(b) (2) and (3), that has a total installed capacity of 5 megawatts or less.

(b) *Definitions.* For the purposes of this subpart:

(1) "Initial license" means the first license issued for a water power project under either the Federal Water Power Act of 1920 or the Federal Power Act.

(2) "New license" means any license, except an annual license issued under Section 15 of the Federal Power Act, for a water power project that is issued under the Federal Power Act after the initial license for that project.

(3) "Minor water power project" means any licensed or unlicensed, existing or proposed water power project that, as proposed to be licensed, would have a total installed generation capacity of 2000 horsepower, 1.5 megawatts, or less.

(c) *Notice to agencies.* The Commission will supply interested Federal, state, and local agencies with notice of any application for license for a water power project 5 megawatts or less, and request comment on the application. Copies of the application will be available for inspection at the Commission's Office of Public Information, and agencies may request copies of the filed application from the applicant.

§ 4.61 Contents of Application.

(a) *General Instructions. (1) Consultation.* As provided in paragraph (c)(2) of this section, the appropriate Federal, state and local resource agencies are to be given the opportunity to comment on the proposed project prior to filing of an application for license for a water power project with an installed capacity of 5 megawatts or less. Information from the consultation process must be included in the applicant's Exhibit E, as appropriate.

(2) *Copies and appendix.* (i) The applicant must complete and file the original and fourteen copies of this

application with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, and must at the time of filing serve a copy of the application, as filed, on the Commission's regional engineer for the region in which the project is located, and on each of the agencies consulted under paragraph (a)(1) of this section.

(ii) The applicant must attach to the application as an appendix, either:

(A) A copy of a water quality certificate as described in section 401 of the Federal Water Pollution Control Act (also known as the Clean Water Act, 33 U.S.C. 1341), or an agency statement that such certification is waived; or

(B) A copy of a dated letter from the applicant to the appropriate agency requesting that certification.

(3) *Entry upon land.* No work may be started on any proposed project works until the applicant receives a signed license from the Commission. Acceptance of an application does not authorize entry upon public lands or reservations of the United States for any purpose. The applicant should determine whether any additional Federal, state, or local permits are required.

(4) Exhibits F and G must be submitted on separate drawings. Drawings for Exhibits F and G must have identifying title blocks and bear the following certification: "This drawing is a part of the application for license made by the undersigned this ——— day of ————, 19——."

(5) Each application for a license for a water power project 5 megawatts or less must include the information requested in the initial statement and lettered exhibits described by paragraphs (b) through (f) of this section, and must be provided in the form specified. The Commission reserves the right to require additional information, or another filing procedure, if data provided indicate such action to be appropriate.

(b) *Initial Statement.*

BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION:
APPLICATION FOR LICENSE FOR A [MINOR WATER POWER PROJECT, OR MAJOR WATER POWER PROJECT, 5 MEGAWATTS OR LESS, AS APPROPRIATE]

(1) ———— (Name of Applicant) applies to the Federal Energy Regulatory Commission for ———— (license or new license, as appropriate) for the ———— (name of project) water power project, as described hereinafter. (Specify any previous FERC project number designation.)

(2) The location of the project is:
State or territory: ————
County: ————
Township or nearby town: ————
Stream or other body of water: ————

(3) The exact name, address, and telephone number of the applicant are:

(4) The exact name, address, and telephone number of each person authorized to act as agent for the applicant in this application, if applicable, are:

(5) The applicant is a ———— (citizen of the United States, association of citizens of the United States, domestic corporation, municipality, or State, as appropriate).

(6)(i) The statutory or regulatory requirements of the state(s) in which the project would be located that affect the project as proposed with respect to bed and banks and the appropriation, diversion, and use of water for power purposes, and with respect to the right to engage in the business of developing, transmitting, and distributing power and in any other business necessary to accomplish the purposes of the license under the Federal Power Act, are: [provide citation and brief identification of the nature of each requirement; if the applicant is a municipality, the applicant must submit copies of applicable state or local laws or a municipal charter or, if such laws or documents are not clear, any other appropriate legal authority, evidencing that the municipality is competent under such laws to engage in the business of developing, transmitting, utilizing, or distributing power.]

(ii) The steps which the applicant has taken or plans to take to comply with each of the laws cited above are: [provide brief description for each requirement]

(7) Brief project description

(i) Proposed installed generating capacity ——— MW.

(ii) Check appropriate box:

☐ existing dam ☐ unconstructed dam

☐ existing dam, major modified project (see § 4.40(b)(3))

(8) Lands of the United States affected (shown on Exhibit G):

	(Name)	(Acres)
(i) National Forest		
(ii) Indian Reservation		
(iii) Public Lands Under Jurisdiction of.		
(iv) Other		
(v) Total U.S. Lands		

(vi) Check appropriate box:

☐ Surveyed land ☐ Unsurveyed land

(9) Construction of the project is planned to start within —— months, and is planned to be completed within —— months, from the date of issuance of license.

(10) This application is executed in the State of ————,
Count of ————, SS:
by: ———— (Name) ————
(Address) ————,
being duly sworn, depose(s) and say(s) that the contents of this application are true to the best of —— (his or her) knowledge or belief. The undersigned applicant(s) has (have) signed this application this —— day of ——, 19——.

(Applicant(s))
By: ————

Subscribed and sworn to before me, a [Notary Public, or title of other official authorized by the state to notarize documents, as appropriate] of the State of ————, this —— day of ————, 19——.

/SEAL/ [if any]

(Notary Public, or other authorized official)

(c) *Exhibit A* is a description of the project and the proposed mode of operation.

(1) The exhibit must include, in tabular form if possible, as appropriate:

(i) The number of generating units, including auxiliary units, the capacity of each unit, and provisions, if any, for future units;

(ii) The type of hydraulic turbine(s);

(iii) A description of how the plant is to be operated, manual or automatic, and whether the plant is to be used for peaking;

(iv) The estimated average annual generation in kilowatt-hours or mechanical energy equivalent;

(v) The estimated average head on the plant;

(vi) The reservoir surface area in acres and, if known, the net and gross storage capacity;

(vii) The estimated hydraulic capacity of the plant (flow through the plant) in cubic feet per second and estimated average flow of the stream or water body at the plant or point of diversion; for projects with installed capacity of more than 1.5 megawatts, a flow duration curve and a description of the drainage area for the project site must be provided;

(viii) Sizes, capacities, and construction materials, as appropriate, of pipelines, ditches, flumes, canals, intake facilities, powerhouses, dams, transmission lines, and other appurtenances; and

(ix) The estimated cost of the project.

(2) State the purposes of project (for example, use of power output).

(d) Exhibit E is an Environmental Report.

(1) For major unconstructed and major modified projects 5 MW or less. Any application must contain an Exhibit E conforming with the data and consultation requirements of § 4.41(f) of this chapter, if the application is for license for a water power project which has or is proposed to have a total installed generating capacity greater

than 1.5 MW but not greater than 5 MW, and which:

(i) Would use the water power potential of a dam and impoundment which, at the time of application, has not been constructed (*see* § 4.40(b)(2)); or

(ii) Involves any repair, modification or reconstruction of an existing dam that would result in a significant change in the normal maximum surface area or elevation of an existing impoundment or involves any change in existing project works or operations that would result in a significant environmental impact (*see* § 4.40(b)(3)).

(2) *For minor projects and major projects at existing dams 5 MW or less.* An application for license for any minor water power project with a total proposed installed generating capacity of 1.5 MW or less, or any major project—existing dam with a proposed total installed capacity of 5 MW or less, must contain an Exhibit E under this subparagraph. The Environmental Report must be prepared after consultation with appropriate Federal, state, and local agencies with expertise in environmental matters. If any agency that an applicant is required to consult fails to consult or fails to provide documentation of the consultation process within a reasonable time after the applicant informs the agency of the proposed project and requests to consult, the applicant may submit a summary of the consultation or attempts to consult, including any recommendations of the agency. An applicant must allow at least 30 days for consultation and documentation, unless the agency indicates within that time that it has no comment. A list of agencies to be consulted may be obtained from the Commission's Division of Hydropower Licensing. The Environmental Report must contain the following information:

(i) A description, including any maps or photographs which the applicant considers appropriate, of the environmental setting of the project, including vegetative cover, fish and wildlife resources, water quality and quantity, land and water uses, recreational uses, historical and archeological resources, and scenic and aesthetic resources. The report must include a discussion of endangered or threatened plant and animal species, any critical habitats, and any sites included in, or eligible for inclusion in, the National Register of Historic Places. The applicant may obtain assistance in the preparation of this information from state natural resources agencies, the state historic preservation officer, and from local offices of Federal natural resources agencies.

(ii) A description of the expected environmental impacts from proposed construction or development and the proposed operation of the power project, including any impacts from any proposed changes in the capacity and mode of operation of the project if it is already generating electric power, and an explanation of the specific measures proposed by the applicant, the agencies, and others to protect and enhance environmental resources and values and to mitigate adverse impacts of the project on such resources. The applicant must explain its reasons for not undertaking any measures proposed by any agency consulted.

(iii) A description of the steps taken by the applicant in consulting with Federal, state, and local agencies with expertise in environmental matters during the preparation of this exhibit prior to filing the application for license with the Commission. In this report, the applicant must:

(A) Indicate which agencies were consulted during the preparation of the environmental report and provide copies of letters or other documentation showing that the applicant consulted or attempted to consult with each of the relevant agencies (specifying each agency) before filing the application, including any terms or conditions of license that those agencies have determined are appropriate to prevent loss of, or damage to, natural resources; and

(B) List those agencies that were provided copies of the application as filed with the Commission, the date or dates provided, and copies of any letters that may be received from agencies commenting on the application.

(iv) Any additional information the applicant considers important.

(e) *Exhibit F* consists of general drawings of the principal project works. The drawings need not conform to the specifications of § 4.32. The exhibit must conform to the following requirements:

(1) The exhibit must consist of ink drawings, or drawings of similar quality, on sheets no smaller than 8 and one-half inches by 11 inches, drawn to a scale no smaller than 1 inch equals 50 feet for plans, elevations, and profiles, and 1 inch equals 10 feet for sections. After initial review of the application, an original and 2 copies of any drawing must be submitted on 35mm microfilm, if requested by Commission staff.

(2) The drawings must show a plan, elevation, profile, and section of the dam structure and powerplant. Generating and auxiliary equipment proposed must be clearly and simply depicted and described. A north arrow must be included on the plan view.

(f) *Exhibit G* is a map of the project. The map need not conform to the specifications of § 4.32. The exhibit must instead conform to the following requirements:

(1) The exhibit is a map or maps that show the location of all project works and their location in relation to the stream or other water body on which the project is located and to the nearest town or any permanent monuments or objects, such as roads, transmission lines, or other structures, that can be noted on the map and recognized in the field. In the case of unsurveyed public land, or land that is not public land, give the best legal description available. If surveyed land, provide sections, subdivisions, range and township, and principal base and meridian.

(2) The map must consist of ink drawings or drawings of similar quality on sheets no smaller than 8 and one-half inches by 11 inches and not larger than 24 inches by 36 inches, drawn to a scale no smaller than one inch equals 1,000 feet. After review of the application, the applicant must submit an original of the map(s), if requested by Commission staff. Each original map must consist of a print on silver or gelatin 35mm microfilm mounted on Type D (3¼" x 7⅜") aperture cards. Two duplicates of each original must also be submitted at that time.

(3) For any minor water power project proposed to have an installed capacity of 1.5 MW or less, which will not occupy any public lands or reservations of the United States, no definitive project boundary is required to be shown. The map should provide a reasonably accurate depiction of the project location and all project works and features. For any minor water power project proposed to occupy any public lands, the definitive project boundary need only be shown on such U.S. lands or reservations.

(4) Water power projects not excepted by paragraph (f)(3) of this section must include a project boundary as follows:

(i) The project boundary must enclose all project works, such as the dam, reservoir, pipelines, access and other roads, powerplant, and transmission lines. The boundary must be set at the minimum feasible distance from project works necessary to allow operation and maintenance of the project and control of the shoreline and reservoir. The project boundary may be contour elevation lines, specified courses and distances, or lines upon or parallel to public land survey lines.

(ii) The project boundary must be depicted on the map by use of contour lines (preferred method), courses and

distances, public land survey, or lines parallel to the lines of the survey, or any combination of those methods for reservoirs and impoundments, and the project boundary around dams, spillways, and powerhouses; and must be depicted by specified distances from a surveyed center line or offset lines of survey for continuous features such as access roads, transmission lines, pipelines, or canals. A tape-compass survey is acceptable for determining courses and distances.

(iii) The area of public lands or reservations within the project boundary must be shown in acres. The appropriate Federal agency should be contacted for assistance in determining the acreages.

(iv) For clarity, use inset sketches to a larger scale than that used for the overview map to show relationships of project works, natural features, and property lines.

(v) Show one or more ties by distance and bearing from a definite, identifiable point or points on project works or the project boundary to established corners of the public land survey or other survey monuments, if available.

(vi) If the project affects unsurveyed Federal lands, the protraction of township and section lines must be shown. Such protractions, whenever available, must be those recognized by the agency of the United States having jurisdiction over the lands. On unsurveyed lands, show ties by distance and bearing to fixed recognizable objects.

3. Section 4.31 is amended by revising paragraph (a)(2)(ii) to read as follows:

§ 4.31 Acceptance for filing or rejection.

(a) Each application for a preliminary permit or license must:

* * * * *

(2) Contain the information and documents prescribed in the following sections of this chapter, according to the type of application:

* * * * *

(ii) License for a minor water power project and major water power projects 5 megawatts or less: §§ 4.60 and 4.61.

* * * * *

PART 16—PROCEDURES RELATING TO TAKEOVER AND RELICENSING OF LICENSED PROJECTS

4. Part 16 is amended in the table of contents by revising § 16.12 to read as follows:

* * * * *

Sec.

16.12 Renewal of license for a minor water power project or for a minor part of a water power project not subject to sections 14 and 15 of the Federal Power Act.

* * * * *

6. Section 16.12 is revised to read as follows:

§ 16.12 Renewal of license for a minor water power project or for a minor part of a water power project not subject to sections 14 and 15 of the Federal Power Act.

A licensee whose minor water power project license, or license for a minor part of a project, is not subject to sections 14 and 15 of the Act, and who wishes to continue operation of the project after the end of the license term, must file an application for a "new license" not later than one year prior to the expiration of the original license, in accordance with § 4.31 of this chapter. Each application for new license under this section must conform to §§ 4.60 and 4.61 of this chapter.

PART 131—FORMS

§ 131.6 [Removed]

6. Section 131.6 is removed.

PART 375—THE COMMISSION

7. Section 375.308 is amended by revising paragraph (c) to read as follows:

§ 375.308 Delegations to the Director of the Office of Electric Power Regulation.

* * * * *

(c) Take appropriate action on uncontested filings made in response to a term or condition in a preliminary permit or license issued for a water power project, or in response to the requirements of an order of the Commission concerning a water power project, including:

(1) Acceptance and approval of new or revised exhibits in Part 4 of this chapter; and

(2) Acceptance and approval of any studies, plans, reports, maps, drawings, or specifications.

* * * * *

[FR Doc. 81-32679 Filed 11-12-81; 8:45 am]
BILLING CODE 6717-01-M

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18 CFR Part 35

[Docket No. RM81-41]

Filing of Rate Schedules; Correction

November 6, 1981.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Interim Rule; Correction

SUMMARY: This document adds Appendix A to the interim rule regarding sales of electric power to the Bonneville Power Administration issued by the Commission on October 1, 1981 (46 FR 50517 (October 14, 1981)). Appendix A is a summary of issues, inadvertently omitted from publication.

FOR FURTHER INFORMATION CONTACT: John Conway, Office of the General Counsel Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8033.

Kenneth F. Plumb,

Secretary.

On page 50520, middle column, FR Doc. 81-29725 is corrected by adding Appendix A after paragraph E as follows:

Appendix A

On August 27, 1981, the Bonneville Power Administration (BPA) tendered for review and approval its proposed Average System Cost Methodology (hereinafter ASC Methodology) required by the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act). Section 5(c)(7) of the Regional Act requires the BPA Administration to develop an ASC Methodology through a consultation process. That has been completed. The ASC Methodology is used to determine a utility's cost of power for purposes of the power exchange allowed by the Regional Act between a utility and BPA. Under the exchange, BPA's preference power rate is passed through to residential customers of an exchanging utility, generally resulting in lower electric rates for those customers.

Pursuant to section 5(c)(7) of the Regional Act, the Administrator's proposed ASC methodology has been submitted to the Federal Energy Regulatory Commission for its review and approval. The major issues that developed during the consultation and were decided regarding the ASC Methodology are set forth below.

1. Jurisdictional Costing Approach

The issue was whether the ASC Methodology should provide for the independent establishment of the basic cost and other data needed to calculate an ASC, or whether the findings made by retail rate setting bodies should be used in determining ASC. Agreement was reached that the costs allowed or established for retail ratemaking purposes should be used, subject to certain specific requirements, in calculating ASC.

2. Functionalization Procedure

a. General functionalization—Calculation of ASC requires a

separation (or functionalization) of costs since only the exchanging utility's production and transmission costs are relevant to the exchange transaction. Other activities and costs, primarily those associated with the distribution of electric power, are not undertaken or incurred because of the exchange. The three steps in the functionalization process are: (1) The use of Federal Energy Regulatory Commission's (FERC) Uniform System of Accounts; (2) reliance on analytical studies prepared by the exchanging utility which demonstrate the functional nature of an item; and (3) use of several footnotes which specify functionalization treatment, either by use of a formula or by direct functionalization to a specific category.

b. Revenue related taxes—Following the publication of the initial proposal and during the review of the Pacific Power and Light (PP&L) sample, concerns arose as to the treatment of revenue-related taxes. Specifically, in the PP&L sample the test-year costs related to the State of Washington's Business and Occupation (B&O) tax (collected pursuant to Wash. Rev. Code § 82.04.240 et. seq. and 82.16.020) were functionalized based on the functionalization of the total revenue requirement. The B&O tax in question is applied to the retail sales revenue of PP&L.

The BPA believes it is more appropriate to functionalize expenses incurred at the retail level to distribution/other. Therefore, BPA has adopted a functionalization footnote (see footnote 3) requiring that revenue taxes related to retail sales, and other items unrelated to the power supply level such as bad debt expense, be functionalized to distribution/other.

3. Losses

It was initially agreed that distribution losses would be established pursuant to an engineering study. The initial footnote associated with this subject was determined to be too vague, and a more precise definition for loss justification was substituted in the footnote.

4. Treatment of In-Lieu Taxes

During the Consultation process concern was expressed with regard to the treatment of in-lieu taxes included in the retail rates of publicly owned utilities. It was felt that local governments would have an incentive to increase in-lieu taxes paid by locally owned and operated utilities participating in the exchange, thus putting the burden of paying these additional taxes on the region's ratepayers through the exchange. The investor-owned utility customers (IOU's) and direct-service industrial customers (DSI's) felt in-lieu taxes should be included in the ASC calculations, but only to the extent that nontax-exempt utilities would pay these taxes for the various levels of local government. To alleviate the concerns expressed, a footnote (footnote 14) was agreed to and included in the methodology limiting the in-lieu taxes to those which were actually paid and to an amount comparable to what the actual tax would have been.

5. Extent of BPA Review

Although the requirement for using the findings of the Commission approving retail rates significantly reduces the depth of review needed for a utility's calculation of its ASC, the parties agreed that BPA should review the filed ASC determination for consistency with the provisions of the ASC methodology, and make an adjustment where an inconsistency is found.

6. Treatment of Secondary and Miscellaneous Service Sales Revenues

The ASC Methodology will credit a utility's secondary and miscellaneous services revenues against its eligible exchange costs before deriving its Contract System Costs. For utilities operating in multiple jurisdictions, the ASC Methodology will use the allocations of the appropriate commissions to determine the proper amount of secondary and miscellaneous services revenues. Where a new large single load is served by an excluded resource, the ASC Methodology will proportionately credit secondary revenues between eligible and excluded resources. Secondary revenues will be functionalized entirely to production. Miscellaneous services will be functionalized according to the nature of the service. Although other treatments were proposed, the BPA Administrator determined that since a utility receives the benefit of BPA's secondary and miscellaneous service sales, it is appropriate that BPA receive the same benefits from a utility.

7. Billing Credits

Section 6(h) of the Regional Act provides for payment of billing credits to BPA customers for conservation measures or building resources which decrease BPA's service obligations. There were three proposed treatments of conservation costs and corresponding billing credit revenues in the ASC methodology. The cost of the conservation program could be included in Contract System Costs with no offset from the revenues. This treatment would provide the maximum incentive for utilities to undertake conservation. However, it would result in BPA paying twice for the conservation program, first in the form of the billing credit and second in the ASC rate.

A second alternative would be to credit all the billing credit revenues against Contract System Costs. Proponents of this alternative assert that billing credits should be treated for ASC purposes in the same manner as opportunity revenues, and as they are used in establishing retail rates. Residential ratepayers from exchanging utilities would benefit only as the whole region benefits from a conservation program.

The ASC Methodology provides that the way to treat billing credit revenue, to credit them against Contract System Costs, only up to the cost of the corresponding conservation program. Another way of stating this proposal is that both the costs of the conservation program and all billing credit revenues are excluded from Contract System Costs. This treatment is consistent with two purposes of the Regional Act—regional wholesale rate parity for residential consumers and the development of cost-effective conservation programs. It also insures that each utility in the region will have the incentive to develop independent conservation programs.

8. Terminated Facilities

Section 5(c)(7)(C) of the Regional Act requires that ASC shall not include "any costs of any generating facility which is terminated prior to initial commercial operation." It was determined that the Regional Act was not retroactive regarding costs of terminated facilities (i.e., costs of a generating facility terminated prior to the effective date of the Regional Act may be included in a utility's ASC). It was also determined that construction work in progress (CWIP) may be allowed in ASC, but it is recoverable under the following circumstances: If the CWIP included in the rate base is associated with a specific generating facility and that facility is later terminated, then BPA will recover all payments made resulting from that CWIP inclusion, if the CWIP included is not identified with particular plants, BPA will recover revenue only to the extent the CWIP included cannot be identified with plant other than terminated facilities.

9. Return on Equity for Public Agencies

Other treatments were proposed, but the ASC Methodology provides that a

publicly-owned utility be allowed a return on equity equal to that needed to protect its credit rating. In no case shall the return on equity for ASC purposes be higher than that included in the utility's retail rates. The proposal allows the utility to earn revenues to meet its debt coverage and equity needs while protecting the region from higher than necessary profits being included in ASC.

10. New Large Single Load

Section 5(c)(7) of the Regional Act specifies that average system costs shall not include the costs of additional resources in an amount sufficient to serve any new large single load of a participating utility.

"New Large Single Load" is defined as any load associated with a new facility, an existing facility, or an expansion of an existing facility which (a) is not contracted for, or committed to, by a public body, cooperative, investor-owned utility, or Federal agency customer prior to September 1, 1979, and (b) will result in an increase in a customer's power requirements of 10 average megawatts or more in any consecutive 12-month period.

The costing of resources associated with new large single loads is complicated by the fact that generating and bulk transmission facilities are rarely identified with particular loads. Instead a utility serves all its load with all of its resources at melded rates.

The ASC Methodology provides that to the extent the utility has the following resources, the cost of serving new large single loads will be the cost (in the following priority) of: (1) Resources dedicated to the load; (2) power purchased from BPA at the New Resources (7)(f) rate; (3) a pool of the utility's resources not committed to its load as of September 1, 1979; and (4) the most recently acquired other baseload resource or long-term power purchase.

[FR Doc. 81-32682 Filed 11-12-81; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Diethylcarbamazine Citrate Tablets

Correction

In FR Doc. 81-26985 appearing at page 46314 in the issue for Friday, September 18, 1981, make the following correction:

On page 46314, in the third column, in the Summary, in the eleventh line, "infections in dogs and cats" should have read "infections in dogs, and as an aid in the treatment of ascarid infections in dogs and cats."

BILLING CODE 1505-01-M

21 CFR Part 540

Penicillin Antibiotic Drugs for Animal Use; Cloxacillin for Intramammary Infusion

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Beecham Laboratories for use of cloxacillin sodium infusion for treatment of mastitis in cows.

EFFECTIVE DATE: November 13, 1981.

FOR FURTHER INFORMATION CONTACT: Patricia N. Cushing, Bureau of Veterinary Medicine (HFV-106), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Beecham Laboratories, Division of Beecham, Inc., Bristol, TN 37620, filed a supplemental NADA (55-070) providing for use of cloxacillin sodium for intramammary infusion in cows. The supplemental application is approved, and the regulations are amended to codify the approved use of this product under § 540.815a *Cloxacillin sodium for intramammary infusion.*

Beecham laboratories presently holds an approval under NADA 55-070 for use of a product under § 540.815 *Sterile sodium cloxacillin for intramammary infusion* which is identical to the product being approved under § 520.815a; except the product approved under § 540.815a is sterile, and the product being approved under § 540.815a is pathogen free (i.e., it has been subject to testing that is more extensive than routine sterility testing). This type of change is a Category II change under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977) that categorically does not create an increase risk in exposure, see proposed § 514.106(b)(2)(iv). Accordingly, approval of the supplement does not require reevaluation of the safety and effectiveness data in the parent application.

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

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

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

PART 540—PENICILLIN ANTIBIOTIC DRUGS FOR ANIMAL USE

Therefore, under the Federal Food, Drug, and Cosmetic Act (Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 21 CFR 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 540 is amended by adding new § 540.815a to read as follows:

§ 540.815a Cloxacillin sodium for intramammary infusion.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Cloxacillin sodium for intramammary infusion contains sterile cloxacillin sodium in a menstruum of refined peanut oil with a suitable and harmless dispersing agent. Each milliliter contains cloxacillin sodium equivalent 20.0 milligrams of cloxacillin. Its potency is satisfactory if it contains 90 to 120 percent of the amount of cloxacillin that it is represented to contain. Its moisture content is not more than 1.0 percent. The cloxacillin sodium used conforms to the requirements of § 539.15 of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of paragraph (c) of this section and § 510.55 of this chapter.

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

(i) The results of test and assay on:

(*a*) The cloxacillin sodium used in making the batch for potency, sterility, pyrogens, safety, moisture, pH,

cloxacillin content, identity and crystallinity.

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

(ii) Samples required:

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

(*b*) The batch: A minimum of 5 immediate containers.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed for cloxacillin in § 436.105 of this chapter, preparing the sample for assay as follows: Expel the syringe contents into a high-speed glass blender jar containing 499 milliliters of 1 percent potassium phosphate buffer, pH 6.0 (solution 1) and 1 milliliter of polysorbate 80. Blend for 3 to 5 minutes. Further dilute an aliquot of the blend with solution 1 to the reference concentration of 5.0 micrograms of cloxacillin per milliliter.

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

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

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

(3) *Conditions for use.* Lactating cows. (i) *Amount.* 10 milliliters (one dose of 200 milligrams) per infected quarter.

(ii) *Indications for use.* It is used for the treatment of mastitis in lactating cows due to *Streptococcus agalactiae* and *Staphylococcus aureus,* nonpenicillinase-producing strains.

(iii) *Limitations.* Administer after milking, cleaning, and disinfecting, and as early as possible after detection. Treatment should be repeated at 12-hour intervals for a total of three doses. Milk taken from treated animals within 48 hours (4 milkings) after the latest treatment should not be used for food. Treated animals should not be slaughtered for food purposes within 10 days after the latest treatment period. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This regulation is effective November 13, 1981.

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

Dated: November 4, 1981.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 81-32591 Filed 11-12-81; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Removal of Portion of a Regulation; Tylosin and Sulfamethazine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is removing that portion of the regulations reflecting approval of a new animal drug application (NADA) providing for use of a premix containing 10 grams per pound each of tylosin (as tylosin phosphate) and sulfamethazine. The premix is used in manufacturing a complete swine feed containing 100 grams per ton each of the two drugs. The sponsor, Springfield Milling Corp., requested the withdrawal of approval.

EFFECTIVE DATE: November 23, 1981.

FOR FURTHER INFORMATION CONTACT: Howard Meyers, Bureau of Veterinary Medicine (HFV-218), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the **Federal Register**, approval of NADA 100-588 is withdrawn. This document amends the regulations to revoke that portion which reflects approval of this NADA.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.630 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (Sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), Part 558 is amended in § 558.630 *Tylosin and sulfamethazine* by removing drug labeler code "035955" from paragraph (b)(3).

Effective date. November 23, 1981.

(Sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e)))

Dated: November 5, 1981.

Terence Harvey,

Deputy Director, Bureau of Veterinary Medicine.

[FR Doc. 81-32587 Filed 11-12-81; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Yoder, Inc., providing for safe and effective use of a 10-gram-per-pound tylosin premix for making complete swine, beef cattle, and chicken feeds.

EFFECTIVE DATE: November 13, 1981.

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

SUPPLEMENTARY INFORMATION: Yoder, Inc., Kalona, IA 52247, is sponsor of supplemental NADA 96-161 submitted on its behalf by Elanco Products Co. The supplemental NADA provides for use of a premix containing 10 grams of tylosin (as tylosin phosphate) per pound for making complete feeds for swine, beef cattle, and broiler, layer, and replacement chickens. The swine feed is used for increased rate of weight gain and improved feed efficiency, for prevention, treatment and control of swine dysentery, and for maintenance of weight gain and promotion of feed efficiency in the presence of atrophic rhinitis; a beef cattle feed for reduction of incidence of certain liver abscesses; a chicken feed for increased rate of weight gain and improved feed efficiency; a layer feed for improved feed efficiency; a broiler and replacement chicken feed for aid in the control of chronic respiratory disease.

Approval of this NADA relies upon safety and effectiveness data contained in Elanco Product Co.'s approved NADA 12-491. Use of the data in NADA 12-491 to support this NADA has been authorized by Elanco. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this is a Category II supplemental approval which does not require reevaluation of

the safety and effectiveness data in NADA 12-491 of NADA 96-161.

The supplement is approved and the regulations are amended accordingly. This approval adds to the firms existing approval for use of a 4-gram-per-pound premix for making swine feeds.

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

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

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

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.625 is amended by revising paragraph (b)(8) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) *Approvals.* * * *

(8) To 035369: 4 and 10 grams per pound, paragraph (f)(1)(vi)(*a*) of this section; 10 grams per pound, paragraph (f)(1) (i) through (vi) of this section.

* * * * *

Effective date. November 13, 1981.

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

Dated: November 3, 1981.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 81-32590 Filed 11-12-81; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Old Monroe Elevator and Supply Co., Inc., providing for safe and effective use of a 10-gram-per-pound tylosin premix for making complete feeds for swine, beef cattle, and chickens.

EFFECTIVE DATE: November 13, 1981.

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

SUPPLEMENTARY INFORMATION: Old Monroe Elevator and Supply Co., Inc., Old Monroe, MO 63369, is sponsor of supplemental NADA 119-261 submitted on its behalf by Elanco Products Co. The supplemental NADA provides for use of premixes containing 10 grams of tylosin (as tylosin phosphate) per pound for making complete feeds for swine, beef cattle, and broiler, replacement, and layer chickens. The swine feed is used for increased rate of weight gain and improved feed efficiency, for prevention, treatment, and control of swine dysentery, and for maintenance of weight gain and promotion of feed efficiency in the presence of atrophic rhinitis. The beef cattle feed is used for reduction of incidence of certain liver abscesses. The chicken feed is used for increased rate of weight gain and improved feed efficiency. The layer chicken feed is used for improved feed efficiency. The broiler and replacement chicken feed is used for aid in the control of chronic respiratory disease.

Approval of this NADA relies upon safety and effectiveness data contained in Elanco Product Co.'s approved NADA 12-491. Use of the data in NADA 12-491 to support this NADA has been authorized by Elanco. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this is a Category II supplemental approval which does not require reevaluation of the safety and effectiveness data in NADA 12-491.

The supplement is approved and the regulations are amended accordingly. This approval adds to the firm's existing approval for use of a 10-gram-per-pound premix for making swine feeds.

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

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

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12991 by section 1(a)(1) of the Order.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.625 by revising paragraph (b)(69), to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(69) To 026948: 10 grams per pound, paragraph (f)(1) (i) through (vi) of this section.

* * * * *

Effective date: November 13, 1981.

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

Dated: November 6, 1981.

Myron C. Rosenberg,

Acting Associate Director for Scientific Evaluation, Bureau of Veterinary Medicine.

[FR Doc. 81-32772 Filed 11-12-81; 8:45 am]

BILLING CODE 4150-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 223

Administrative Enforcement Procedures of Post-Employment Restrictions

AGENCY: Agency for International Development.

ACTION: Final rule.

SUMMARY: Title V of the Ethics in Government Act of 1978 as amended (Pub. L. 95-521, Pub. L. 96-28) amended section 207 of Title 18, imposing new restrictions on the post-employment activities of former federal employees. Section 207(j) requires agencies to enforce these restrictions and to bring administrative proceedings against individuals suspected of violating them. These regulations set forth the procedures that will be used in the Agency for International Development to initiate and administer such proceedings in post-employment situations.

EFFECTIVE DATE: November 1, 1981.

FOR FURTHER INFORMATION CONTACT: Nancy Frame, Office of General Counsel, (202) 632-8218.

SUPPLEMENTARY INFORMATION: These regulations have been approved by the Office of Government Ethics, Office of Personnel Management.

Executive Order No. 12291

These regulations are not a "major rule" under the Executive Order. In accordance with the Executive Order, these regulations have been submitted to and approved by the Office of Management and Budget.

Regulatory Flexibility Act

The agency has determined that these regulations will not have a significant economic impact on a substantial number of small entities.

Rule Making Under the Administrative Procedures Act

A notice of proposed rule making is not required because the regulations are rules of an agency organization, procedure, or practice.

Dated: November 4, 1981.

Kelly C. Kammerer,

Designated Agency Ethics Official.

22 CFR Chapter II is amended by adding a new Part 223 to read as follows:

PART 223—ADMINISTRATIVE ENFORCEMENT PROCEDURES OF POST-EMPLOYMENT RESTRICTIONS

Sec.

223.1 General.
223.2 Report of violations.
223.3 Initiation of proceeding.
223.4 Examiner.
223.5 Agency representative.
223.6 Time, date and place of hearing.
223.7 Rights of parties at hearing.
223.8 Initial decision.
223.9 Appeal.
223.10 Final decision.
223.11 Appropriate action.

Authority: 18 U.S.C. 207.

§ 223.1 General.

The following procedures are hereby established with respect to the administrative enforcement of restrictions on post-employment activities (18 U.S.C. 207 (a), (b) or (c)) and implementing regulations published by the Office of Government Ethics (5 CFR Part 737).

§ 223.2 Report of violations.

On receipt of information regarding a possible violation of the statutory or regulatory post-employment restrictions by a former employee and after determining that such information does not appear to be frivolous, the General Counsel shall provide such information to the Director of the Office of Government Ethics and to the Criminal Division, Department of Justice. Any investigation or administrative action shall be coordinated with the Department of Justice to avoid prejudicing possible criminal proceedings. If the Department of Justice informs the Agency that it does not intend to institute criminal proceedings, such coordination shall no longer be required and the General Counsel is free to decide whether to pursue administrative action.

§ 223.3 Initiation of proceeding.

Whenever the General Counsel has reasonable cause to believe that a former Government employee has violated the statutory or regulatory post-employment restrictions, he or she shall initiate an administrative action by providing the former Government employee with written notice of intention to institute administrative action. Notice must include:

(a) A statement of allegations and the basis thereof sufficiently detailed to enable the former Government employee to prepare an adequate defense;

(b) Notification of the right to respond to the allegations in writing and/or to request a hearing, together with an explanation of the method by which a hearing may be requested; and

(c) A statement that, in the absence of a request for a hearing, the General Counsel shall issue a final decision based upon the evidence gathered to date, including any written reply made by the former Government employee.

§ 223.4 Examiner.

When a former Government employee after receiving adequate notice requests a hearing, a presiding official (hereinafter referred to as "examiner") shall be appointed by the Administrator to make an initial decision. The examiner shall be a responsible person who is impartial and who has not participated in any manner in the decision to initiate the proceeding. The hearing officer shall be an individual with suitable experience and training to conduct the hearing, reach a determination and render an initial decision in an equitable manner.

§ 223.5 Agency representative.

The General Counsel shall appoint an agency representative to present evidence and otherwise participate in the hearing.

§ 223.6 Time, date and place of hearing.

The examiner shall establish a reasonable time, date and place to conduct the hearing. In establishing a date, the examiner shall give due regard to the former employee's need for:

(a) Adequate time to prepare a defense properly, and

(b) An expeditious resolution of allegations that may be damaging to his or her reputation.

§ 223.7 Rights of parties at hearing.

A hearing shall include, at a minimum, the following rights for both parties:

(a) To represent oneself or to be represented by counsel;

(b) To examine or cross-examine witnesses;

(c) To submit evidence (including the use of interrogatories);

(d) To present oral arguments; and

(e) To receive a transcript of recording of the proceedings on request.

In any hearing, the agency has the burden of proof and must establish substantial evidence of a violation.

§ 223.8 Initial decision.

The examiner shall issue an initial decision based exclusively on matters of record in the proceedings and shall set forth all findings of fact and conclusions of law relevant to the matters at issue.

§ 223.9 Appeal.

Within twenty days of the date of initial decision, either party may appeal the decision to the Administrator. The opposing party shall have ten days after receipt of a copy of the appeal to reply.

§ 223.10 Final decision.

(a) In cases where the former employee failed to request a hearing after receiving adequate notice, the General Counsel shall decide the matter on its merits based upon the evidence gathered to date, including any written reply of the former employee.

(b) In cases of appeal under § 223.9, the Administrator shall accept, reject or modify the initial decision based solely on the record of the proceedings or those portions cited by the parties to limit the issues.

§ 223.11 Appropriate action.

The Administrator may take appropriate action in the case of any individual who is found in violation of the statutory or regulatory post employment restrictions after a final decision by:

(a) Prohibiting the individual from making, on behalf of any other person (except the United States), any formal or informal appearance before, or with the intent to influence, any oral or written communication to, the Agency on any matter of business for a period not to exceed five years, which may be accomplished by directing Agency employees to refuse to participate in such appearance or to accept any such communication; and

(b) Taking other appropriate disciplinary action.

[FR Doc. 81-32702 Filed 11-10-81; 8:45 am]

BILLING CODE 4710-02-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 December 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 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 December 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: December 1, 1981.

FOR FURTHER INFORMATION CONTACT: Ms. Nina R. Hawes, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, NW, 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 November 1, 1981. (29 CFR Part 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, 46 FR 36693, 46 FR 45761.)

On October 15, 1981, the PBGC last published rates for plans that terminate on or after November 1, 1981 (46 FR 50788). 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 December 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 December 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 29 and adding Rate Set 30 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_v" for deferred annuities and to value both portions of a refund annuity. An interest rate of 5% 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	And before		k_1	k_2	k_3	n_1	n_2
* *	*	*	*	*	*	*	*	
29	11-1-81	12-1-81	10.75	1.1000	1.0875	1.0400	7	8
30	12-1-81		11.00	1.1025	1.0900	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(l), 403(d) and 402(a)(7), Pub. L. 96-364, 94 Stat. 1302, 1301, 1299, (1980) (29 U.S.C. 1302, 1341, 1344, 1362))

William H. Moore,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 81-32774 Filed 11-12-81; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 50

Demonstrations and Special Events in and Around Washington D.C.

AGENCY: National Park Service, Interior.

ACTION: Final Rule and Policy Statement.

SUMMARY: This final rule amends the National Park Service regulations governing demonstrations and special events in Washington, D.C. and its environs. The Administrative Policy Statement explains the administration of these regulations. These amendments and statement clarify and simplify the procedures for obtaining demonstration and special events permits.

EFFECTIVE DATE: November 13, 1981.

FOR FURTHER INFORMATION CONTACT: Sandra Alley, Acting Associate Regional Director, Public Affairs, National Capital Region, National Park Service, 1100 Ohio Drive, SW., Washington, D.C. 20242. (202) 426-6700.

SUPPLEMENTARY INFORMATION:

I. Background

On March 29, 1976, the current regulations governing demonstrations and special events were published in the Federal Register, 41 FR 12881. Those regulations had been the subject of extensive litigation in *A Quaker Action Group v. Morton*, 516 F.2d 717 (D.C. Cir. 1975), and were adopted to conform with the court's direction in that case. Since the adoption of those regulations, the National Park Service has gained over three years of experience in administering the regulations and has identified areas which need change and clarification in order to simplify the demonstration/special event permit system.

Furthermore, on August 12, 1977, the lawsuit *Women Strike for Peace v. Andrus*, C.A. No. 74-1303 (D.D.C.), was amended to raise certain additional challenges to the constitutionality of the regulations. After the amendment was filed, officials of the National Park Service entered into discussions with officials of the American Civil Liberties Union who represent plaintiffs in that litigation. During the course of those discussions it was discovered that no controversy existed between the National Park Service and the American Civil Liberties Union with regard to several of the issues in litigation. Moreover, the discussions dealt with some other aspects of the regulations which the parties thought required clarification. Accordingly, the following amendments to the regulations and the accompanying Administrative Policy Statement are intended to settle several of the issues in litigation and to clarify and simplify the regulatory system.

II. Effective Date

The Director of the National Park Service finds that good cause exists for suspending the 30-day delay of effectiveness of final regulations required by 5 U.S.C. 553(d).

III. Analysis of Comments

The National Park Service received one formal comment after publication of the proposed rule on May 6, 1980. The comment was sent by Director Stuart H. Knight, United States Secret Service. In his letter, Director Knight articulated the deep concern of the Secret Service with the security of those areas adjacent to the White House which are impacted by these regulatory modifications. The comment concluded that, in light of the Park Service's authority in these areas and that agency's belief that these changes would not adversely affect the ability of the Park Police to meet its responsibilities, the Secret Service would not make further substantive comments.

IV. Regulatory Changes

Definitions

Included in the current definition paragraph, 36 CFR 50.19(a), are definitions for the terms the "Kennedy Center", "Lincoln Memorial", "Jefferson Memorial", and "Washington Monument". In order to eliminate the need for cross-referencing, the definitions of these terms are incorporated directly into the applicable 36 CFR 50.19(c)(2). The definition for the term "Constitution Gardens" is eliminated because the National Park Service has determined that the new plantings on the site can now withstand a sizeable increase in park visitor use.

As a further aid in understanding the regulations, diagrams of those locations where demonstrations or special events are not permitted appear at the conclusion of the section.

In light of the recent ruling in *O'Hair v. Andrus*, 613 F.2d 931 (D.C. Cir. 1979), in which the plaintiffs challenged the Park Service's issuance of a permit for use of park land for a papal mass and the provision of services by the government in anticipation of the large number of expected park visitors, the definition for the term "demonstrations" in this paragraph is expanded to make it clear that requests for religious services are treated in the same manner as other First Amendment activities.

Exemption of Small Groups and Waiver of 48-Hour Notice Requirements

Previously, the regulations required any individual or group planning to conduct a demonstration to obtain a permit and to give at least 48 hours notice in advance of the activity. As a result of its extensive prior experience in dealing with demonstrations of all sizes and formats, the Park Service has concluded that an exemption of small groups from the permit requirements under certain conditions will not hinder fulfillment of its responsibilities to administer park lands and to provide visitor services.

Thus, the National Park Service has amended § 50.19(b) to exempt individuals or groups of up to 25 persons from the permit requirement provided that the demonstrators observe the other applicable requirements in the regulation, that they are not an extension of another group already taking advantage of the exemption, and that they will not unreasonably interfere with other demonstrations or special events. This amendment does not, of course, allow persons to demonstrate in violation of the other requirements of § 50.19, other applicable laws or regulations, or where the activity constitutes a clear and present danger to public health or safety.

The Park Service believes that the 48-hour advance application requirement may be waived under certain conditions without jeopardizing fulfillment of its park responsibilities. To this end, the Park Service has amended § 50.19(c) to allow the Director of the National Capital Region to waive the 48-hour notice requirement in those instances when the size and nature of the planned activity do not require the assignment of park resources or personnel in excess of that which are normally available or reasonably can be obtained within the abbreviated time frame. The National Park Service plans to monitor carefully the implementation of this provision and will meet again with ACLU representatives to explore administrative procedures to simplify this process to the greatest practical extent.

Waiver of Numerical Limitations

The new regulations change in three ways paragraph 36 CFR 50.19(e), which sets number limitations for demonstrations in Lafayette Park and on the White House Sidewalk. First, the time period in advance of the demonstration required for filing a waiver request is shortened from 15 to 10 days. Second, the amount of information an applicant must furnish has been reduced. The regulations require, in addition to the standard permit application, that the waiver application contain only certain information to be furnished concerning the demonstration marshals. Third, the criteria for granting a waiver have been clarified. The regulation requires the applicant to show that good faith efforts will be made to plan and marshal the demonstration so as to render unlikely any disruption or violence so substantial as to be unreasonable.

36 CFR 50.19(e) is further amended by revising subparagraph (4) to eliminate the requirement in (i) which is now viewed as no longer necessary.

Rush-Hour Demonstrations

The regulation concerning demonstrations held during rush-hour (36 CFR 50.19(e)(6)) makes it clear that demonstrations and special events may be conducted during rush-hour unless it is necessary to restrict the activity to avoid unreasonable interference with traffic.

Temporary Structures and General Visitor Services

In connection with permitted demonstrations or special events, the construction of temporary structures has been allowed under 36 CFR 50.19(e)(8). The regulatory language makes it clear that the National Park Service allows all groups to erect and to use such structures to the same extent as those constructed in connection with government sponsored or co-sponsored events.

In administering this regulation, minor injury to the turf resulting from the construction of temporary structures will not result in permit denial or revocation.

Moreover, it has been the long standing policy of the National Park Service to make available to all groups, irrespective of their views or purpose in conducting their activity, a level of visitor services (e.g. security, sanitation facilities, water, etc.) commensurate with the size and nature of the activity scheduled.

Parks Where No Permits Are Required

The current regulations at 36 CFR 50.19(b) specify certain parks where no permit is required if the demonstration is limited to the number of persons listed for each of the named park areas. This system has been retained. However, language has been added to make clear that demonstrations may be conducted in excess of the numbers listed if a permit is secured.

Areas Where Demonstrations and Special Events Are Prohibited—Maps

The current regulations prohibit demonstrations and special events in certain portions of the park areas (36 CFR 50.19(c)(2)). These prohibitions are designed to protect legitimate government interests in the areas and for the most part are designed to set aside areas of peace, calm, tranquility and reverence where the park visitor may be free of activity intrusions found in other areas. To delineate clearly the areas where demonstrations and special events may not be held, reference maps now appear at the end of the regulation. In addition, the definitions for the terms "Washington Monument" and "Kennedy Center", which were found at § 50.19(a), have been revised and appear in this paragraph.

Place of Filing

The new regulations have added the Main Information Desk of the National Visitor Center, Union Station, as an area where applications for demonstration and special event permits may be obtained and filed. Applications may still be submitted either in person or by mail at the National Capital Regional Office, 1100 Ohio Drive, SW. Park areas will be allocated on a first-come, first-served basis determined by the time an application is received at either the National Vistor Center, Union Station, or the 1100 Ohio Drive offices.

National Celebration Events

Each year the National Park Service sponsors several events which occur at the same time and location. These events have been called National Celebration Events. These events continue to have priority use of designated areas (36 CFR 50.19(d)(1)). However, the amended regulation makes it clear that other permitted demonstrations or special events can take place in the same park areas as the National Celebration Events provided they do not significantly interfere with the National Celebration Event. Also, an activity containing structures can not be closer than 50 feet to another activity containing structures without the mutual consent of the interested parties.

Reference to Prefatory Statement

In order to aid readers in understanding the administrative policies which have been developed to implement the revised regulations, a citation to the applicable **Federal Register** reference appears at the conclusion of 36 CFR 50.19.

V. Administrative Policy Statement

Clear and Present Danger

The regulations provide that a permit for a demonstration or special event may be denied or revoked by the Director if it reasonably appears that the proposed demonstration or special event will present a clear and present danger to the public safety, good order or health and that a permit may be revoked by the ranking United States Park Police supervisory official in charge if continuation of the event presents a clear and present danger to the public safety, good order or health or violates any applicable law or regulations. When applying this standard the policy of the National Capital Region has been and will continue to be to apply the ordinary meaning of clear and present danger as it has been developed by court decisions. In arriving at a determination, either prior to or during the course of a demonstration or special event, the deciding official will consider the following:

(a) Whether the sponsor of the demonstration or special event indicates a specific intent to or does cause violence manifested by specific plans or actions. A general intent extrapolated only from rhetoric or previous exploits is not enough. Concrete evidence is required. Also, substantial violence caused by the sponsor in the period immediately preceding the application will justify denial for a reasonably brief cooling off period.

(b) Whether conditions exist which will, or do at the time of the activity, necessitate restricting access by the general public to the area or invoking a general curfew because of natural disaster, emergency or conditions of violence.

Application and Permit Forms

In order to improve the permit application process, the current form has been shortened and simplified. In addition, the standard application form and application form for a waiver of the limitation on the number of persons who may demonstrate in the White House area have been combined. These changes will reduce the amount of paperwork required of an applicant and will speed up the application process. Copies of these new forms are available from the Office of Public Affairs, National Capital Region, National Park Service, 1100 Ohio Drive, S.W., Washington, D.C. 20242, and the National Visitor Center, Union Station, Main Information Desk, Washington, D.C. 20240.

The information collection requirements contained in 36 CFR 50.19 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1024–0021.

Structures and Campsites

The regulations [36 CFR 50.19(e)(8)] permit structures to be used in the conduct of demonstrations and special events except on the White House Sidewalk. In administering this section, the National Park Service permits all groups to erect structures, props and displays of the same size, number, space, character and duration as structures used in connection with government sponsored or co-sponsored events.

Camping is prohibited in all park areas except those specially designated as official campsites (36 CFR 50.27). The National Park Service does permit the use of symbolic campsites reasonably related to First Amendment activities. However, camping primarily for living accommodation must be confined to designated campsites.

National Celebration Events

The National Park Service sponsors numerous special event activities thoughout the National Capital Region on a year round basis. These activities vary widely in nature and include musical presentations, athletic events, pageants, dramas, walking tours, parades, etc. The times and places for these events are allocated by the National Park Service with regard to privately sponsored demonstrations and special events on a first-come, first-served basis. That is, if an application for a demonstration is received prior to the official scheduling of a Park Service sponsored event, the demonstration is given priority use of the park area applied for and vice versa. Certain Park Service events occur at the same time and locations annually. Notice of the times and locations of these events has been given in 36 CFR 50.19(d), and they have been called National Celebration Events. While still following the first-come, first-served principle, the National Park Service has, within the regulations, determined because these events recur annually for the same locations and times, that they will enjoy a preference for those times and locations.

These events include the Christmas Pageant of Peace, President's Cup Regatta, Cherry Blossom Festival, Fourth of July Celebration, Festival of American Folklife and Columbus Day Commemorative Wreath-Laying.

It is the policy of the National Park Service to permit demonstrations and special events within the same park areas as the National Celebration Events, and immediately adjacent thereto. Permits in these areas shall be granted except when such demonstrations or special events will significantly physically or audibly interfere with the National Celebration Event or another authorized activity. When enforcing the regulations during the conduct of a National Celebration Event, it is anticipated that insignificant interferences will not result in permit denial or cancellation.

Moreover, it is the policy of the National Park Service to permit demonstrators who do not unreasonably interfere with a National Celebration Event or with ingress or egress to the event to engage in activity up to the entrance of a National Celebration Event or around its perimeter in accordance with the requirements of 36 CFR 50.19. The distribution of literature within a National Celebration Event is permissible in accordance with requirements of 36 CFR 50.52.

While the National Celebration Events are sponsored by the National Park Service, the Park Service encourages the expression of views regarding these events and participation in them by all members of the public. For the annual Christmas Pageant of Peace, the National Park Service will conduct a public meeting to present its general plan for the coming event and to obtain the views of members of the public on proposals as well as to solicit any additional suggestions for activities within the theme and format of the Christmas Pageant.

Notice of the open meeting will appear in the **Federal Register** and in newspapers of general circulation. Although the National Park Service will consider written comments and suggestions prior to the public meeting, these comments, as well as presentations at the meeting, will be the only public input considered toward establishing the plan for the Pageant.

If the National Park Service decides to expand the traditional activities included in any of the other National Celebration Events, then it will follow the procedures outlined above as an aid in developing the event's format.

Persons or groups wishing to participate in any of the events within their theme and format should write or contact the Officeof Public Affairs, National Capital Region, 1100 Ohio Drive, S.W., Washington, D.C. 20242, and outline the type of participation being sought and the appropriateness of that participation to the event's theme. Persons and groups offering participation in accord with the event's and format will be permitted to

participate in the program subject to reasonable limitations on number of groups or persons who can be accommodated.

The themes and formats of the various National Celebration Events are as follows:

The Christmas Pageant of Peace which is held in the oval portion of the Ellipse during approximately the last three weeks in December is presented as a celebration of the holiday season. This event provides the park visitor an opportunity to view the lighting of the National Christmas tree, attend musical presentations and visit the yuletide displays.

The President's Cup Regatta is held in East Potomac Park for approximately two days during the first week in June. This event continues an annual tradition begun in 1929 under the direction of President Calvin Coolidge and gives the public an opportunity to view limited and unlimited power boat races on the Potomac River. Boats are entered, selected and registered in accordance with prevailing regulations.

The Cherry Blossom Festival is scheduled for six days usually in late March or early April. This event celebrates the beauty of the blossoming Japanese Cherry Trees and commemorates the gift of those trees by Japan to the people of the United States. The opening ceremony of the Festival is held at the Japanese Lantern adjacent to the Tidal Basin. At this event, greetings are extended by the Mayor of the District of Columbia, the Director, National Park Service, and the Ambassador of Japan. The Embassy of Japan traditionally is accorded a role in the sponsorship of this event. The Festival ends with a parade down Constitution Avenue from 7th to 17th Streets, N.W. Other Festival events, such as band competitions, are held on the Ellipse or the Washington Monument Grounds, adjacent to Constitution Avenue, between 15th and 17th Street, NW., during the 6-day period.

The Fourth of July Celebration is held on the Washington Monument Grounds. This event provides entertainment to celebrate Independence Day and ordinarily attracts large numbers of persons. During this event, the Mayor of the District of Columbia welcomes visitors. Musical groups participate, and the day is traditionally concluded with a fireworks display.

The Columbus Day Commemorative Wreath-Laying Ceremony is conducted at the Columbus Statue on the Union Plaza on Columbus Day. This event marks the anniversary of Columbus' discovery of America. Speakers and musical groups participate in the program.

Impact Analysis: The National Park Service has determined that this document is not a major rule requiring preparation of a Regulatory Impact Analysis under Executive Order 12291 and does not require a small entity flexibility analysis under Pub. L. 96-354. The proposed rule involves only minor changes in the system by which demonstrations and special events are currently regulated in the metropolitan area. It will have no substantial impact on any aspect of the economy and is designed only to simplify and clarify the procedures by which demonstrations and special events are conducted in Park Service areas.

(Section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. § 3); 245 DMI (44 FR 23384); D.C. Code § 8-108 (1973); and National Park Service Order No. 77 (38 FR 7478), as amended)

Date approved: August 13, 1981.

G. Ray Arnett,

Assistant Secretary, Fish, Wildlife and Parks.

In consideration of the foregoing § 50.19 of Title 36 of the Code of Federal Regulations is accordingly amended:

PART 50—NATIONAL CAPITAL PARK REGULATIONS

§ 50.19 [Amended]

1. Section 50.19 is amended by revising the first sentence of paragraph (a)(1) to read as follows:

(a) Definitions. (1) The term "demonstrations" includes demonstrations, picketing, speechmaking, marching, holding vigils or religious services and all other like forms * * *.

* * * * *

2. Section 50.19 is amended by removing paragraphs (a) (8) through (12), by redesignating paragraphs (a) (13) and (14) as paragraphs (a) (8) and (9), and by adding the following note at the end of paragraph (a) to read as follows:

Note.—The darkened portions of the diagrams at the conclusion of this section show the areas where demonstrations or special events are prohibited.

3. Section 50.19 is amended by revising the introductory text of paragraph (b) and paragraphs (b) (1) and (2) to read as follows:

* * * * *

(b) Demonstrations and special events may be held only pursuant to a permit issued in accordance with the provisions of this section except:

(1) Demonstrations involving 25 persons or less may be held without a permit *provided* that the other conditions required for the issuance of a permit are met and *provided further* that the group is not merely an extension of another group already availing itself of the 25-person maximum under this provision or will not unreasonably interfere with other demonstrations or special events.

(2) Demonstrations may be held in the following park areas without an official permit *provided* that the conduct of such demonstrations is reasonably consistent with the protection and use of the indicated park area and the other requirements of this regulation. The numerical limitations listed below are applicable only for demonstrations conducted without a permit in such areas. Larger demonstrations may take place in these areas pursuant to a permit.

4. Section 50.19 is amended by amending (b)(5) to read as follows:

* * * * *

(b) * * *

* * * * *

(5) * * * and south of D Street, SE, for no more than 25 persons.

5. Section 50.19 is amended by revising the first two sentences in the introductory text of paragraph (c); by revising paragraphs (c)(2) (i) through (iv), by removing paragraph (c)(v), and by adding the following note at the end of paragraph (c) to read as follows:

* * * * *

(c) Permit applications may be obtained at the Office of Public Affairs, National Capital Region, 1100 Ohio Drive, S.W., Washington, D.C. 20242, or at the Main Information Desk of the National Visitor Center, Union Station, Washington, D.C. 20240. Permit applications shall be submitted in writing on a form provided by the National Park Service so as to be received by the Director at least 48 hours in advance of any proposed demonstration or special event. This 48 hour period will be waived by the Director if the size and nature of the activity will not reasonably require the commitment of park resources or personnel in excess of that which are normally available or which can reasonably be made available within the necessary time period.

* * * * *

(2) * * *

(i) The Washington Monument, which means the area enclosed within the inner circle that surrounds the Monument's base, except for the official annual commemorative Washington birthday ceremony.

(ii) The Kennedy Center, which means the area under the administration of the National Park Service within the building known as the John F. Kennedy

Center for the Performing Arts and includes the roof terrace and outdoor terraces on the north, south, and west portions of the institution as well as the driveways leading to the parking garages. For the purpose of this section, the term "Kennedy Center" does not include the east building sidewalk, outdoor plaza or grassy areas at the Center.

Demonstrations are permitted on those latter areas *provided* entrances to the Center are not obstructed or vehicular traffic in its vicinity is not impeded.

(iii) The Lincoln Memorial, which means that portion of the park area which is on the same level or above the base of the large marble columns surrounding the structure, and the single series of marble stairs immediately adjacent to and below that level, except for the official annual commemorative Lincoln birthday ceremony.

(iv) The Jefferson Memorial, which means the circular portion of the Jefferson Memorial enclosed by the outermost series of columns, and all portions on the same levels or above the base of those columns, except for the official annual commemorative Jefferson birthday ceremony.

* * * * *

Note.—The darkened portions of the diagrams at the conclusion of this section show the areas where demonstrations or special events are prohibited.

6. Section 50.19 is amended by revising paragraph (d)(1)(iii) to read as follows:

* * * * *

(d) * * *

(1) * * *

* * * * *

(iii) *Cherry Blossom Festival.* In the Japanese Lantern area adjacent to the Tidal Basin and on the Ellipse and the Washington Monument Grounds adjacent to Constitution Avenue, between 15th & 17th Streets, NW, for six days usually in late March or early April.

* * * * *

7. Section 50.19 is amended by adding the following at the end of paragraph (d)(1) to read as follows:

* * * * *

(d) * * *

(1) * * * Other demonstrations or special events shall be permitted in these particular park areas to the extent that they do not significantly interfere with the National Celebration Events listed in this paragraph. No activity containing structures shall be permitted closer than 50 feet to another activity containing structures without the mutual consent of the sponsors of those activities.

* * * * *

8. Section 50.19 is amended by revising paragraphs (e) (3), (4), and (6) to read as follows:

* * * * *

(e) * * *

* * * * *

(3) The Director may waive the 3,000 person limitation for Lafayette Park and/or the 750 person limitation for the White House Sidewalk upon a showing by the applicant that good faith efforts will be made to plan and marshal the demonstration in such a fashion so as to render unlikely any substantial risk of unreasonable disruption or violence. In making a waiver determination, the Director shall consider and the applicant shall furnish at least ten days in advance of the proposed demonstration, the functions the marshals will perform, the means by which they will be identified, and their method of communication with each other and the crowd. This requirement will be satisfied by completion and submission of the same form referred to in paragraph (c) of this section.

(4) No permit shall be issued for a demonstration on the White House Sidewalk and in Lafayette Park at the same time except when the organization, group, or other sponsor of such demonstration shall undertake in good faith all reasonable action, including the provision of sufficient marshals, to insure good order and self-discipline in conducting such demonstration and any necessary movement of persons, so that the numerical limitations and waiver provisions described in paragraphs (e) (1) and (2) of this section are observed.

* * * * *

(6) The Director may restrict demonstrations and special events weekdays (except holidays) between the hours of 7:00–9:30 a.m. and 4:00 to 6:30 p.m. if it reasonably appears necessary to avoid unreasonable interference with rush-hour traffic.

* * * * *

9. Section 50.19 is amended by removing from the first sentence in paragraph (e)(8) the words "reasonably necessary for the conduct of the demonstration or special event."

10. Section 50.19 is amended by removing from paragraph (e)(8)(ii) the words "to cause the least possible damage to park property and basic park values" and substituting in their place "not to unreasonably harm park resources."

11. Section 50.19 is amended by removing from paragraph (e)(9) the words "reasonably necessary for the conduct of the demonstration or special event".

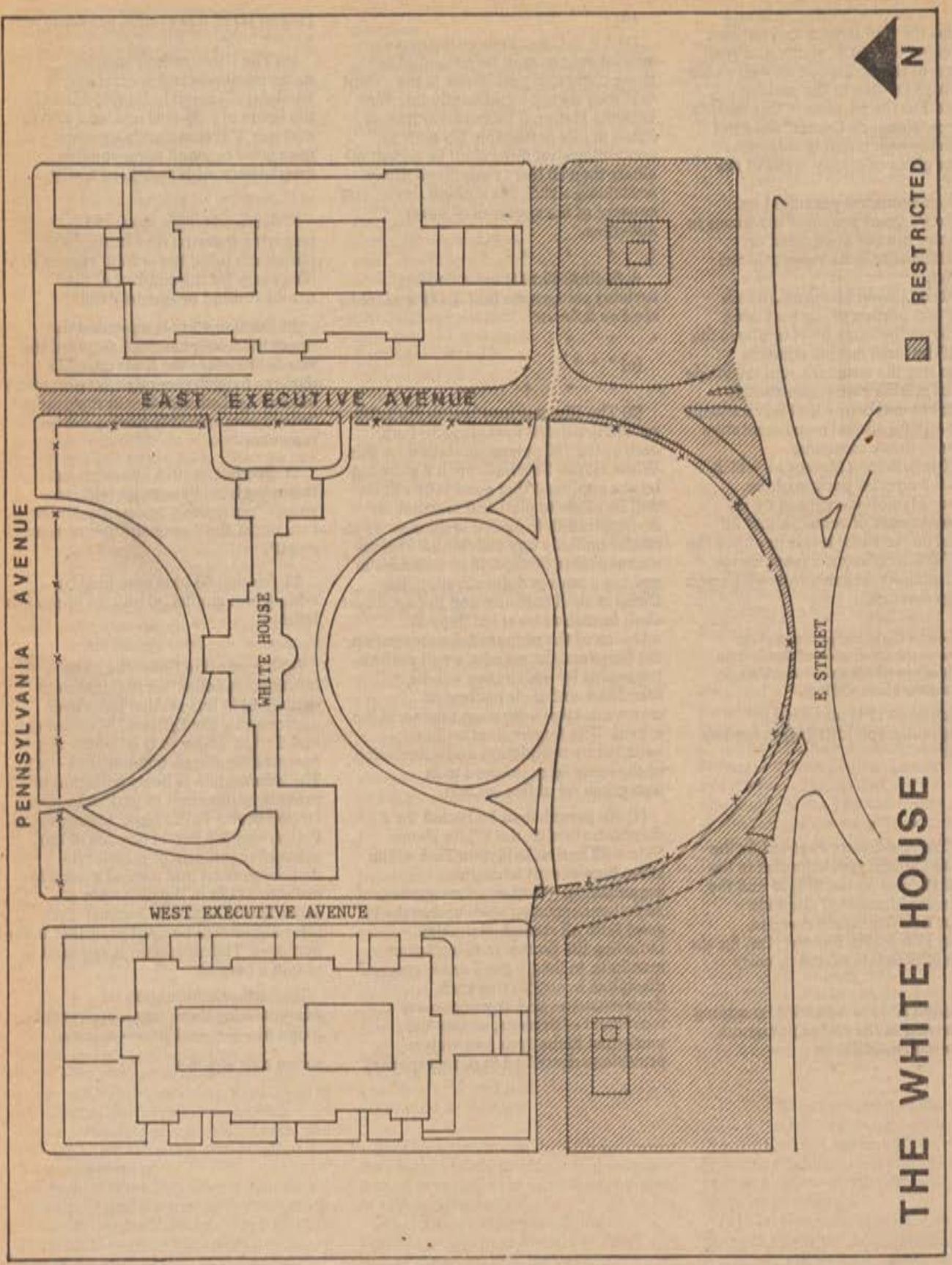
12. Section 50.19 is amended by adding paragraphs (g) and (h) to read as follow:

* * * * *

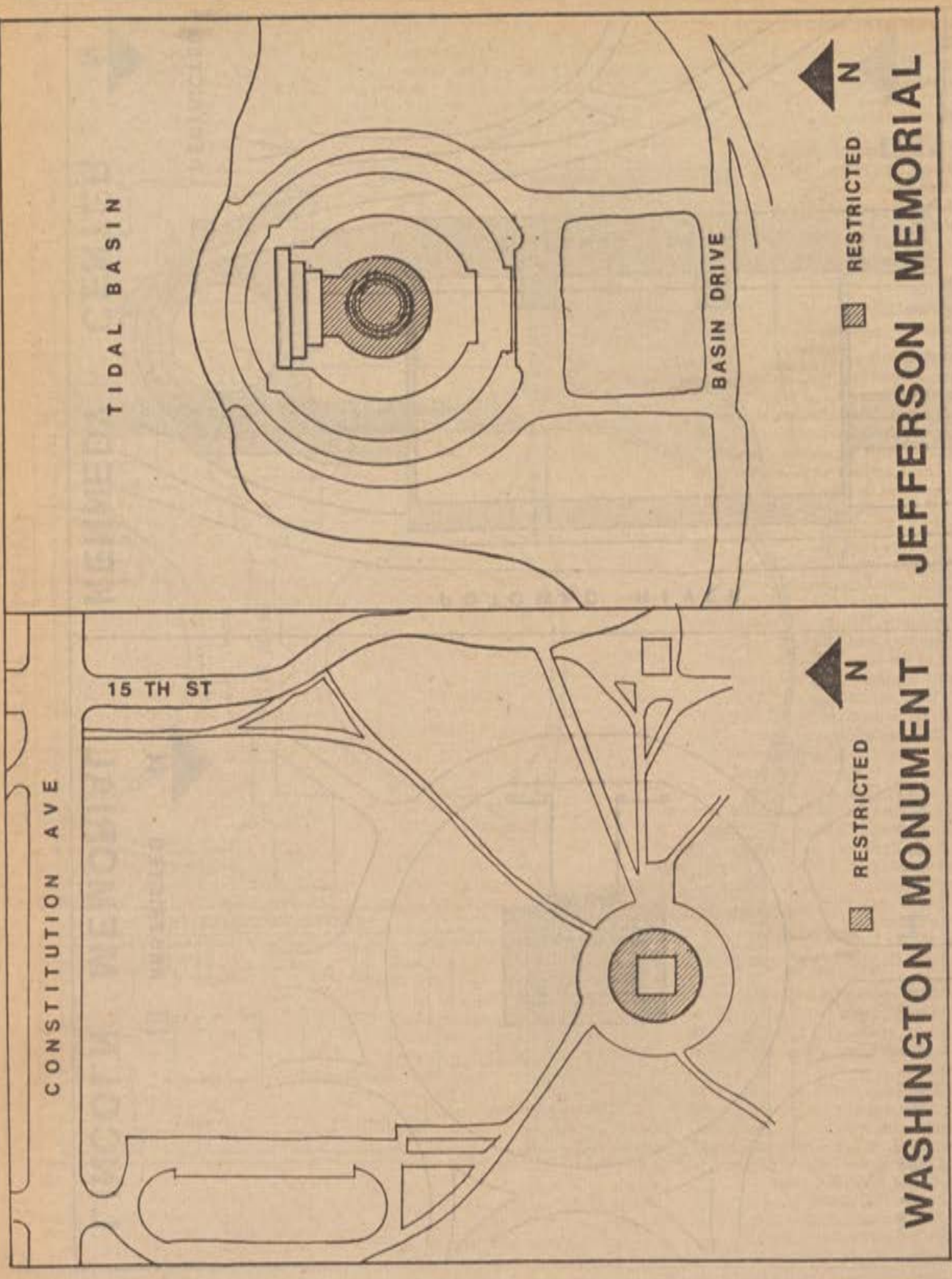
(g) Information Collection. The information collection requirements contained in this section have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1024–0021. The information is being collected to provide notification to park managers, United States Park Police, Metropolitan Police, and the Secret Service of the plans of organizers of large-scale demonstrations and special events in order to assist in the provision of security and logistical support. This information will be used to further those purposes. The obligation is required to obtain a benefit.

(h) Further information on administering these regulations can be found at ——— FR ——— (date).

BILLING CODE 4310-70-M


N
RESTRICTED
EAST EXECUTIVE AVENUE
PENNSYLVANIA AVENUE
WHITE HOUSE
E STREET
WEST EXECUTIVE AVENUE
THE WHITE HOUSE

KENNEDY CENTER
RESTRICTED
N
ENTRANCE PLAZA
POTOMAC RIVER
LINCOLN MEMORIAL
RESTRICTED
N



[FR Doc. 81-32670 Filed 11-12-81; 8:45 am]
BILLING CODE 4310-70-C

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A4-FRL 1952-1]

Approval and Promulgation of Implementation Plans, Georgia and South Carolina: Alternative Compliance Schedules for VOC Sources

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions submitted by Georgia and South Carolina to establish alternative compliance schedules for certain sources of volatile organic compounds (VOC). These actions were proposed for public comment on July 21, 1981 (46 FR 37527), for Georgia, and on July 23, 1981 (46 FR 37915), for South Carolina; no comments were received.

The Georgia compliance schedules are set forth in operating permits for three sources in the Atlanta area: St. Regis Paper Company, Printpack Incorporated, and American Can Company. The issuance of the permits by the State represents implementation of the Georgia VOC regulations which EPA approved on September 18, 1979 (44 FR 54047). The regulations are part of Georgia's control strategy to attain the ozone standard in the metropolitan Atlanta area by December 31, 1982.

South Carolina's VOC regulations and compliance schedules were conditionally approved by EPA on January 29, 1980 (45 FR 6572), as part of the State's control strategy for ozone. On January 5, 1981, the State submitted to EPA an alternative compliance schedule for the Cryovac Division of W. R. Grace and Company in Simpsonville.

ADDRESSES: Copies of the material submitted by Georgia and South Carolina may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460
Library, Office of the Federal Register, 1100 L Street, NW., Rm. 8401, Washington, D.C. 20005
Library, Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365

In addition, copies of the materials may be examined during normal business hours at the appropriate State office:

Georgia Department of Natural Resources, Environmental Protection Division, 270 Washington Street SW., Atlanta, Georgia 30334
South Carolina Department of Health and Environmental Control, Bureau of Air Quality Control, 2600 Bull Street, Columbia, South Carolina 29201

FOR FURTHER INFORMATION CONTACT: W. W. Jones at the EPA Region IV address above or call 404/881-4552 (FTS 257-4552).

SUPPLEMENTARY INFORMATION: On December 18, 1980, and May 7, 1981, the Georgia Environmental Protection Division submitted to EPA SIP revisions consisting of alternative compliance schedules for the St. Regis Paper Company, Printpack Incorporated and American Can Company in the Atlanta area. These compliance schedules are included as part of the plants' operating permits.

The issuance of the permits with compliance schedules is necessary in order for the State to implement its VOC regulations and ensure reasonable further progress toward attaining the National Ambient Air Quality Standard (NAAOS) for ozone, as stated in Georgia's 1979 nonattainment SIP submittal, and approved by EPA at 44 FR 54047, September 18, 1979.

On November 4, 1980, permits to operate with conditions of the alternative compliance schedules were issued to the following plants:

(1) St. Regis Paper Company, 840 Woodrow Avenue, SW., Atlanta, Georgia. The facility for lamination of plastic film shall have all process modifications completed and use low-solvent content coatings by September 1, 1983. The facility must demonstrate full compliance with Rule 391-3-1-.02(2)(w) by November 1, 1983.

(2) Printpack Incorporated, 4335 Wendell Drive, Atlanta, Georgia. the facility for paper laminating and coating must use a greater percentage of low-solvent content coating each year until October 1, 1985, when it must use 100 percent low-solvent content coating and be in compliance with Rule 391-3-1-.02(2)(w).

(3) American Can Company, 115 Lake Mirror Road, Forest Park, Georgia. The alternative compliance schedule applies to three-piece can coating operations including sheet coating litho varnishing, interior body spraying, striping and end sealing. Average annual VOC contents vary for each operation prior to demonstration of compliance by January 31, 1986. At that time they shall meet Rule 391-3-1-.02(2)(u) 1. (i) through (iv) which is based on a daily weighted average.

EPA has reviewed these alternative compliance schedules and found they are acceptable.

On January 5, 1981, the South Carolina Department of Health and Environmental Control submitted to EPA as a SIP revision an alternative compliance schedule for the Cryovac Division of W.R. Grace and Company in Simpsonville.

The company is proposing to comply with the VOC requirements by employing low-solvent technology. The compliance schedule will require a 57% emission reduction by December 31, 1983, a 67 percent emission reduction by June 30, 1984, and a 75 percent emission reduction by December 31, 1984. Besides these requirements, the company will report on the development of low-solvent technology for the laminate, film, and bag usages by July 1, 1982. If the company cannot show that commercialization development has progressed to a point where usage of water-base white and solvent-base colors on the laminate presses is practical by this date, then installation of a fluidized carbon absorption system (or approved equivalent) will be installed. This procedure will achieve the emission reduction specified in Regulation 62.5, Standard No. 5, Section II, Part H (Graphic Arts-Rotogravure and Flexography) by December 31, 1984. The Agency finds this schedule to be consistent with the provisions of section 110 and 172 of the Clean Air Act, and it is herewith approved.

These actions are effective December 14, 1981.

Under section 307(b)(1) of the Clean Air Act, judicial review of these actions is available only by the filing of a petition for review in the United States Court of Appeals of 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.

Note.—Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that the attached rule 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. In addition, this action only applies to four facilities.

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 it imposes no burden on sources.

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

Note.—Incorporation by reference of the State Implementation Plan for the States of Georgia and South Carolina was approved by the Director of the Federal Register on July 1, 1981.

(Secs. 110, 172, Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: November 6, 1981.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart L—Georgia

1. In § 52.570, paragraph (c) is amended by adding subparagraph (29) as follows:

§ 52.570 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * *

(29) Alternative VOC compliance schedules for three sources in the Atlanta area (St. Regis Paper Co., Printpack, Inc., and American Can Co.), submitted on December 18, 1980, and May 7, 1981, by the Georgia Department of Natural Resources.

Subpart PP—South Carolina

2. In § 52.2120, paragraph (c) is amended by adding subparagraph (19) as follows:

§ 52.2120 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * *

(19) Alternative compliance schedule for Cryovac Division of W. R. Grace, Simpsonville, submitted on January 5, 1981, by the South Carolina Department of Health and Environmental Control.

[FR Doc. 81-32810 Filed 11-12-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-7-FRL 1971-4]

Revision to State Implementation Plan for Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Final Rulemaking.

SUMMARY: On June 17, 1981, the Missouri Air Conservation Commission granted a variance from the Missouri fuel burning and visibility regulations to the Associated Electric Cooperative, Inc., for Unit 1 at the Thomas Hill Power Plant located in Randolph County, Missouri. The variance will allow the facility to continue to operate in excess of these regulations during the period in which a new particulate removal device is being installed. The Missouri Department of Natural Resources submitted the variance to EPA as a revision to the State Implementation Plan (SIP) on August 12, 1981.

The purpose of today's notice is to take final action to approve the submission as a revision to the Missouri SIP. This action will be effective on January 12, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comment.

EFFECTIVE DATE: This action is effective January 12, 1982.

ADDRESSES: Copies of the state submission are available for inspection during normal business hours at the following locations: Environmental Protection Agency, Air, Noise and Radiation Branch, 324 East 11th Street, Kansas City, Missouri 64106; Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460; Missouri Department of Natural Resources, 2010 Missouri Boulevard, Jefferson City, Missouri 65101; and the Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mary C. Carter at (816) 374-3791, FTS 758-3791.

SUPPLEMENTARY INFORMATION: On June 17, 1981, after notice and public hearing, the Missouri Air Conservation Commission (MACC) granted a variance from Missouri regulations 10 CSR 10-3.080 (Restriction of Emission of Visible Air Contaminants) and 10 CSR 10-3.060 (Maximum Allowable Emissions of Particulate Matter from Fuel Burning Equipment Used for Indirect Heating) to the Associated Electric Cooperative, Inc., for Unit 1 at the Thomas Hill Power Plant facility. The variance will allow the facility to continue operations in excess of these two Missouri regulations during the period in which a new particulate removal device is being installed. The variance was submitted to EPA as a revision to the Missouri SIP on August 12, 1981. The compliance schedule in the state-issued variance calls for final compliance with the two Missouri regulations cited above by June 1, 1984. This variance will not allow an increase in actual emissions from those existing on the baseline date (October 3, 1977); thus no increment will be consumed in accordance with the Prevention of Significant Deterioration of air quality (PSD) regulations (40 CFR 51.24).

The Thomas Hill Power Plant presently operates two boilers, each equipped with its own stack. A third boiler is being constructed. Thus, all three units were included in the dispersion modeling to determine the predicted impact of the plant. Monitored values of fugitive emissions from the surface mining operations in the area, combined with the predicted impact of all three units at the Thomas Hill site, yielded a total concentration of particulte matter of less than the National Ambient Air Quality Standards (NAAQS) for particulate matter.

Under the Clean Air Act, section 110(a)(2), EPA is required to approve a revision to a SIP if it meets the requirements in that section. Among other requirements, the state must demonstrate that a revision would not cause or contribute to a violation of any ambient air quality standard. As discussed above, EPA has determined that the source, operating at the particulate emission rate allowed by the variance, would not cause or contribute to any violation of the ambient air quality standards for particulates. In addition, EPA finds that all other relevant requirements of section 110(a)(2) have been met.

Action

EPA approves the submission as a revision to the Missouri SIP. EPA believes this action is noncontroversial and is approving the variance without prior proposal. The public is advised that this action is effective January 12, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Note.—Pursuant to the provision of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. The reason for this determination is that it only approves a state regulation and affects only one source.

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This rule is not "major"

because it only approves State actions and imposes no additional substantive requirements which are not currently applicable under State Law. Hence it is unlikely to have an annual effect on the economy of $100 million or more, or to have other significant adverse impacts on the national economy.

This rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, as amended, 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), 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.

(Sec. 110, Clean Air Act)

Anne M. Gorsuch,

Administrator.

Dated: November 6, 1981.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart AA—Missouri

1. Section 52.1320 is amended by adding a new paragraph (c)(34) to read as follows:

§ 52.1320 Identification of Plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified:

* * * * *

(34) A variance from Missouri Rules 10 CSR 10–3.060, Maximum Allowable Emissions of Particulate Matter from Fuel Burning Equipment Used for Indirect Heating, and 10 CSR 10–3.080, Restriction of Emission of Visible Air Contaminants, was submitted by the Missouri Department of Natural Resources on August 12, 1981.

2. Section 52.1335 is amended by adding the following compliance schedule to the existing list in § 52.1335(a) as follows:

§ 52.1335 Compliance Schedules.

(a) * * *

MISSOURI

Source	Location	Regulation involved	Date adopted	Effective date	Final compliance date
Associated Electric Cooperative, Inc., Thomas Hill Power Plant—Unit 1.	Randolph County.	10 CSR 10–3.060 and 10 CSR 10–3.080.	June 17, 1981	Jan. 12, 1982	June 1, 1984.

[FR Doc. 81-32800 Filed 11-12-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 52

[A–6–FRL 1969–8]

Approval and Promulgation of Implementation Plans; Texas: Administrative Revision

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The purpose of this notice is to approve an administrative revision to the Texas State Implementation Plan (SIP). The submittal is being approved in order to update the Texas SIP to reflect a more current picture of the State's overall air pollution program. The Texas Air Control Board (TACB) in accordance with 40 CFR 51.6(c), submitted an administrative revision to Section I (Introduction) on July 23, 1981. This action will be effective on January 12, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

DATE: This action is effective January 12, 1982.

ADDRESSES: Incorporation by reference material is available for inspection during normal business hours at the following locations:

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

Environmental Protection Agency, Public Information Reference Unit, EPA Library Room 2404, 401 M Street SW., Washington, D.C. 20406.

FOR FURTHER INFORMATION CONTACT: Kathryn M. Griffith, Implementation Plan Section, Air Programs Branch, Air and Hazardous Materials Division, U.S. EPA Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767–2742.

SUPPLEMENTARY INFORMATION: On July 23, 1981, the TACB in accordance with 40 CFR 51.6(c) submitted an administrative revision for section I (Introduction) which deletes the existing approved section I in the Texas SIP. EPA has reviewed the State's submittal and developed an evaluation report,[1] which describes the major changes of this revision in detail. This evaluation report is available for inspection by interested parties during normal business hours at the EPA Region 6 office and the other addresses listed above.

The revision for section I (Introduction), is an update to the Texas SIP and includes: the new composition of the Board; a statement that the general policy objectives for the State's air pollution control program have been provided by the Texas Clean Air Act; an overview of the relationships between the Federal government, local agencies and TACB and their respective responsibilities; a new organizational chart and a list of major responsibilities within the organization; and a synopsis of each of the 12 Air Quality Control Regions (AQCR) in Texas.

Since the revision included in this approval notice is considered administrative in nature and minor in substance, EPA is today approving this revision without prior proposal. The public should be advised that this action will be effective January 12, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two 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 section 307(b)(1) of the Clean Air Act, judicial review of this final rulemaking is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before January 12, 1982. 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.

[1] EPA Review of Texas' State Implementation Plan Revision for Section I (Introduction).

Note.—Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities since it imposes no new requirements.

Under Executive Order No. 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 it is merely approving a State action. It will impose no new regulatory requirements.

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

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

(Sec. 110, Clean Air Act, as amended, 42 U.S.C. 7410)

Dated: November 6, 1981.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart SS—Texas

1. In § 52.2270, (c) is amended by adding subparagraph (28) as follows:

§ 52.2270 Identification of Plan.

* * * * *

(c) * * *

(28) An administrative revision to Section I, Introduction, was submitted by the TACB on July 23, 1981. (Nonregulatory)

[FR Doc. 81-32799 Filed 11-12-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-4 FRL 1954-8]

Florida; Approval of Ambient Standards for Broward, Dade, and Palm Beach Counties

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA announces its approval of Florida's deletion of special carbon monoxide and particulate ambient standards applicable in Broward, Dade, and Palm Beach Counties.

DATE: This action will be effective on January 12, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments should be addressed to Archie Lee of the EPA Region IV Air Programs Branch (address below). Copies of the materials submitted by Florida may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Library, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365

Library, Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Archie Lee at the EPA Region IV address above or call 404/881-3043 (FTS 257-3043).

SUPPLEMENTARY INFORMATION: The original Florida implementation plan contained ambient air quality standards for carbon monoxide (CO) and particulate matter (TSP) which were comparable to the Federal standards except that for Broward, Dade, and Palm Beach Counties, more stringent standards were provided. (The latter had been adopted by the State prior to the promulgation of the Federal standards.) Specificially, these three counties were to meet ambient CO standards of 8 parts per million (ppm) for the 8-hour averaging time, and 12 ppm, 1-hour, with no exceedances permitted, whereas the standards applicable elsewhere in the State were 9 ppm (8-hour) and 35 ppm (1-hour), not to be exceeded more than once a year. For TSP the three counties were to meet an ambient annual geometric mean of 50 micrograms per cubic meter ($\mu g/m^3$), as compared with the statewide standard of 60 $\mu g/m^3$, and a 24-hour limit of 180 $\mu g/m^3$ with no exceedances permitted, to be compared with the statewide limit of 150 $\mu g/m^3$ not to be exceeded more than once a year.

Following notice and public hearing in conformity with 40 CFR 51.4, the State of Florida deleted the special ambient CO and TSP standards for Broward, Dade, and Palm Beach Counties, making the three counties subject to the same standards as the rest of the State. This rule change was submitted for EPA's approval on August 6, 1976. Since EPA cannot require States to have in their implementation plans any measure stricter than what is needed to assure attainment and maintenance of the national standards set forth in 40 CFR Part 50, the Agency has no basis for not approving this deletion, and it is hereby approved. Since this is the only course of action open to the Administrator, this approval is given without prior proposal.

The public should be advised that this action will be effective January 12, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two 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.

Note.—Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that the attached rule will not if promulgated have a significant economic impact on a substantial number of small entities since it imposes no burden on sources.

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 it merely relaxes State ambient air quality standards and imposes no regulatory requirement on anyone.

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

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.

(Sec. 110, Clean Air Act (42 U.S.C. 7410))

Dated: November 6, 1981.

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

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart K—Florida

In § 52.520, paragraph (c) is amended by adding subparagraph (31), as follows:

§ 52.520 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * *

(31) Revised ambient CO and TSP standards applicable in Broward, Dade, and Palm Beach Counties, submitted on August 6, 1976, by the Florida

Department of Environmental Regulation.

[FR Doc. 81-32804 Filed 11-12-81; 8:45 am]
BILLING CODE 6560-38-M

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40 CFR Part 52

[A 3-FRL 1966-7]

Approval of Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The purpose of this notice is to approve, as a revision of the Commonwealth of Pennsylvania's State Implementation Plan (SIP), amendments to Pennsylvania's Volatile Organic Compound (VOC) Regulations.

These amendments consist of minor regulatory changes to Chapters 121, 123, 127 and 129 of Article III (the Pennsylvania Rules and Regulations for Air Resources).

EFFECTIVE DATE: Effective December 14, 1981.

ADDRESSES: Copies of the amendments and 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

Bureau of Air Quality Control, Pennsylvania Department of Environmental Resources, Fulton Bank Building, Third and Locust Streets, Harrisburg, PA 17120, Attn: James E. Hambright, Director

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

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

FOR FURTHER INFORMATION CONTACT: Patricia Sheridan, telephone number (215) 597-8176.

SUPPLEMENTARY INFORMATION:

Background

On December 16, 1980, the Secretary of the Pennsylvania Department of Environmental Resources submitted to EPA, amendments to Article III of the Pennsylvania Rules and Regulations for Air Resources governing Volatile Organic Compound (VOC) emissions and requested that they be reviewed and processed as a revision of the Pennsylvania State Implementation Plan (SIP) for the attainment and maintenance of National Ambient Air Quality Standards. A complete description of the amendments which are being approved may be found in the proposed rulemaking which appeared in the **Federal Register** on July 29, 1981 (46 FR 38731). A summary of the amendments submitted consisting of the regulatory changes are as follows:

1. Section 121.1—The new definition of "Lease Custody Transfer."

2. Definition of "Vinyl Coatings." This change will eliminate the printing of vinyl from the definition of vinyl coating.

3. Section 123.13(b)(1)—The establishment of an "F" factor for particulate emissions from sole heated non-recovery coke ovens. The establishment of an "F" factor for this process will subject the source to a specific emission limitation instead of the general grain loading standard.

4. Section 127.23(b)—The term of a temporary permit will be lengthened from 60 to 120 days.

5. Section 129.52(d)—This change will exempt surface coating processes from control if the solvent in the surface coating is an exempt solvent, that is, either methyl chloroform or methylene chloride.

6. Section 129.56(c)—This addition will exempt crude oil storage tanks at the wellheads from volatile organic compound controls for all storage tanks with a capacity of less than 420,000 gallons.

7. Section 129.57—An addition to this section will exempt crude oil storage tanks at the wellhead from installing pressure relief valves.

8. Section 129.60(b)—This revision will require Stage 1 vapor controls on all bulk gasoline plants which either service tanks subject to Stage 1 vapor control or service tanks in Stage 1 vapor recovery areas.

9. Section 129.60(c)—This change eliminates the vapor balance requirements for truck loading for bulk plants which have an average daily throughput of greater than 16,000 gallons and which, when delivering in metropolitan areas, deliver exclusively to tanks which are exempt from Stage 1 vapor recovery controls.

10. Section 129.61(b)(2)—This change will exempt gasoline storage facilities which have an annual throughput of less than 60,000 gallons from Stage 1 vapor recovery controls.

11. Section 129.61(b)(1)—This change will eliminate Stage 1 controls for new small gasoline storage tanks with a capacity of less than 2,000 gallons.

12. Section 129.62(b)(4)—This change will eliminate the requirement for a P-V valve on underground small gasoline storage tanks.

13. Section 129.62(4)—This change requires the vacuum setting on the pressure and vacuum relief valve on an underground storage tank to be set at the lowest vacuum setting which is sufficient to keep the vent closed at zero pressure and vacuum.

14. Section 129.63(b)(1)(iv)—This change corrects a typographical error regarding the subsection of the regulation in which the operating requirements for open top vapor degreasers are found.

15. Section 129.63(b)(3)(v)—This change eliminates the operating requirement for open top vapor degreasers that the vapor level in the degreaser should not drop more than four inches when the workload enters the vapor zone.

16. Section 129.66(b)(1)—This change eliminates the Department procedure of issuing orders to small gasoline storage tanks and cold cleaning degreasers.

For additional information on the specific regulatory changes, please refer to EPA's notice of proposed rulemaking which appeared in the **Federal Register** on July 29, 1981 (46 FR 38731).

Public Comments

No public comments were received during the 30-day comment period.

EPA Actions

By this notice, the Administrator hereby approves the amendments to Article III of the Pennsylvania Rules and Regulations for Air Resources governing VOC emissions in the Commonwealth of Pennsylvania as a revision to the Pennsylvania State Implementation Plan.

Note.—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. 605(b), I hereby certify that this approval 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.

(42 U.S.C. 7401–642)

Dated: November 6, 1981.

Anne M. Gorsuch,

Administrator.

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

In Part 52 of Title 40, Code of Federal Regulations paragraph (c)(39) is added to § 52.2020 to read as follows:

Subpart NN—Pennsylvania

§ 52.2020 Identification of plan.

* * * * *

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

(39) Amendments consisting of minor regulatory changes to Article III of the Pennsylvania Rules and Regulations for Air Resources governing Volatile Organic Compounds (VOC) emissions was submitted by the Commonwealth of Pennsylvania on December 16, 1980.

[FR Doc. 81-32801 Filed 11-12-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Parts 52 and 62

[Docket No. AH201VA; A-3-FRL 1964-3]

Commonwealth of Virginia; Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Virginia Plan for Controlling Sulfuric Acid Mist

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice approves Virginia's plan for controlling sulfuric acid mist emissions from existing sulfuric acid production facilities. Virginia's plan was submitted pursuant to the requirements of section 111(d) of the Clean Air Act.

DATES: This action will be effective on January 12, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments should be submitted to the following address: U.S. Environmental Protection Agency, Region III, Air Media and Energy Branch, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106, Attn.: Ms. Carol Peters (3AH13).

Copies of Virginia's submittal and accompanying support documentation are available for inspection during normal business hours at the above-listed and the following locations:

Virginia State Air Pollution Control Board, Room 1106, Ninth Street Office Building, Richmond, Virginia 23219, Attn.: Mr. John M. Daniel, Jr.

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

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

FOR FURTHER INFORMATION CONTACT: Ms. Carol Peters at the EPA Region III address cited above or by telephone at 215/597–9139.

SUPPLEMENTARY INFORMATION: The Secretary of Commerce and Resources, Commonwealth of Virginia, submitted to EPA the Commonwealth's plan for controlling sulfuric acid mist from existing sulfuric acid mist production facilities. The plan is required by section 111(d) of the Clean Air Act and was developed pursuant to the requirements contained in 40 CFR Part 60, Subpart B.

The Commonwealth provided proof that after adequate public notice, public hearings were held on this plan in the following locations: Richmond, Abingdon, Roanoke, Lynchburg, Fredericksburg, Virginia Beach and Fairfax, Virginia.

The plan contains provisions to provide for control of sulfuric acid mist emissions from existing sulfuric acid plants, including: a statement and summary of Virginia's legal authority to control sulfuric acid mist emissions; the applicable emission standard prescribing the allowable rates of emissions; a reference to the test methods and procedures to be used to determine compliance; a commitment to submit individual source compliance schedules as they are adopted; an emission inventory, and a reference to the public availability of emissions data procedurtes to be used by the State. Many of these provisions had been previously approved as a part of Virginia's SIP for controlling criteria pollutants, published at 40 CFR Part 52. Also submitted as part of the plan was an amendment to section 1.02 (Terms Defined) of Part I (Definitions) and section 4.51(c)(2) of Part IV (Rule EX–5—Emission Standards for Gaseous Pollutants) of Virginia's Regulations for Control and Abatement of Air Pollution, which EPA approved in Part 52, Subpart VV, pursuant to the requirements of section 110 of the Clean Air Act of 1977, as amended. The amendment to § 1.02 of Part I adds and defines the term "sulfuric acid mist" and revises the definition of "sulfuric acid plant." The amendment to section 4.51(c)(2) of Part IV changes the allowable emission standard for sulfuric acid mist emissions to be consistent with guidelines published in EPA's final guideline document (EPA–450/2–77–019).

Today's rulemaking serves two purposes: (1) it revises the sulfuric acid mist definition under Part I (§ 1.02) and sulfuric acid mist emission standard contained in Part IV (Rule EX–5, section 4.51) of Virginia's existing State Implementation Plan for criteria pollutants (approved in Part 52), and (2) it establishes the definition and applicable emission standard as part of the plan included under 40 CFR Part 62.

EPA Evaluation

Legal Authority

The Commonwealth of Virginia submitted a certification that public hearings were held in accordance with 40 CFR 60.23 of Subpart B. The plan referenced Virginia's legal authority to carry out its responsibilities under the plan, which EPA has determined is adequate.

Standards and Compliance Schedules

In 40 CFR 60.24, a distinction is made between the requirements for health-related and welfare-related pollutants. For health-related pollutants, which sulfuric acid mist has been determined to be, emission standards shall be no less stringent than that specified in the Guideline (EPA 450/2–77–019), and the final compliance time shall be no later than that specified in the Guideline.

The emission standard for sulfuric acid mist is provided in § 4.51 of Part IV, Rule EX–5, Emission Standards for Gaseous Pollutants. It applies to all designated facilities and is identical to that specified in the Guideline. 40 CFR 60.24 provides for submittal of compliance schedules after submittal of the plan. Section 4.51(c)(2) and revisions to section 1.02 of part I (Definitions), as they apply to emission standards for sulfuric acid mist and other requirements of § 60.24 is considered approvable.

Schedules for compliance are required for two sources which were not meeting the required emission standard; namely, for E. I. du Pont de Nemours and Company, James River Sulfuric Acid

Plant and the Allied Chemical, Front Royal Plant. Virginia submitted compliance schedules for the DuPont facility on October 21, 1980 and for the Allied Chemical facility on July 27, 1981 and, therefore, the requirements of 40 CFR 60.24 are met and this portion of the plan is approved.

In a separate rulemaking in today's **Federal Register**, EPA is approving the variance to this plan for the E. I. du Pont de Nemours and Company, James River Sulfuric Acid Plant, located in Chesterfield County, Virginia.

Test Methods and Procedures

The test methods and procedures prescribed in Virginia's plan as being previously approved by EPA in Part 52 meet the requirements of Subpart C of 40 CFR Part 60 and are therefore approved.

Emission Inventories and Source Surveillance

In Virginia's plan, emission data for six facilities are provided. These sources are included in the National Emission Data System (NEDS) file, as required by 40 CFR 60.25. Therefore, this portion of the plan is approved.

Virginia's monitoring and source surveillance procedures are contained in section 4.04 (Monitoring—CEM) of Part IV and in Appendix J to Virginia's Air Quality Control Regulations. EPA proposed revisions to § 4.04 in Part 52 but no final action has been taken to date on this section nor on Appendix J to Virginia's regulations. EPA will be taking final action on these revisions to the Virginia SIP in 40 CFR Part 52 and, therefore, is not taking action on these provisions in today's notice.

Notification, Records and Reporting

Section 4.05 of Part IV of Virginia's air quality control regulations sets forth provisions for notification of source operational or physical changes, and source record-keeping and reporting requirements. In 40 CFR Part 52, EPA has proposed § 4.05 for public comments and is currently in the process of finalizing action on this section. Therefore, no action on section 4.05 of Part IV will be taken in this rulemaking.

Final Action

In summary, EPA has determined that the plan submitted by the Commonwealth of Virginia to control sulfuric acid mist from existing sulfuric acid production units meets the requirements of section 111(d) of the Clean Air Act and the provisions of Part 60 of 40 CFR, Chapter I. Therefore, with the exception of those portions of the plan upon which EPA is taking separate action and which are identified in § 62.11601 of Subpart VV, Part 62, the Administrator is approving this plan as submitted.

The public should be advised that this action will be effective January 12, 1982. 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.

Note.—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. 605(b), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities. This action constitutes a SIP approval under section 111(d) of the Clean Air Act and 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.

(42 U.S.C. 7411(d))

Dated: November 6, 1981.

Anne M. Gorsuch,

Administrator.

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

PART 52—APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended by adding the following new paragraph (c)(51):

Subpart VV—Virginia

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(51) Revisions to § 1.02 (Terms Defined) of Part I (Definitions) and Section 4.51(c)(2) of Part IV (Rule EX–5, Emission Standards for Gaseous Pollutants) were submitted by the Secretary of Commerce and Resources, Commonwealth of Virginia, on September 28, 1978.

Part 62 of Chapter I, Title 40 of the Code of Federal Regulations is amended by revising §§ 62.11601 and 62.11602 and by removing and reserving §§ 62.11603 through 62.11609 as follows:

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

* * * * *

Subpart VV—Virginia

* * * * *

Sulfuric Acid Mist Emissions From Existing Sulfuric Acid Plants

Sec.

62.11601 Identification of plan.
62.11602 Emission standards and compliance schedules.
62.11603–62.11609 [Reserved]

* * * * *

Authority: Secs. 111 and 301(a), Clean Air Act, as amended (42 U.S.C. 7413 and 7601).

* * * * *

Subpart VV—Virginia

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Sulfuric Acid Mist Emissions From Existing Sulfuric Acid Plants

§ 62.11601 Identification of plan.

(a) Title of plan: Commonwealth of Virginia State Implementation Plan under Section 111(d) of the Clean Air Act for the Designated Facility—Sulfuric Acid Plants.

(b) The plan was officially submitted by the Secretary of Commerce and Resources, Commonwealth of Virginia, on September 29, 1978.

(c) The plan is approved except that no action is being taken on the monitoring and source surveillance procedures (section 4.04 of the Virginia Air Quality Control Regulations) and the notification, records and reporting procedures (section 4.05 of the Virginia Air Quality Control Regulations) which will be acted on separately under Part 52.

(d) Identification of sources: The plan includes the following sulfuric acid plants:

Allied Chemical, Hopewell
Allied Chemical, Front Royal
Du Pont, James River
Smith Douglas, Chesapeake

U.S. Army Ammo. Plant, Radford
Weaver Fertilizer, Norfolk

§ 62.11602 Emission standards and compliance schedules.

(a) The requirements of § 60.25 (b) and (c) of this chapter are not met since EPA is taking separate action on §§ 4.04 and 4.05 and Appendix J under Part 52 of this Title.

§§ 62.11603–62.11609 [Removed and Reserved]

[FR Doc. 81-32805 Filed 11-12-81; 8:45 am]
BILLING CODE 6560-38-M

40 CFR Part 62

[Docket No. AH201aVA; A-3-FRL 1964-4]

Virginia; Approval and Promulgation of State Plans for Designated Facilities and Pollutants

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA announces the approval of a variance from section 4.51(c)(2), Sulfuric Acid Plant Emissions, of the Virginia Air Pollution Control Regulations.

DATE: This action will be effective on January 12, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the proposed variance, as well as accompanying support documentation submitted by Virginia, are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Media and Energy Branch, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, Attn.: Ms. Carol D. Peters

Virginia State Air Pollution Control Board, Room 1106, Ninth Street Office Building, Richmond, Virginia 23219, Attn.: Mr. John M. Daniel, Jr.

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

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

All comments should be submitted to Mr. James E. Sydnor at the EPA Region III address listed above, attention Docket No. AH201aVA.

FOR FURTHER INFORMATION CONTACT: Ms. Carol D. Peters at the Region III address shown above or telephone 215/597-9139.

SUPPLEMENTARY INFORMATION: On October 21, 1980 the Commonwealth of Virginia submitted a variance which it had issued to the E. I. du Pont de Nemours and Company James River Sulfuric Acid Plant located in Chesterfield County, Virginia on August 4, 1980 and requested it be reviewed and processed as a revision to the Virginia State Implementation Plan (SIP). In addition to the variance, the Commonwealth also submitted its technical and modeling analysis. The revision consists of a variance from Part IV, section 4.51(c)(2), Emission Standards for Sulfuric Acid Plants.

The Commonwealth has provided proof that, after adequate public notice, a public hearing was held with regard to this variance. The public was notified on June 21, 1980 that a public hearing would be held July 22, 1980 in Chester, Virginia. In a separate rulemaking in today's **Federal Register**, EPA is taking final action on Virginia's 111(d) plan for sulfuric acid plants.

EPA Evaluation

The engineering analysis shows that the emissions from the acid plant, as it is now operating, are in compliance with particulate and sulfur dioxide emission standards. The same analysis indicates that the acid mist emissions will exceed the 4.8 lbs./hr. allowable by 3.0 lbs./hr. The actual emissions are 7.8 lbs./hr. (based on du Pont operating the plant in its present state without additional control of acid mist emissions). Although there are no ambient air quality standards for sulfuric acid mist, modeling was done on the basis of emissions of 9 lbs./hr. (or .9 lbs. per ton of acid produced) and not 7.8, the actual emission rate. The model predicted that under worst conditions, the maximum impact will be 1750 feet from the source which is within the plant property, and ambient air in the area will not be adversely affected.

E. I. du Pont de Nemours and Company requests a variance from August 4, 1980 until December 15, 1981 for the James River Sulfuric Acid Plant in Chesterfield County, Virginia. This variance will allow du Pont enough time to add on control equipment to bring the plant into compliance for sulfuric acid mist emission limitations. The acid mist emissions, during the term of the variance, shall be limited to 0.8 lbs./ton of acid produced. The variance requires that at least one sulfuric acid mist concentration test following Method 8 must be performed semi-annually. The Company must also follow the compliance schedule as outlined in the variance from the State.

Previously Submitted Variance

On July 11, 1979 the Commonwealth submitted a revision of its SIP which consisted of a variance to Part IV, section 4.51(c)(2) which had been issued to the E. I. du Pont de Nemours and Company James River Sulfuric Acid Plant located in Chesterfield, Virginia on June 4, 1979. This variance was to allow the Company time to decide what to do with the facility. The Company has decided to add control equipment and, as required in the variance, has submitted a schedule to bring the plant into compliance. As the variance expired on August 31, 1980 and a new variance has been issued by the Commonwealth, EPA does not plan to take any action on the June 11, 1979 submittal.

Conclusion

EPA is approving this variance today, as it is viewed as non-controversial, for the E. I. du Pont de Nemours and Company James River Sulfuric Acid Plant located in Chesterfield County, Virginia without prior proposal. The public should be advised that this action will be effective January 12, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will withdraw the final action and begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Note.—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 hereby certify that this action will not have a significant economic impact on a substantial number of small entities. This action constitutes a SIP approval under Section 111(d) of the Clean Air Act and 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.

(42 U.S.C. 7411(d))

Dated: November 6, 1981.

Anne M. Gorsuch,

Administrator.

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

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

Part 62 of Title 40, Code of Federal Regulations is amended as follows:

Subpart VV—Virginia

1. In § 62.11601 *Identification of Plan,* new paragraph (e) is added to read as follows:

§ 62.11601 Identification of plan.

* * * * *

(e) A variance issued to the E. I. du Pont de Nemours and Company James River Sulfuric Acid Plant located in Chesterfield County, Virginia exempting the plant from Section 4.51(c)(2) until December 15, 1981, submitted on October 21, 1980 by the Virginia Secretary of Commerce and Resources.

[FR Doc. 81-32806 Filed 11-12-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 60

[AE-FRL-1895-3]

Waiver From New Source Performance Standard for Homer City Unit No. 3 Steam Electric Generating Station; Indiana County, Pa.

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Pursuant to section 111(j) of the Clean Air Act, as amended (the Act), 42 U.S.C. 7411(j), the Environmental Protection Agency (EPA) hereby grants an innovative technology waiver to Homer City Steam Electric Generating Station; Indiana County, Pennsylvania. The statutory waiver will allow emissions from Unit No. 3 at Homer City Steam Electric Generating Station to exceed the Standards of Performance for New Stationary Sources for control of sulfur dioxide (SO_2) for a limited time period to provide an opportunity to adequately demonstrate a new precombustion coal cleaning technology.

DATES: Pursuant to section 553(d)(1) of the Administrative Procedures Act, 5 U.S.C. 553(d)(1), this waiver is effective November 13, 1981.

FOR FURTHER INFORMATION CONTACT: Stuart I. Silverman, Esq., or Louis R. Paley, P.E., Division of Stationary Source Enforcement, U.S. Environmental Protection Agency, EN-341, 401 M Street, SW., Washington, D.C. 20460, (202) 382-2858 and (202) 382-2884, respectively.

SUPPLEMENTARY INFORMATION: Homer City Steam Electric Generating Station (hereinafter Homer City) is located in Center Township, Indiana County, Pennsylvania (Southwest Pennsylvania Air Quality Control Region) and is jointly owned by Pennsylvania Electric Company (a subsidiary of General Public Utilities Corporation) and by New York State Electric & Gas Corporation. Pennsylvania Electric Company and New York State Electric & Gas Corporation (hereinafter also known as "owners and operator" or "Company") are corporations registered in accordance with the corporate laws of the Commonwealth of Pennsylvania and the State of New York, respectively.

Homer City is operated by Pennsylvania Electric Company and consists of two 600 megawatt coal-fired electric generating boilers (Units Nos. 1 and 2) each with an 809 foot (246.6 meters) stack and one 650 megawatt coal-fired electric generating boiler (Unit No. 3) with a 1,200 foot (365.8 meters) stack.

Federal law requires Units Nos. 1, 2, and 3 to limit total emissions of certain air contaminants. Most pertinent for this rulemaking are sulfur dioxide (SO_2) emissions from Units Nos. 1, 2, and 3 resulting from coal combustion during the generation of electrical power. All three generating units utilize bituminous coal as fuel.

Under the Pennsylvania State Implementation Plan, Units Nos. 1 and 2 may not emit more than 4.0 lbs of SO_2/10^6 Btu of heat input.[1] Unit No 3 is subject to Federal Standards of Performance for New Stationary Sources for SO_2 under Section 111 of the Act,[2] 42 U.S.C. 7411, and may not emit more than 1.2 lbs of SO_2/10^6 Btu of heat input.[3]

On February 6, 1981, at 46 FR 11490, EPA proposed to grant, subject to the concurrence of the Governor of the Commonwealth of Pennsylvania, an innovative technology waiver, pursuant to section 111(j) of the Act, to the Homer City Steam Electric Generating Station; Indiana County, Pennsylvania. The waiver would allow emissions from Unit No. 3 at Homer City to exceed the Federal Standards of Performance for New Stationary Sources for control of SO_2 for a limited period and under specific enforceable terms and conditions. Specifically, the statutory waiver would provide an opportunity to adequately demonstrate at generating Unit No. 3 a new innovative technological system of achieving continuous reductions of SO_2 emissions generated from coal combustion in electric utility boilers. The innovative control system, known as the Multi-Stream Coal Cleaning System (MCCS) is a precombustion coal cleaning technique designed to produce a deep cleaned (low sulfur) coal and a middling (medium sulfur) coal by physically removing pyritic sulfur from coal used as a boiler fuel for electrical power generation. There is substantial likelihood that the resultant deep cleaned coal will enable Unit No. 3 to comply with the Federal Standards of Performance for New Stationary Sources of 1.2 lbs of SO_2/10^6 Btu. The middling coal will be sufficiently cleaned to enable Units Nos. 1 and 2 to comply with the Pennsylvania State Implementation Plan emission limitation of 4.0 lbs of SO_2/10^6 Btu.

Public comments and requests for a public hearing were invited concerning the waiver proposal. Although EPA did not receive any requests for a public hearing, numberous written comments were received in response to the proposed innovative technology waiver. With the exception of comments submitted on behalf of the owners and operator of Homer City as well as the Commonwealth of Pennsylvania, all comments received by EPA were fully supportive of the waiver as proposed. Those comments submitted on behalf of the Company and the Commonwealth of Pennsylvania which necessitated modifications in the waiver proposal of a nonsubtantive nature as a result of administrative oversight will not be addressed in this final rulemaking. All others submitted on behalf of the

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[1] Pennsylvania Department of Environmental Resources: rules and regulations: § 123.22(c) (as adopted on January 27, 1972). Pursuant to section 110 of the Act, 42 U.S.C. 7410, § 123.22(c) was approved on May 31, 1972, as part of the Pennsylvania State Implementation Plan and thereby federally enforceable.

[2] Federal Standards of Performance for New Stationary Sources under section 111 of the Act are technology based emission limitations promulgated by the Administrator pursuant to section 111(b)(1)(B), 42 U.S.C. 7211(b)(1)(B), for certain enumerated new source categories.

[3] 40 CFR 60.43(a)(2) [July 1, 1979]; 39 FR 20792, June 14, 1974, as amended at 41 FR 51398, November 22, 1976.

Company and the State are individually considered below.

By letter dated September 23, 1981, the Honorable Richard Thornburgh, Governor of the Commonwealth of Pennsylvania, concurred in the innovative technology waiver as set forth herein. Under section 111(j)(1)(A) of the Act, 42 U.S.C. 7411(j)(1)(A), such concurrence is a prerequisite for the granting of a innovative technology waiver by the Administrator under section 111(j) of the Act. The waiver as set forth herein is hereby granted.

Final Agency Action

The innovative technology waiver as specified below is final Agency action, and as such, is judicially reviewable under section 307(b) of the Act, 42 U.S.C. 7607(b) in the United States Court of Appeals, Third Circuit. Petitions for judicial review must be filed on or before January 12, 1982.

Note.—Pursuant to Section 605(b) of the Regulatory Flexibility Act, I certify that this rule will not have a significant economic impact on a substantial number of small entities because it affects only a single facility.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and thereby subject to the requirements of a Regulatory Impact Analysis. This regulation is not Major because it provides, pursuant to section 111(j) of the Act, a waiver from certain environmental requirements for a specified time period to enable demonstration of innovative technology for the control of a pollutant. Such technology is likely to achieve pollutant emission reductions at lower cost in terms of energy, economic and nonair quality environmental impact. Therefore, the waiver reduces, for an interim period, normal regulatory requirements and enhances the prospects of developing more cost effective pollution control technology.

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

Dated: October 31, 1981.

Anne M. Gorsuch,

Administrator.

Response to Comments

1. *Extension of Waiver Period.*

Pennsylvania Electric Company and the New York State Electric & Gas Corporation commented that the innovative technology waiver for Homer City Unit No. 3 should be extended beyond December 1, 1981, the date EPA has proposed for conclusion of the waiver period. The Company requested an additional twelve months and contended that such an extension of the waiver period is justified given certain purported delays in implementation of the MCCS during initial phases of control system experimentation. It was alleged that these delays were beyond the control of the Company due, in part, to an evaluation program initiated by EPA which required combustion of run-of-mine coal at Homer City Unit No. 3.

Notwithstanding whatever initial delays may have occurred in the implementation of the MCCS, the Company's request for a waiver extension beyond December 1, 1981, is contrary to the plain language of section 111 of the Act. Under section 111(j)(1)(E), 42 U.S.C. 7411(j)(1)(E), a waiver for a qualifying source, or portion thereof, may not extend beyond the date (i) seven years after the date on which any waiver is granted to such source or portion thereof or (ii) four years after the date on which such source or portion thereof commences operation, whichever is earlier. Given Homer City Unit No. 3 commenced operation on December 1, 1977, a fact uncontested by the Company, a section 111(j) innovative technology waiver for this combustion source may not extend beyond December 1, 1981.

Pennsylvania Electric Company and the New York State Electric & Gas Corporation contend, however, that EPA must exercise the discretion the Company apparently believes is available to the Agency and determine that the "portion" (i.e., MCCS) of the source for which the waiver was sought did not start operating until approximately twelve months subsequent to commencement of operation by Homer City Unit No. 3. Thus, the Company requested that the Agency consider the twelve-month delay in the commencement of operations of the MCCS in determining the appropriate length of time under section 111(j)(1)(E) for an innovative technology waiver for combustion Unit No. 3.

The basis of the Company's waiver extension request rests upon an erroneous interpretation of "stationary source" as that term is defined under section 111 of the Act and implementing regulations. Section 111(a)(3) of the Act, 42 U.S.C. 7411(a)(3), defines "stationary source" as "any building, structure, *facility*, or installation which emits or may emit any air pollutant" (emphasis added). Further, "affected facility" is equated at 40 CFR 60.2(e) with "any apparatus to which a standard is applicable." Given that both the MCCS and combustion Unit No. 3 are governed by separate standards of performance under section 111, each is an "affected facility" and a separate stationary source rather than a single source as the Company contends.[4] The Company has requested an innovative technology waiver solely for combustion Unit No. 3. Thus, consideration of the date for commencement of operation of the MCCS would be inappropriate for arriving at the expiration date for a section 111(j) waiver applicable to Unit No. 3.

2. *Waiver Emission Limits for Homer City Units Nos. 1 and 2.*

Pennsylvania Electric Company and the New York State Electric & Gas Corporation questioned the need for SO_2 emission limitations for Homer City Units Nos. 1 and 2 specified in the proposed waiver during time periods when Homer City Unit No. 3 is inoperable during the waiver period. During such periods, the Company contended that Units Nos. 1 and 2 should be allowed to emit up to 4.0 lbs $SO_2/10^6$ Btu, the allowable SO_2 emission limitation under the Pennsylvania State Implementation Plan, rather than the more restrictive SO_2 emission limitations as specified in the waiver. The Company argued that the waiver's emission limits would not be needed to fully compensate for increases in SO_2 emissions from Unit No. 3 during periods when Unit No. 3 is inoperable.

EPA disagrees with the Company's comment. Given the nature of the experimentation and demonstration program at the Homer City MCCS, it is likely that during the waiver period, Unit No. 3 will be shut down intermittently both on a routine, planned and unplanned basis. Thus, for the purpose of ensuring protection of national ambient air quality standards during the waiver period, predictable and consistent SO_2 emission limitations for Units Nos. 1, 2 and 3 are required to enable the enforcement of and source compliance with these waiver limits on a continuous basis.

3. *Delegation of Authority to States Under Section 111 and Source Specific Innovative Technology Waivers.*

The Department of Environmental Resources (DER), on behalf of the Commonwealth of Pennsylvania, submitted comments in response to EPA's proposed innovative technology waiver which raise a number of Federal-State jurisdictional issues regarding implementation and enforcement of Standards of Performance for New Stationary Sources under section 111 of the Act.

More specifically, pursuant to section 111(c) at 45 FR 3109 (January 16, 1980), the authority to implement and enforce

[4] See: *ASARCO, Inc.* v. *EPA*, 578 F. 2d 319 (1978); *United States* v. *City of Painesville*, 644 F. 2d 1186 (6th Cir. 1981); *Potomac Electric Power Company*, No. 80-1255 (4th Cir., June 4, 1981); *Sierra Pacific Power Company* v. *EPA*, 647 F. 2d 60 (9th Cir. 1981).

Standards of Performance for New Stationary Sources (promulgated as of July 1, 1978 in 40 CFR Part 60) was delegated to the Commonwealth of Pennsylvania for sources located in the State. This delegation encompassed the authority to implement and enforce the Federal Standards of Performance for New Stationary Sources for SO_2 applicable to Homer City Unit No. 3. In view of this delegation of authority, DER questioned the legality of EPA's statement in the **Federal Register** waiver proposal which indicated that during the period the innovative technology waiver is effective, the delegated authority of the Commonwealth of Pennsylvania to enforce the Federal Standards of Performance for New Stationary Sources for SO_2 applicable to Unit No. 3 would be superceded and enforcement of the terms and conditions of the waiver shall be the responsibility of EPA.

DER's comment concerns both the very nature of the Administrator's authority under section 111(j) of the Act to grant innovative technology waivers as well as the scope of authority delegable by the Administrator to a qualifying State under section 111(c). Fundamentally, the Administrator of EPA lacks authority to delegate his power to States pursuant to section 111(c) to issue innovative technology waivers.[5] Given that the terms of the section 111(j) waiver for Unit No. 3 are new, temporary Federal performance standards promulgated subsequent to and in lieu of those previously delegated to the Commonwealth of Pennsylvania, such performance standards predominate during the waiver period.

As noted in the previously published waiver proposal and in this final rulemaking, the Commonwealth of Pennsylvania may, and is encouraged to seek delegation of authority, pursuant to section 111(c)(1), to enforce the temporary Federal Standards of Performance for New Stationary Sources specified in this waiver. In response to this invitation for delegation which appeared in the waiver proposal, DER contended that such delegation is unnecessary due to an existing State court decree, entered in the Commonwealth Court of Pennsylvania (No. 161 C.D. 1981) on January 28, 1981, which, in most respects, mirrors the fundamental terms and conditions of the innovative technology waiver for Unit No. 3. EPA agrees and does not intend, by promulgation of an innovative technology waiver for Unit No. 3, to supplant the independent authority of the Commonwealth of Pennsylvania to enforce its own rules and regulations duly promulgated pursuant to state law. Further, the terms and conditions under which the Company may operate Homer City Units No. 1, 2 and 3 during the waiver period are conditioned by the terms of the waiver as granted herein as well as the terms of the State court decree entered in the Commonwealth Court of Pennsylvania on January 28, 1981. In granting the waiver, EPA does not believe that the terms and conditions of the waiver are in conflict with the provisions of the State court decree. Additionally, the innovative technology waiver does not supersede, change or modify any of the provisions of the State court decree, be they methods of monitoring compliance, interim emission limitations, or any other provisions thereof.

4. *Stringency of Monitoring and Reporting Requirements.*

The Company made the general comment that the monitoring and reporting requirements in the proposed waiver were more stringent than necessary and should be changed to resemble those presently imposed by the Standards of Performance for New Stationary Sources for fossil-fuel-fired steam generators. However, section 111(j)(1)(B)(i) of the Act requires that an innovative technology waiver be granted on such terms and conditions as the Administrator determines necessary to ensure that emissions from the source will not prevent attainment and maintenance of national ambient air quality standards. Therefore, the stringency of the waiver's monitoring and reporting requirements were specifically designed to ensure acquisition of emission data of sufficient quality and quantity to allow the continual determination of control system performance and source compliance with waiver emission limitations established in conformity with section 111(j)(1)(B)(i).

EPA has considered various means of clarifying and streamlining the monitoring and reporting requirements that were contained in the proposed waiver. As a result, the monitoring and reporting requirements that appear in the innovative technology waiver granted herein are modifications of those which were proposed. However, such changes will not result in sacrificing the quantity and quality of data essential to ensure protection of ambient air quality standards during the waiver period. EPA finds the monitoring proposed for this waiver period is compatible with that required under state law. Compliance with the waiver's monitoring requirements does not excuse compliance with state monitoring requirements.

5. *"Discrete" Versus ("Rolling") "Running" Averages.*

DER commented that the proposal was internally inconsistent because its reporting requirements prescribed "discrete" 3- and 24-hour standards, while its emission limitations required ("rolling") "running" 3- and 24-hour standards. Note, "Running" and "Rolling" averages are (mathematically) identical. For consistency with previous EPA standards the term "rolling" average (e.g., 1:00 to 4:00 o'clock, 2:00 to 5:00 o'clock, etc.) will be used, rather than "running". The "discrete versus running" inconsistency has been resolved by changing all references to 3- and 24-hour standards to read "discrete". The use of 3- and 24-hour discrete (e.g., 3:00 to 6:00 o'clock; 6:00 to 9:00 o'clock) averaging periods (rather than rolling) in these standards is considered adequate to *protect* the 3- and 24-hour NAAQS and to represent 3- and 24-hour source emissions.[6]

Additionally, discrete 3- and 24-hour averaging periods allow the use of both continuous emission monitoring systems (CEMS) and continuous bubblers (CB) as the primary and secondary compliance methods. Given the possibility of CEMS breakdown, Company use of a back-up (secondary)

[5] Support for this limitation of authority is threefold: First, issuance of a section 111(j) waiver is in the nature of standard setting. The Congress contemplated that standard setting either under section 111(b)(1)(B) or 111(j) is within the sole power of the Administrator of EPA, not the power of the States. Further, Section 111(c) provides for delegation to qualifying States only the power to *"enforce"* a performance standard established either under section 111(b)(1)(B) or 111(j) of the Act. Second, the Congress strictly limited the use of Section 111(j). Section 111(j)(1)(c) provides that no more innovative technology waivers may be granted than "the Administrator finds necessary" to determine if a particular technology will yield greater emission reductions than otherwise required or yield equivalent reductions at lower cost. The use of Section 111(j) could not reasonably be so limited if innovative technology waivers were being granted by States throughout the country. Delegation of authority to States under section 111(c) to issue innovative technology waivers would therefore be contrary to the terms and purposes of section 111(j). Finally, Congress specifically provided a role for the States in section 111(j)(1)(A) which provides that the consent of the Governor of the State for the issuance of a waiver. In enacting this provision, the Congress was aware that State participation could be provided instead by allowing the Administrator to delegate the power to issue innovative technology waivers. Congress chose, however, to grant the States only the more limited concurrence power under section 111(j)(1)(A).

[6] While EPA considers discrete averaging periods adequate to *protect* the 3- and 24-hour NAAQS the Agency interprets the NAAQS to actually be running averages. 40 CFR Part 58, Appendix F, § 2.12, 44 FR 27597 (May 10, 1979). Guidelines For The Interpretation of Air Quality Standards, OAQPS No. 1.2-008 (February 1977).

method for collecting emission data is essential to granting this waiver. Because of the need for a simple low cost, continuous and very reliable back-up method, the CB train is considered the only appropriate back-up method.

Furthermore, requiring 3- and 24-hour continuous bubbler data on a rolling basis, which would necessitate the collection of hourly samples when continuous monitors are out of service, is considered unnecessary in this case.

With regard to the longer, 30-day averaging period required by this waiver, a rolling 30-day averaging period (instead of a discrete 30-day averaging period) has been chosen for this waiver. Daily computation of the rolling 30-day average combined emission rates, for every day of the year, helps ensure that EPA and the Company are continually aware of the long-term performance of the control systems. The 30-day rolling average will also allow EPA to frequently assess the environmental impact resulting from operation of the source and control systems. In contrast, calculation (once each 30 days) of the discrete 30-day emission rates would result in updated emission data only once a month. Such an infrequent update is considered insufficient for the continual evaluation implicit in the provisions of section 111(j).

6. *Calculation of Emissions.*

DER commented that although the proposed waiver required SO_2 emissions to be calculated in lb/10^6 Btu, it did not specify the method for determining heat input. This comment incorrectly described the procedure to be used for calculating SO_2 emissions from individual boilers. The Standards of Performance for New Stationary Sources for fossil-fuel-fired steam generators specifies that sulfur dioxide emissions (in lb/10^6 Btu) are to be calculated using SO_2 and diluent (O_2 or CO_2) gas concentration data and the appropriate conversion ("F-factor") equation. This calculation procedure was published by the Agency at 40 FR 46250 (October 6, 1975), and has since been widely accepted by EPA and most State agencies.

The proposed waiver also contained emission limitations for the combined emissions from two and from three boilers, in units of lbs SO_2/10^6 Btu and in units of tons of SO_2 per unit of time. Since the emission rates from each boiler, in units of lb/10^6 Btu, are not directly additive, they must first be converted to the units of lb SO_2 per averaging period in order to determine the combined average emission rates from Units Nos. 1, 2, and 3 and from Units Nos. 1 and 2. This conversion step requires the calculation of heat input rates for each boiler. In this regard, DER's comment is applicable, and EPA has, therefore, specified the procedures to be used for determining heat inputs for individual boilers.

7. *Drift Testing Procedures.*

The Company requested that the drift testing procedures of the proposed waiver be changed to allow the use of internal gas cells in their Lear Seigler SO_2 and O_2 monitors. During the waiver period, EPA will not permit the use of gas cells in lieu of calibration gases for the drift tests. When gas cells are used to calibrate such Lear Siegler monitors, an important portion of the monitor circuitry is bypassed, and the monitor operates in a mode different than during the sampling mode. On occasion, EPA has experienced inadequate evaluations of the performance of Lear Siegler SO_2/O_2 monitors because of the limitations associated with using gas cells. The use of calibration gases will not alter the operational mode of the Lear Siegler monitor and will provide a more realistic evaluation of the monitor's performance. Therefore, calibration gases will be required for all drift testing required by this waiver.

8. *Continuous Bubbler.*

DER commented that "the continuous bubbler has not been proved reliable." EPA's Emission Standards and Engineering Division (ESED) has performed comparative tests in developing and evaluating the continuous bubbler (CB) method, and EPA's Division of Stationary Source Enforcement (DSSE) has evaluated CB performance in the laboratory and in the field. The DSSE and ESED evaluations of the CB were conducted at fossil-fuel-fired electric utility steam generators. These evaluations demonstrated that the continuous bubbler can be an acceptable substitute for continuous emission monitoring systems.

Also indicative of EPA's confidence in the use of CB technology at facilities such as the Company's, is the proposal of the CB technology as Methods 6A and 6B at 46 FR 8359 (January 26, 1981). Method 6A was proposed as an alternate to Reference Methods 3 and 6, and Method 6B was proposed as a substitute for continuous emission monitors when the monitors are out of service. Additionally, since the proposal of the waiver on February 6, 1981, the Company has successfully demonstrated its ability to accurately and reliably operate CB systems.

The Company has recently experimented with various CB equipment configurations and has identified modifications to the sampling apparatus that have produced the best results. As a result, the Company requested approval to use the following modifications to the CB sampling equipment required by the proposed waiver:

a. Use of heated probe for sampling;

b. Use an upstream in-stack filter for particulate removal;

c. Eliminate the isopropanol impinger; and

d. Replace the peristaltic pump with a diaphragm pump.

EPA accepts these modifications because the Company has shown that they will result in improved bubbler performance at the Homer City Station and because they are consistent with Method 6B (as proposed on January 26, 1981). Nevertheless, the quality assurance requirements for the CB method specified in § 60.47(g)(6)(ii) of the section are in effect during the waiver period. They require that the Company demonstrate, at least initially and quarterly, that the CB method consistently provides emission data comparable to data generated by Reference Methods 3 and 6.

The Company also requested that the criteria for the allowable percent difference between CB and reference method data be changed from 10 percent to 20 percent. EPA denies this request because the CB sampling and analytical techniques for SO_2 is essentially the same as that for EPA Reference Method 6. Furthermore, the CB procedures for collecting and quantifying CO_2 are standard laboratory procedures. Conceptually, the CB is capable of generating results within 10 percent of reference method results because of the similarities between CB and reference method technologies. Also, in actual field testing at fossil-fuel-fired steam generators, the CB results were shown to be consistently within 10 percent of the reference method results.

9. *Minimum Data Requirements.*

DER commented that the proposed waiver's data requirements were inadequate and would exempt certain critical periods of time during which the Company would not be required to obtain emission data. The intent of the waiver was not to allow such exemptions. EPA has reviewed the proposed data requirements and agrees that the allowances provided did not clearly reflect the Agency's intent. Therefore, EPA has restructured and clarified the requirements for obtaining emission data.

The data requirements have been organized into three distinct sampling scenarios. Each scenario applies separately to each of Homer City Units Nos. 1, 2, and 3: (1) During normal

operation of a continuous emission monitor; (2) during the transition period when switching from a continuous emission monitor to a CB system; and (3) during the continuous operation of the CB method (when a monitor is out of service). The data requirements for each sampling scenario are also separated into requirements for each of the three averaging periods (i.e., 3-hours, 24-hours, and 30-days) specified in the waiver.

Underlying all of the emission requirements of the waiver is EPA's intent that the Company monitor the emissions from each boiler on a continuous, uninterrupted basis (whenever fuel is being fired). However, EPA recognizes that requiring continuous emission data without allowing for some interruption is neither practical, achievable nor necessary. Even the most well engineered CEMS cannot be expected to operate over long periods of time without at least some breakdowns. Additionally, necessary routine maintenance and required daily calibrations preclude the acquisition of uninterrupted data. Therefore, the Agency's objective in establishing minimum data requirements is two-fold: (1) To provide sufficient emission data to help ensure Company compliance with the waiver's emission limitations; and (2) to allow reasonable periods for routine monitor maintenance and calibration, and for the Company to switch to the secondary compliance monitoring system (CB method) whenever monitor breakdowns necessitate such action.

The Company commented that the proposed waiver's monitoring requirements were more stringent and costly than necessary to achieve the Agency's stated objective, and that the data requirements should be more consistent with those in 40 CFR Part 60, Subpart D, Standards of Performance for New Stationary Sources. In response to this comment, EPA believes that the waiver's data requirements are reasonably achievable and are no more stringent than necessary to ensure continual source compliance with the waiver's emission limitations. Since the waiver stipulates "continuous compliance" and since the averaging times of the emission limitations are of various durations (e.g., 3-hours, 24-hours, and 30-days), the (40 CFR Part 60, Subpart D) Standards of Performance for New Stationary Sources data acquisition requirements are neither applicable nor sufficient for this wavier. Also, given the language contained in section 111(j) the Agency cannot allow the Company to be exempted from demonstrating continuous compliance with the emission limitations during all periods of boiler operation.

Furthermore, the Company agreed to acquire virtually continuous emission data, using a combination of CEMS and CBs. As a result the Company has already acquired the necessary CB equipment and expertise to use the CBs. Also the added expense to the Company, as a result of running the CBs is insignificant compared to the operation and maintenance of their coal cleaning equipment and the savings they have made by reducing their emissions.

The Company specifically requested substantial relief from the requirement to obtain discrete 3-hour continuous bubbler data when a CEMS is out of service. In this regard, the Company suggested several variations of a calculation procedure for obtaining upper estimates of any missing 3-hour data (from one or more units) by multiplying the highest available corresponding 3-hour averages (from the other units) by the ratio of the respective 24-hour averages. EPA believes that the use of the Company's suggested calculation procedure (which assumes a consistent relationship of maximum 3-hour to 24-hour emissions between all three units and which has not been verified with actual emission data) is not a prudent alternative to obtaining 3-hour CB data. In further consideration of this request, EPA has determined that the operation of six 3-hour CB systems (when a CEMS is out of service) will adequately represent the 3-hour emission rate and therefore will sufficiently protect National Ambient Air Quality Standard.

The Company also maintained that more than one hour is required to initiate any back-up samplying. EPA agrees with this comment and has therefore increased the time allowed for the Company to switch from a CEMS to the CB method. Accordingly, the waiver requires back-up CB sampling to be initiated immediately, but no later than six hours after it has determined that the CEMS is not meeting the performance requirements (delineated in Table 1). It should be noted that a similar time exemption is not provided when switching back to (or reinstating) a CEMS after it has been taken out of service. In this situation, the Company must continue samplying with the CB method until the CEMS is fully operational and is documented to be producing valid data.

Also, the waiver allows additional time exemptions for the Company to conduct: (1) Routine maintenance and daily calibrations of the CEMS; and (2) weekly gas calibrations for the CBs. However, exemptions from acquiring continuous data because of routine maintenance and daily calibrations are not allowed (nor necessary) when the CB method is being used.

10. *Performance Specifications.* DER commented that the monitor performance specifications proposed by EPA at 44 FR 58602 (October 19, 1979) were withdrawn and should, therefore, not be included as provisions of this waiver. EPA does not agree with this comment. EPA has proposed two substantial revisions to the original monitor performance specifications promulgated at 40 FR 46250 (October 6, 1975): (a) Those proposed at 44 FR 58602 (October 10, 1979); and (b) those proposed at 46 FR 8359 (January 26, 1981). Each is an improvement over the October 6, 1975 promulgation. After a close examination of both revisions and the goals of this waiver, EPA has determined that during the waiver period a combination of the best features of both of the proposed revisions should be used. Therefore, during the waiver period, the Company must comply with the drift and calibration error test requirements proposed on October 10, 1979 and the location and accuracy test requirements proposed on January 26, 1981. This requirement will not appreciably affect the probability that the Company's CEMS will meet the combined (SO_2/O_2) performance specification requirements. However, requiring the combination of the proposed performance specifications will result in a more specific and accurate definition of monitor system performance and data quality. Furthermore, EPA is considering a similar combination of performance specifications for promulgation in the near future. Therefore, the Agency believes that this combination is both reasonable and necessary during the waiver period.

11. *Quality Assurance (QA) Requirements.* The Company commented that the proposed requirement to use both 24-hour and eight 3-hour continuous bubbler runs, as a QA check on the CEMS, was unreasonable and unnecessary. EPA has reassessed this requirement and agrees that it would impose an unnecessary burden on the Company. If the Company demonstrates that a CEM is accurate over a 24-hour period (as determined by performing one or more 24-hour bubbler runs), the monitor accuracy over each of the eight 3-hour periods that constitute the 24-hour period should be acceptable for determining 3-hour emission rates. Therefore, the proposed QA requirements for CEMS have been

revised to require the Company to perform one 24-hour check each week during the waiver period. EPA believes that this streamlining of the QA checks will be less burdensome, and will enhance the overall quality of the data.

The Company also requested that the frequency and number of several other QA checks be decreased. EPA denies this request because all checks are required to insure collection of data having sufficient quality for both EPA and the Company to continually assess the compliance status with waiver's emission limitations as well as to evaluate the performance of the control system. Ensuring the accuracy of the emission data through a comprehensive quality assurance program, is equally beneficial and important to all parties affected by this waiver.

Finally, DER commented that although the QA criteria in the proposed waiver required the CEMS to meet certain 24-hour drift criteria, the result of these criteria was unclear. DER was concerned that the allowed duration (24-hours) for operating the CEMS outside the criteria, before a CEMS is to be taken out of service, could permit a CEMS to be out of control by any magnitude, on alternate days. EPA did not intend to allow any excursions of the QA performance criteria and agrees that the column headings in Table 1 of the proposed waiver were misleading. The intent of the time durations designated in the proposal was to establish the time intervals for which the performance criteria are applicable. The designation of the durations (or averaging times) associated with the CEMS drift criteria has, therefore, been clarified through changes in the text and in Table 1 of the waiver.

In addition, EPA has re-examined the required numerical drift specifications and has determined that the proposed limits for 24-hour zero and calibration drift were overly stringent. Therefore these drift specifications have been revised (by doubling the allowances, for up to 3 days) to prevent occasional monitor drift variability from unnecessarily requiring the Company to take the CEMS out of service.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Title 40, Part 60, Subpart D of the Code of Federal Regulations is amended by adding new § 60.47 as set forth below:

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Subpart D—Standards of Performance for Fossil-Fuel Fired Steam Generators

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§ 60.47 Innovative technology waivers; waiver of sulfur dioxide standards of performance for new stationary sources for Homer City Unit No. 3 under section 111(j) of the Clean Air Act for Multi-Steam Coal Cleaning System.

(a) Pursuant to section 111(j) of the Clean Air Act, 42 U.S.C. 7411(j), commencing on November 13, 1981 Pennsylvania Electric Company and New York State Electric & Gas Corporation shall comply with the following terms and conditions for electric generating Units Nos. 1, 2, and 3 at the Homer City Steam Electric Generating Station, Center Township, Indiana County, Pennsylvania.

(b) The foregoing terms and conditions shall remain effective through November 30, 1981, and pursuant to section 111(j)(B), shall be Federally promulgated standards of performance. As such, it shall be unlawful for Pennsylvania Electric Company and New York State Electric & Gas Corporation to operate Units Nos. 1, 2, and 3 in violation of the standards of performance established in this waiver. Violations of the terms and conditions of this waiver shall subject Pennsylvania Electric Company and New York State Electric & Gas Corporation to Federal enforcement under sections 113 (b) and (c), 42 U.S.C. 7413 (b) and (c), and 120, 42 U.S.C. 7420, of the Act as well as possible citizen enforcement under section 304 of the Act, 42 U.S.C. 7604. Pursuant to section 111(c)(1) of the Act, 42 U.S.C. 7411(c)(1), at 45 FR 3109, January 16, 1980, the Administrator delegated to the Commonwealth of Pennsylvania authority to implement and enforce the Federal Standards of Performance for New Stationary Sources of 1.2 lb SO_2/10^6 Btu applicable to Homer City Unit No. 3. The SO_2 emission limitations specified in this waiver for Unit No. 3 are new Federally promulgated Standards of Performance for New Stationary Sources for a limited time period. Thus, during the period this waiver is effective, the delegated authority of the Commonwealth of Pennsylvania to enforce the Federal Standards of Performance for New Stationary Sources of 1.2 lb SO_2/10^6 Btu applicable to Homer City Unit No. 3 is superseded and enforcement of the terms and conditions of this waiver shall be the responsibility of the Administrator of EPA. The Commonwealth of Pennsylvania may, and is encouraged to, seek delegation of authority, pursuant to section 111(c)(1), to enforce the temporary Federal Standards of Performance for New Stationary Sources specified in this waiver. Should such authority be delegated to the State, the terms and conditions of this waiver shall be enforceable by the Administrator of EPA and the Commonwealth of Pennsylvania, concurrently. Nothing in this waiver shall affect the rights of the Commonwealth of Pennsylvania under the Decree filed in the Pennsylvania Commonwealth Court on January 28, 1981, at Docket No. 161 C.D. 1981.

(c) On December 1, 1981, and continuing thereafter, at no time shall emissions of SO_2 from Unit No. 3 exceed 1.2 lb/10^6 Btu of heat input, as specified in 40 CFR 60.43(a)(2) (July 1, 1979).

(d) On January 15, 1982, Pennsylvania Electric Company and New York State Electric & Gas Corporation shall demonstrate compliance at Homer City Unit No. 3 with 40 CFR 60.43(a)(2) (July 1, 1979) in accordance with the test methods and procedures set forth in 40 CFR 60.8 (b), (c), (d), (e) and (f) (July 1, 1979).

(e) Emission limitations. (1) Commencing on November 13, 1981 and continuing until November 30, 1981:

(i) At no time shall emissions of SO_2 from Units Nos. 1, 2, and 3, combined,[1] exceed: 2.87 lb SO_2/10^6 Btu of heat input in a rolling 30-day period (starting with the 60th day after the effective date of the waiver); 3.6 lb SO_2/10^6 Btu of heat input in any day;[1] and 3.1 lb SO_2/10^6 Btu of heat input on more than 4 days in any rolling 30-day period.

(ii) At no time shall emissions of SO_2 from Units Nos. 1, 2, and 3, combined,[2] exceed 695 tons in any day.

(iii) At no time shall emissions of SO_2 from Units Nos. 1, 2, and 3, combined,[2] exceed 91 tons in any discrete [1] 3-hour period.

(iv) At no time shall emissions of SO_2 from Units Nos. 1 and 2, combined, exceed 463 tons in any day.

(v) At no time shall emissions of SO_2 from Units Nos. 1 and 2, combined, exceed 61 tons in any discrete [1] 3-hour period.

(f) Installation Schedule. (1) Pennsylvania Electric and New York State Electric & Gas have selected engineering designs for necessary modifications to the Multi-Stream Coal Cleaning System (MCCS) 93B Circuit.

(2) Pennsylvania Electric and New York State Electric & Gas have placed

[1] A "day" (a 24-hour period) and a "discrete 3-hour period" is defined in section (g)(7)(iv).

[2] The procedures used for calculating combined SO_2 emissions are given in paragraph (g)(5) of this section.

purchase orders for all major equipment necessary to complete necessary modifications to the MCCS 93B circuit.

(3) Pennsylvania Electric and New York State Electric & Gas have completed design engineering of the modifications to the MCCS 93B circuit.

(4) On or before September 15, 1981, Pennsylvania Electric and New York State Electric & Gas shall complete construction of the MCCS 93B circuit.

(5) On or before October 15, 1981, Pennsylvania Electric and New York State Electric & Gas shall start-up the MCCS 93B circuit.

(g) Monitoring and Reporting. Throughout the waiver period the Company shall acquire sufficient quantities of emission monitoring and fuel analysis data to continuously demonstrate compliance with the combined emission limitations. The Company shall acquire heat input and emission data (sufficient to demonstrate compliance) from each boiler during all operating periods (i.e., whenever fuel is being fired), including periods of process start-up, shutdown, and malfunction. This requirement shall be met through the use of continuous emission monitoring systems (CEMS) [or as supplemented by continuous bubbler (CB) systems], heating value as determined by as-fired fuel analysis, and coal mass feed-rate measurements.

(1) Continuous Emission Monitoring System (CEMS): Primary Compliance Monitoring Method:

(i) The Company shall install, test, operate, and maintain all CEMS as the primary compliance monitoring method in such a manner as to result in the acquisition of validated data which are representative of each boiler's 3-hour, 24-hour, and 30-day emission rates. (See paragraph (g)(7) of this section.)

(ii) The validity of the emission data obtained with CEMS shall be determined initially by conducting a performance specification test (PST). Subsequent CEMS data validations shall be performed in accordance with paragraphs (g)(6) and (g)(7) of this section. All PSTs of CEMS shall include at least: (A) All of the specifications and test procedures contained in the January 26, 1981 proposed Performance Specifications 2 and 3 (Ref. 1), 46 FR 8352; and (B) the calibration error and response time specifications and test procedures contained in the October 10, 1979 proposed Performance Specifications 2 and 3 (Ref. 2), 44 FR 58602. The calibration error, response time, and all drift tests shall be conducted using calibration gases which conform to the requirements of paragraph (g)(6)(iii) of this section.

(2) Continuous Bubbler System (CB): Secondary Compliance Test Method:

(i) The Company shall use the CB system as a secondary compliance monitoring method to supplement CEMS data whenever a CEMS is out of service or is otherwise providing data of insufficient quality or quantity. The CB technique shall also be used to periodically assess the validity of CEMS data (See paragraph (g)(6)(i)(C) of this section).

(ii) The CB technique for quantitatively assessing SO_2 emissions (in $lb/10^6$ Btu) is delineated in Appendix I of this waiver. This technique is based upon combining the basic wet-chemical technique of EPA's Reference Method 6 at 40 CFR Part 60, Appendix I, July 1, 1979, (for determining SO_2 concentrations) with the gravimetric method (absorption of CO_2 onto ascarite) for determining CO_2 concentrations. Using reduced flow rates and increased reagent volumes and concentrations, the CB system may be run for much longer periods of time than Reference Method 6 at 40 CFR Part 60, Appendix I (July 1, 1979). The Company may make the following modifications to the CB method as long as they periodically demonstrate that their modified CB method meets the performance criteria of paragraph (g)(6)(ii) of this section:

(A) Use a heated sample probe

(B) Use an in-stack filter (up stream of the impingers) to remove particulate matter

(C) Eliminate the isopropanol (initial) impingers

(D) Use a diaphragm pump with flow regulators in place of the peristaltic pump

(iii) The Company shall initially demonstrate its proficiency in acquiring SO_2/CO_2 data with the CB method by comparing the results obtained using the CB method with those obtained using Reference Methods 3 and 6 (See Ref. 3 and paragraph (g)(6)(ii)(B) of this section). The CB data shall be deemed initially acceptable if the results of this test are within the limits prescribed in paragraph (g)(6)(ii) (A) and (B) of this section. Subsequently, the CB data shall be periodically revalidated as per the QA requirements of paragraph (g)(6)(ii) (A) and (B) of this section.

(3) Requirements for Obtaining 3-hour and 24-hour Emission Data from Individual Boilers: Using the methods set forth in this waiver, the Company shall obtain the following quantities of 3-hour and 24-hour emission data. Failure to acquire the specified quantity or quality of data shall constitute a violation of the terms and conditions of this waiver.

(i) Data and calculation requirements for continuous emission monitoring system (CEMS). During normal operation of a CEMS (primary compliance method) to obtain emission data from one or more of Units Nos. 1, 2, and 3, the Company shall obtain the following data from each CEMS:

(A) 3-hour discrete averaging times using CEMS.—For each boiler, continuously measure and calculate eight discrete 3-hour averages each day, using the three consecutive (exclusive of exemptions below) 1-hour emission averages (each consisting of four equally spaced data points per 1-hour period). The only periods when CEMS measurements are exempted are periods of routine maintenance (as specified in the Lear Siegler Operator's Manual) and as required for daily zero/span checks and calibrations. Such exemptions notwithstanding, at no time shall less than six discrete 3-hour averages per day be obtained. Note that in calculations each 3-hour average one only uses the data available from that specific discrete average.

(B) 24-hour averaging times using CEMS. For each boiler, continuously measure and calculate one discrete 24-hour average per day, using the available (18–24) 1-hour emission averages obtained during that specific day. The only periods when CEMS measurements are exempted are periods of routine maintenance (as specified in the Lear Siegler Operator's Manual) and as required for daily zero/span checks and calibrations. Such exemptions notwithstanding, and except for the instances when a boiler operated for only part of the day, at no time shall a calculated 24-hour average consist of less than a total of eighteen 1-hour averages.

(ii) Data requirements when switching from CEMS to CB system. If it becomes necessary to take a CEMS out of service (because of CEMS inoperability or failure to meet the performance requirements (paragraph (g)(6)(i) of the section), the Company shall immediately initiate the activities necessary to begin sampling with the secondary (CB) compliance test method. However, EPA recognizes that some reasonable amount of time will be necessary to diagnose a CEMS problem, to determine whether minor maintenance will be sufficient to resolve the problem, or to determine if the monitoring system must be taken out of service. Additionally, CEMS downtime could occur during the night time shifts or other times when immediate corrective action cannot reasonably be made. Therefore, the waiver requires that at no time shall

more than six hours elapse between acceptable operation of the CEMS and the start of CB sampling. All data which are obtained during any interrupted averaging period(s) shall be used to calculate the reported average(s), and the Company shall clearly indicate this data "shortfall" (e.g., acquisition of only 2 hours of data for a 3-hour averaging period) in the subsequent report (See paragraph (g)(8) of this section).

(A) 3-hour averaging times during CEMS-to-CB transition.—During any day in which a transition (from the CEMS) to the secondary compliance method is made, at least four (4) 3-hour average rates of the affected boiler's emissions shall be obtained.

Note.—At least six (6) 3-hour emission averages are required when a planned CB-to-CEMS transition is performed.

(B) 24-hour averaging times that include a CEMS-to-CB transition. During any day in which a transition (from the CEMS) to the secondary compliance method is made, a 24-hour average rate of the affected boiler's emissions shall be obtained, using the combination of all available 1-hour CEMS emission averages and 3-hour CB emission averages. Such a calculation shall weight (e.g., one CB average is equivalent to three 1-hour CEMS average values) the CB data appropriately.

(iii) Data and calculation requirements for continuous bubbler (CB) monitoring systems. During all periods when a CEMS is out of service and a CB system is in use at one or more of Units Nos. 1, 2, or 3, the Company shall obtain the following data from each CB:

(A) 3-hour averaging times using CB systems. For each boiler being monitored by a CB system, measure and calculate at least six discrete 3-hour emission rates each day.

(B) 24-hour averaging times using CB systems. For each boiler being monitored by the CB method, calculate one 24-hour average emission rate each day. Each average shall be based upon a continuous 24-hour sample.

(4) Requirements for Measuring and Calculating Heat Input Rates:

(i) The Company shall determine the coal feed rate, for each boiler that is being fired, for each 24-hour period in accordance with the Company's standard procedures for weighing coal being fed to the boilers.

(ii) The Company shall determine the heat content (gross calorific value) of the coal, for each boiler being fired and for each 24-hour period, in accordance with the Company's established procedures for as-fired, 24-hour fuel sampling (15-minute sample intervals) and composite automated analysis.

(iii) The Company shall calculate the average heat input rate for each boiler for each 24-hour period (10^6 Btu/24-hours). For each boiler, multiply the average heat content of the coal (Btu/lb) by the coal feed rate as determined for the same 24-hour averaging period.

(iv) The Company shall estimate the average 3-hour heat input rate (10^6 Btu/3-hours) for each boiler from the previously determined 24-hour values. To estimate a 3-hour heat input rate multiply the corresponding 24-hour value (10^6 Btu/24-hours) by the ratio of the respective 3-hour to the 24-hour megawatt outputs.

(5) Requirements for Calculating Combined SO_2 Emissions:

(i) 3-hour averaging period: The combined emission rates from the operating boilers are equal to the sum of the products of the individual heat input rates (10^6 Btu/3-hours) and the SO_2 emission rates (lb/10^6 Btu as determined for the 3-hour period). This quantity, when divided by 2000 lb/ton, equals the combined tons of 3-hour SO_2 emissions (see Equation 1).

$$M_j = \sum_{i=1}^{n} \frac{E_{ij} H_{ij}}{2000} \qquad \text{Equation 1}$$

Where:

M_j = combined (e.g., Units Nos. 1 and 2 or Units Nos. 1, 2, and 3) emission rates for the operating units in tons SO_2, for the jth averaging period (3-hour or 24-hour).

E_{ij} = average emission rates from the "ith" unit in lb SO_2, for the jth average period where j = 3-hour or 24-hour.

H_{ij} = average heat input rates for the "ith" unit in 10^6 Btu per "jth" averaging period where j = 3-hour or 24-hour.

n = number of operating units.

Note.—Equation 1 is to be used for calculating: (1) combined tons of SO_2 emissions from Units Nos. 1 and 2 and (2) combined tons of SO_2 emissions from Units Nos. 1, 2, and 3. Equation 1 is applicable to both 3-hour and 24-hour averaging periods. Furthermore, if a unit is not combusting fuel, "H_{ij}" will be zero.

(ii) 24-hour averaging period:

(A) The combined emissions from the operating boilers is equal to the sum of the products of the individual heat inputs (10^6 Btu/24-hour) and the SO_2 emissions (lb/10^6 Btu as determined for the 24-hour period). This quantity, when divided by 2000 lb/ton, equals the combined tons of 24-hour SO_2 emissions (see Equation 1).

(B) The combined emissions from the operating boilers, in the units lb/10^6 Btu, is equal to the sum of the products of the individual heat inputs (10^6 Btu/24-hour) and the SO_2 emissions (lb/10^6 Btu as determined for the 24-hour period) divided by the sum of the combined heat inputs (see Equation 2).

$$E = \sum_{i=1}^{n} \frac{(E_i H_i)}{H_i} \qquad \text{Equation 2}$$

Where:

E = combined emission rates for the operating units in lb SO_2/10^6 Btu, for the 24-hour averaging period.

E_i = 24-hour average emission rates from the "ith" unit in lb SO_2/10^6 Btu.

H_i = 24-hour average heat input rates for the "ith" unit in 10^6 Btu/24-hour.

n = number of operating units.

Note.—If a unit is not combusting fuel, "H_i" will be zero.

(iii) 30-day rolling average: Once *every* day, calculate combined 30-calendar day emission average rates (beginning 60 days after the effective date of this waiver), using all available combined 24-hour emission rate averages [paragraph (g)(5)(ii)(B) of this section], for the *most recent* 30 consecutive calendar days. To make the two calculations for the combined (Units Nos. 1, 2, and 3; Units Nos. 1 and 2) emission rates, add the 30 consecutive daily combined average emission rates (lb SO_2/10^6 Btu) and divide the sum by 30 days.

(6) Quality Assurance (QA) Requirements: The Company shall validate the required emission data by performing at least the quality assurance procedures specified herein. These QA requirements are considered the minimum necessary to ensure that the sampling methods employed produce valid data. The performance criteria that are established in this section and that are restated in Table 1 are considered both necessary and reasonably achievable. If, for any reason, a CEMS system fails to achieve the required specifications, the CEMS shall be immediately taken out of service and sampling with a CB system shall be initiated. If, for any reason, a CB (which is being used while a CEMS is out of service) fails to meet the required specifications, the Company shall notify the Director of the Division of Stationary Source Enforcement (Washington, D.C.) within 72 hours, as per paragraph (g)(8)(iv) of this section. The Company is encouraged to supplement these procedures to improve the quality of the emission data obtained.

(i) QA requirements, calculation procedures, and specification limits for CEMS: At a minimum, the Company shall conduct the following initial, daily, weekly, and quarterly QA evaluations of

each boiler's CEMS data. Where designated, the response time and calibration error test procedures contained in Reference 2 and the remaining performance test procedures, including those for relative accuracy, of the January 26, 1981 proposed Performance Specifications 2 and 3 (Ref. 1) shall be used.

(A) Daily zero and calibration checks of the CEMS. Conduct the following zero and calibration drift checks of each CEMS at approximately 24-hour intervals, and use the equations provided here to determine if the CEMS meets the designated drift specifications. All monitors that have exhibited drift during the previous 24-hour period must be adjusted immediately after the drift checks have been performed and the results have been recorded.

(*1*) 24-hour *zero* drift of the SO_2 monitor (this test is to be performed using low range (2–5%) span gas):

Specification limits: 8.0% of span in any 24-hour period; 2.0% of span for any three consecutive 24-hour periods.

$$\text{24-hour } SO_2 \text{ zero drift} = \left|\frac{CEMS_z - G_z}{CEMS_s}\right| \times 100 \qquad \text{Equation 3}$$

where:
$CEMS_z$ = monitor zero value (ppm)
G_z = zero gas value (ppm)
$CEMS_s$ = monitor span value (ppm)

(*2*) 24-hour *zero* drift of the O_2 monitor:

Specification limits: 2.0% O_2 in any 24-hour period; 0.5% O_2 for any three consecutive 24-hour periods.

$$\text{24-hour } O_2 \text{ zero drift} = \left|CEMS_z - G_z\right| \times 100 \qquad \text{Equation 4}$$

where:
$CEMS_z$ = monitor zero value (%O_2)
G_z = zero gas value (%O_2)

(*3*) 24-hour *calibration* drift of the SO_2 monitor (this test is to be performed using 85–95% span gas):

Specification limits: 10.0% of span in any one 24-hour period; 2.5% of span for any three consecutive 24-hour periods.

$$\text{24-hour } SO_2 \text{ calibration drift} = \left|\frac{CEMS_r - G_v}{CEM_s}\right| \times 100 \qquad \text{Equation 5}$$

where:
$CEMS_r$ = monitor reading (ppm)
G_v = calibration gas value (ppm)
$CEMS_s$ = monitor span value (ppm)

(*4*) 24-hour *calibration* drift of the O_2 monitor:

Specification limits: 2.0% O_2 in any one 24-hour period; 0.5% O_2 for any three consecutive 24-hour periods.

$$\text{24-hour } O_2 \text{ calibration drift} = \left|CEMS_r - G_v\right| \times 100 \qquad \text{Equation 6}$$

where:
$CEMS_r$ = monitor reading (%O_2)
G_v = calbration gas value (%O_2)

(B) Daily mid-range checks of the CEMS.—Conduct the following mid-range calibration checks of each CEMS *after* performing the zero and calibration drift checks. The purpose for requiring mid-range calibration checks is to verify CEMS linearity between the zero and calibration values. The mid-range calibration checks shall be conducted at approximately 24-hour intervals (or more frequently), and the equations provided shall be used to determine if the CEMS meets the designated specification limits:

24-hour *mid-range* drift check of the SO_2 *and* the O_2 monitors (this test is to be performed using 45–55% span gas): Specification limits (same for SO_2 and O_2 monitors): 10% of mid-range gas in any one 24-hour period and 5.0% of mid-range gas in any three consecutive 24-hour periods.

$$SO_2 \text{ and } O_2 \text{ mid-range drift} = \left| \frac{CEMS_r}{G_r} - 1 \right| \times 100 \qquad \text{Equation 7}$$

where:
$CEMS_r$ = monitor reading (ppm SO_2 or $\%O_2$)
G_r = mid-range gas value (ppm SO_2 or $\%O_2$)

(C) Initial and weekly checks of the CEMS.—Initially and once each week, conduct at least one 24-hour modified relative accuracy test of each CEMS (combined SO_2 and O_2 channels in units of SO_2 lb/10^6 Btu) using the CB method. If the difference between the CEMS and CB exceeds the designated specification limit, the 24-hour test must be repeated, within the next 24-hour period. If the CEMS again fails to meet the specification limit, remove the monitor from service.

Specification limit: ±20% (maximum percent difference between CEMS and CB)

$$\text{24-hour percent difference (CEM } \textit{vs.}\text{ CB)} \left| \frac{CEMS}{CB} \right| - 1 \times 100 \qquad \text{Equation 8}$$

where:
CEMS = SO_2/O_2 monitor system reading (SO_2 lb/10^6 Btu)
CB = CB measurement results (SO_2 lb/10^6 Btu)

(D) Initial and quarterly performance specification tests of CEMS. Initially and once each three months, conduct at least one 3-hour relative accuracy test (combined SO_2 and O_2 channels as per Reference 1), and a response time and calibration error test, (as per Reference 2). The calculation procedures provided in References 1 and 2 shall also be used.

Specification limits: • Relative Accuracy = ±20% (maximum percent difference between the CEMS and the RM data in units of lb SO_2/10^6 Btu)
• Response Time = 15 minutes
• Calibration Error = 5.0% (SO_2 and O_2 channels separately)

(E) Unscheduled performance specification tests of the CEMS.—If for any reason (other than routine maintenance as specified in the Lear Siegler operating manual) the CEMS is taken out of service or its performance is not within the specification limits of paragraph (g)(6) of this section, the Company shall conduct a complete Performance Specification Test (PST) of the CEMS, according to the combined requirements of References 1 and 2, as per paragraph (g)(6)(i)(D) of this section. Whenever a CEMS is taken out of service and a supplementary CB system is being used, the CEMS shall not replace the CB system until such time that the Company has demonstrated that the performance of the CEMS is within all of the performance limits established by paragraphs (g)(6)(i)(A), (B), (C), and (D) of this section.

(ii) QA requirements, calculation procedures, and specification limits for CB systems: At a minimum, the Company shall conduct the following initial, weekly, and quarterly QA evaluations of *all* CB systems that are being used: (1) For any quality assurance evaluations of a CEMS; and (2) as the secondary compliance method when a CEMS is out of service. If a CB system does not meet these specifications, then: (1) The CB must immediately be taken out of service; (2) the Company must notify the Director, Division of Stationary Source Enforcement (Washington, D.C.) within 72 hours after this determination is made; and (3) the Company will be considered in violation of the provisions of the waiver until an acceptable monitoring method is initiated (see paragraph (g)(8)(iii) of this section).

(A) Initial and weekly mid-range calibration checks of the CB system.—Calibration checks of the CB system, using mixed SO_2/CO_2 mid-range calibration gas, shall be performed initially and at least once each week thereafter. The calibration gas shall be sampled by the CB system for no less than 2 hours at a flow rate approximately the same as used during emission sampling. The following equation

shall be used to determine if the CB meets the designated mid-range calibration specification limit.

Specification limit: 10.0% (maximum percent difference between CB value and mid-range gas value).

$$\text{Percent difference (CB vs. calibration gas)} = \left| \frac{CB}{G_r} - 1 \right| \times 100 \qquad \text{Equation 9}$$

where:
CB = bubbler value (SO_2 lb/10^6 Btu)
G_r = mixed SO_2/CO_2 mid-range calibration gas value (SO_2 lb/10^6 Btu)

(B) Initial and quarterly relative accuracy tests of the CB systems. Operate at least one of the CB systems used during the quarter for a 3-hour period. During the same three hour period, collect at least one paired set of Reference Method 3 and 6 samples. Each paired set shall consist of at least three to six 20–60 minute consecutive ("back-to-back") runs. The following equation shall be used to determine if the CB meets the designated relative accuracy specifications limit.

CB Specification limit: 10.0% (maximum percent difference between CB value and and RM value).

$$\text{Percent difference (CB vs. RM)} \quad \left| \frac{CB}{RM} - 1 \right| \times 100 \qquad \text{Equation 10}$$

where:
CB = bubbler value (SO_2 lb/10^6 Btu)
RM = average value of the paired Reference Method 3 and 6 runs (SO_2 lb/10^6 Btu)

(iii) QA requirements and specification limit for calibration gases: All calibration gases used for daily, weekly, or quarterly calibration drift checks, CB calibration checks and performance specification tests shall be analyzed following EPA Traceability Protocol No. 1 (see reference 4) or with Method 3 or 6. If Method 3 or 6 is used, do the following. Within two weeks prior to its use on a CEMS, perform triplicate analyses of the cylinder gas with the applicable reference method until the results of three consecutive individual runs agree within 10 percent of the average. Then use this average for the cylinder gas concentration.

(iv) Quality assuance checks for laboratory analysis: Each day that the Company conducts Reference Method 6 or CB laboratory analyses, at least two SO_2 audit samples shall be analyzed concurrently, by the same personnel, and in the same manner as the Company uses when analyzing its daily emission samples. Audit samples must be obtained from EPA. The following equation shall be used to calculate the designated specification limit to determine if the Company's laboratory analysis procedures are adequate.

Analysis specification limit (for each of two audit samples): 5% (maximum percent difference between laboratory value and the average of the actual value of the audit samples).

$$\text{Percent difference (laboratory } \textit{vs.} \text{ actual)} = \left| \frac{SLV}{SAV} - 1 \right| \times 100 \qquad \text{Equation 11}$$

where:
SLV = *laboratory* value (mg/DSCM) of the audit sample
SAV = *actual* value (mg/DSCM) of the audit sample

(v) QA requirements, calculation procedures, and specification limits for 24-hour fuel sampling and analysis: At a minimum, the Company shall conduct the following bi-weekly QA evaluations of each boiler's fuel sampling and analysis data.

(A) Initially and at least bi-weekly the Company (or its own contractor laboratory) shall prepare and split a 60 mesh (250 micron) sample of coal (24-hour composite) with an independent laboratory. The Company shall compare the independent laboratory's heat content values to those of the Company's respective analyses. Use the following equation to determine if the Company's coal analysis procedures are adequate.

Specification limit: 500 Btu/lb (maximum difference between the two laboratories' results)

$$\text{Inter-laboratory difference} = |\text{CFA} - \text{IFA}| \qquad \text{Equation 12}$$

where:
CFA = Company's fuel analysis (Btu/lb)
IFA = Independent laboratory anlysis (Btu/lb)

(B) Analysis of reference coal.—At a minimum, the Company shall initially (and thereafter bi-weekly), but on alternating weeks from above (g)(6)(v)(A) of this section analysis, analyze the heat content of at least one reference coal sample. Reference coal samples must be obtained from EPA. Use the following equation to determine if the Company's fuel analysis procedures are adequate.

Specification limit: 500 Btu/lb (maximum difference between the Company laboratory's value and the heat content of the reference coal).

$$\text{Difference between Company's laboratory and reference} = |\text{FAV} - \text{FLV}| \qquad \text{Equation 13}$$

where:
FLV = laboratory value (Btu/lb)
FAV = reference value (Btu/lb)

(vi) The use of more than the minimum quantities of data to calculate the QA specifications: Whenever the Company supplements, expands, or otherwise obtains more than the minimum amount of QA data required by paragraph (g)(6) of this section for the QA evaluations, the Company shall use all available data in assessing achievement of the QA specifications. All of the equations delineated above may be expanded algebraically to accommodate increased data, sample runs, or test repetitions.

(7) Compliance Provisions:

(i) Compliance with all of the provisions of this waiver requires:

(A) Documentation that the combined emission levels (of Units Nos. 1, 2, and 3 or 1 and 2, as appropriate) did not exceed the emission limitations specified in paragraph (e) of this section.

(B) Documentation that the Company acquired at least the minimum quantity and quality of valid emission data specified in paragraph (g)(3) of this section.

(C) Documentation that the Company performed at least the minimum quality assurance checks specified in paragraph (g)(6) of this waiver; and

(D) Timely and adequate reporting of all data specified in paragraph (g)(8) of this section.

Failure to meet any of these requirements constitutes a violation of this waiver.

(ii) SO_2 emissions rate data from individual boilers shall be obtained by the primary compliance test method (CEMS), by the secondary compliance test method (CB), or other methods approved by the Administrator. Data for the heat input determination shall be obtained by 24-hour as-fired fuel analysis and 24-hour coal feed rate measurements, or other methods approved by the Administrator. Compliance with all SO_2 emission limitations shall be determined in accordance with the calculation procedures set forth in paragraph (g)(5) of this section or other procedures approved by the Administrator. The Company must demonstrate compliance with all 3-hour, 24-hour, and 30-day SO_2 emission limitations during all periods of fuel combustion in one or more boilers (beginning with the effective date of the waiver), and including all periods of process start-up, shutdown, and malfunction.

(iii) If the minimum quantity or quality of emission data (required by paragraph (g) of this section) were not obtained, compliance of the affected facility with the emission requirements specified in this waiver may be determined by the Administrator using all available data which is deemed relevant.

(iv) For the purpose of demonstrating compliance with the emission limitations and data requirements of this waiver:

(A) "A day" (24-hour period) begins at 12:01 p.m. and ends at 12:00 noon the following day. The Company may select an alternate designation for the beginning and end of the 24-hour day. However, the Agency must be notified of any alternate designation of a "day" and must be maintained throughout the waiver period. Also, for the purpose of reporting, each day shall be designated by the calendar date corresponding with the beginning of the 24-hour period;

(B) Where concurrent 24-hour data averages are required (i.e., coal feed rate, fuel sampling/analysis, SO_2 tons/24 hours, and SO_2 lb/10^6 Btu), the designated 24-hour period comprising a day shall be consistent for all such averages and measurement data; and

(C) There are eight discrete 3-hour averaging periods during each day.

(8) Notification and Reporting Requirements.

(i) Notification: The Company shall provide at least 30 days notice to the Director, Division of Stationary Source Enforcement (Washington, D.C.) of any forthcoming quarterly CEMS Performance Specification Tests and CB accuracy tests.

(ii) Quarterly Compliance and Monitoring Assessment Report requirements: The Company shall submit to the Director, Division of Stationary Source Enforcement (Washington, D.C.) "hard copy" quarterly reports that present compliance data and relevant monitoring and process data (e.g., process output rate, heat input rate, monitoring performance, and quality assurance) acquired during the reporting period. Quarterly reports shall be postmarked no later than 30 days after the completion of every (whole or partial) calendar quarter during which the waiver is in effect.

Note.—These requirements do not replace or preclude the "Unscheduled Reporting Requirements" contained in paragraph (g)(8)(iii) of this section.

The following specific information shall be furnished for every calendar day:

(A) General Information:

(*1*) Calendar date;

(*2*) The method(s), including description, used to determine the 24-hour heat input to each boiler (in units of Btu/hour);

(*3*) The "F" factor(s) used for all applicable calculations, the method of

its determination, and the type of fuel burned;

(B) Emission Data:

(*1*) Combined (Units Nos. 1, 2, and 3) 24-hour average SO_2 emission rate (in units of lb/MMBtu);

(*2*) Combined (Units Nos. 1, 2 and 3) rolling 30-day average SO_2 emission rate (in units of lb/MMBtu);

(*3*) Combined (Units Nos. 1, 2, and 3) 3-hour average emission rates (in units of tons SO_2);

(*4*) Combined (Units Nos. 1, 2, and 3) 24-hour average emission rates (in units of tons SO_2);

(*5*) Combined (Units Nos. 1 and 2) 3-hour average emission rates (in units of tons SO_2); and

(*6*) Combined (Units Nos. 1 and 2) 24-hour average emission rates (in units of tons SO_2).

(C) Quality Assurance Check Data:

(*1*) The date and summary of results from all (initial and repetitions) of the quality assurance checks performed during the quarter. This includes all analytical results on EPA's SO_2 and coal audit samples.

(*2*) Description(s) of any modification(s) made to the CEMS or CB which could affect the ability of those systems to comply with the performance specifications in References 1 and 2, or the CB performance specifications established by Section (g) of this waiver.

(D) Atypical Operations:

(*1*) Identification of specific periods during the calendar quarter when each boiler was not combusting fuel;

(*2*) Periods of time when 3-hour, 24-hour, and/or 30-day averages were obtained using continuous bubbler data;

(*3*) All emission averages which have been calculated using a composite of two or more different sampling methods (i.e., periods when both CEMS and CB systems have been used) must be identified by designating all duration(s) and cause(s) of data loss during such periods;

(*4*) For each instance when a CEMS has been out of service, the Company shall designate:

(*i*) Time, date, duration;

(*ii*) Reason for such downtime;

(*iii*) Corrective action taken;

(*iv*) Duration before CB sampling began;

(*v*) Time, date, and performance specification test (summary) results acquired before CEMS returned to service; and

(*vi*) Time and date when CEMS actually returned to service, relative to terminating CB sampling.

(*5*) Where only a portion of continuous data from any averaging period(s) was obtained, the duration per averaging period(s) when data were acquired and were used to calculate the emission average(s) must be identified;

(*6*) If the required quantity or quality of emission data (as per paragraph (g) of this section) were not obtained for any averaging period(s), the following information must also be reported for each affected boiler. (See also Unscheduled Reporting Requirements, paragraph (g)(7)(iv) of this section:

(*i*) Reason for failure to acquire sufficient data;

(*ii*) Corrective action taken;

(*iv*) Characteristics (percent sulfur, ash content, heating value, and moisture) of the fuel burned;

(*v*) Fuel feed rates and steam production rates;

(*vi*) All emission and quality assurance data available from this quarter; and

(*vii*) Statement (signed by a responsible Company official) indicating if any changes were made in the operation of the boiler or any measurement change (±20 percent) from the previous averaging period) in the type of fuel or firing rate during such period.

(E) Company Certifications: The Company shall submit a statement (signed by a responsible Company official) indicating:

(*1*) Whether or not the QA requirements of this waiver for the CEMs, CB, and fuel sampling/analysis methods, or other periodic audits, have been performed in accordance with the provisions of this waiver;

(*2*) Whether or not the data used to determine compliance was obtained in accordance with the method and procedures required by this waiver, including the results of the quality assurance checks;

(*3*) Whether or not the data requirements have been met or, if the minimum data requirements have not been met due to errors that were unavoidable (attach explanation);

(*4*) Whether or not compliance with all of the emission standards established by this waiver have been achieved during the reporting period.

(iii) Unscheduled Reporting Requirements. The Company shall submit to the Director, Division of Stationary Source Enforcement (Washington, D.C.).

(A) Complete results of all CEMS performance specification tests within 45 days after the initiation of such tests;

(B) The Company shall report, within 72 hours, each instance of:

(*1*) Failure to maintain the combined (Units Nos. 1, 2, and 3 and Units Nos. 1 and 2, respectively) SO_2 emission rates below the emission limitations prescribed in Section (e) of this waiver;

(*2*) Failure to acquire the specified minimum quantity of valid emission data; and

(*3*) Failure of the Company's CB(s) to meet the quality assurance checks.

References

1. Standards of Performance for New Stationary Sources; Revisions to General Provisions and Additions to Appendix A, and Reproposal of Revisions to Appendix B. 46 FR 8352 (January 26, 1981).

2. Proposed Standards of Performance for New Stationary Sources; Continuous Monitoring Performance Specifications 44 FR 58602 (October 10, 1979).

3. 40 CFR Part 60, Appendix A (July 1, 1979).

4. *Quality Assurance Handbook for Air Pollution Measurement Systems*, Volume III, Stationary Source Specific Methods. EPA-600/4-77-027b, August 1977.

TABLE 1.—REQUIRED PERFORMANCE CRITERIA FOR QUALITY ASSURANCE (QA) EVALUATIONS

Sampling method	Minimum frequency	QA check	Specification limit	Duration	Calculation procedures
CEMS	Daily	24-hour zero drift SO_2	2.0 percent span	3 consecutive days	Equation 4.
CEMS	Daily	24-hour zero drift SO_2	8.0 percent span	24 hours	Equation 4.
CEMS	Daily	24-hour calibration drift SO_2	2.5 percent span	3 consecutive days	Equation 5.
CEMS	Daily	24-hour calibration drift SO_2	10.0 percent span	24 hours	Equation 5.
CEMS	Daily	24-hour zero drift O_2	0.5 percent O_2	3 consecutive days	Equation 6.
CEMS	Daily	24-hour zero drift O_2	2.0 percent O_2	24 hours	Equation 6.
CEMS	Daily	24-hour calibration drift O_2	0.5 percent O_2	3 consecutive days	Equation 7.
CEMS	Daily	24-hour calibration drift O_2	2.0 percent O_2	24 hours	Equation 7.
CEMS	Daily	24-hour mid-range check (SO_2 or O_2)	5.0 percent calibration gas value	3 consecutive days	Equation 8.
CEMS	Daily	24-hour mid-range check (SO_2 or O_2)	10.0 percent calibration gas value	24 hours	Equation 8.
CEMS [1]	Weekly [1]	Modified relative accuracy [1]	20.0 percent difference [1]	24 hours [1]	Equation 9. [1]
CEMS	Initial and quarterly	Relative accuracy (SO_2/O_2 combined)	20.0 percent difference	9–12 hours	See Reference 1.
CEMS	Initial and quarterly	Calibration error	50.0 percent calibration gas value	(N/A)	See Reference 2.
CEMS	Initial and quarterly	Response time	15 minutes	(N/A)	See Reference 2.
CEMS	Initial and quarterly	24-hour calibration drift (SO_2 and O_2 or CO_2)	2.5 percent span	7 consecutive days	See Reference 1.
CB	Initial and weekly	Mid-range check (SO_2/CO_2)	10.0 percent calibration gas value	(N/A)	Equation 10.
CB	Initial and quarterly	Relative accuracy (SO_2/CO_2 combined)	10.0 percent difference	3 hours	Equation 11.
Fuel S&A	Initial and bi-weekly	Split sample analysis	500 Btu/hr difference	(N/A)	Equation 13.
Fuel S&A	Initial and bi-weekly	Reference coal analysis	500 Btu/hr difference	(N/A)	Equation 14.
Laboratory analysis	Daily	Method 6 audit sample analysis	5.0 percent difference	(N/A)	Equation 12.

[1] Failure to meet this specification requires the test to be repeated one time. If this test documents a second failure to CEMS must be taken out of service.

Appendix I—Determination of Sulfur Dioxide Emissions From Fossil Fuel Fired Combustion Sources (Continuous Bubbler Method)

[Note.—The Company may use the method or its modifications which it requested and which are restated in Section (g)(2)(ii)(A) during the waiver period.]

1. *Applicability and Principle.*

1.1 Applicability. This method applies to the determination of sulfur dioxide (SO_2) emissions from combustion sources in terms of emission rate ng/J (lb/MMBtu).

1.2. Principle. A gas sample is extracted from the sampling point (in the emission exhaust duct or stack) over a 24-hour or other specified time period. The SO_2 and CO_2 contained in the sampled exhaust gases are separated and collected in the sampling train. The SO_2 fraction is measured by the barium-thorium titration method and CO_2 is determined gravimetrically.

2. *Apparatus.*

2.1 Sampling. The sampling train is shown in Figure 1; the equipment required is the same as for Method 6, except as specified below:

2.1.1 Impingers. Three 150 ml. Mae West impingers with a 1-mm restricted tip.

2.1.2 Absorption Tubes. Two 51 mm x 178 mm glass tubes with matching one-hole stoppers.

2.2 Sample Recovery and Analysis. The equipment needed for sample recovery and analysis is the same as required for Method 6. In addition, a balance to measure (within 0.05g) is needed for analysis.

3. *Reagents.*

Unless otherwise indicated, all reagents must conform to the specifications established by the Committee on Analytical Reagents of the American Chemical Society. Where such specifications are not available, use the best available grade.

3.1. Sampling. The reagents required for sampling are the same as specified in Method 6, except that 10 percent hydrogen peroxide is used. In addition, the following reagents are required:

3.1.1 Drierite. Anhydrous calcium sulfate ($CaSO_4$) dessicant, 8 mesh.

3.1.2 Ascarite. Sodium hydroxide coated asbestos for absorption of CO_2, 8 to 20 mesh.

3.2 Sample Recovery and Analysis. The reagents needed for sample recovery and analysis are the same as for Method 6, Sections 3.2 and 3.3, respectively.

4. *Preparation of Collection Train.* Measure 75 ml. of 80 percent IPA into the first impinger and 75 ml. of 10 percent hydrogen peroxide into each of the remaining impingers. Into one of the absorption tubes place a one-hole stopper and glass wool plug in the end and add 150 to 200 grams of drierite to the tube. As the drierite is added shake the tube to evenly pack the absorbent. Cap the tube with another plug of glass wool and a one-hold stopper (use this end as the inlet for even flow). The ascarite tube is filled in a similar manner, using 150–175 grams of ascarite. Clean and dry the outside of the ascarite tube and weigh (at room temperatue, 20 degrees C) to the nearest 0.1 gram. Record this initial mass as M_{ai}. Assemble the train as shown in Figure 1. Adjust the probe heater to a temperature sufficient to prevent water condensation.

4.1.1 Sampling. The bubbler shall be operated continuously at a sampling rate sufficient to collect 70–80 liters of source effluent during the desired sampling period. For example, a sampling rate of 0.05 liter/min. is sufficient for a 24-hour average and 0.40 liter per minute for a 3-hour average. The sampling rate shall not, however, exceed 1.0 liter/min.

4.2 Sample Recovery.

4.2.1 Peroxide Solution. Pour the contents of the second and third impingers into a leak-free polyethylene bottle for storage or shipping. Rinse the two impingers and connecting tubing with deionized distilled water, and add the washings to the same storage container.

4.2.2 Ascarite Tube. Allow the ascarite tube to equilibrate with room temperature (about 10 minutes), clean and dry the outside, and weigh to the nearest 0.1g in the same manner as in Section 4.1.1. Record this final mass (M_{af}) and discard the used ascarite.

4.3 Sample Analysis. The sample analysis procedure for SO_2 is the same as specified in Method 6, Section 4.3.

5. *Calculations.*

5.1 SO_2 mass collected.

$$M_{so2} = 32.03\ (V_t - V_{tb})\ N\ V_{soln} V_a \quad \text{Equation A1-1}$$

Where:

M_{so2} = mass of SO_2 collected, mg

V_t = volume of barium perchlorate titrant used for the sample, ml (average of replicate titrations).

V_{tb} = volume of barium perchlorate titrant used for the blank, ml.

N = normality of barium perchlorate titrant, milliequivalents/ml.

V_{soln} = total volume of solution in which the sulfur dioxide sample is contained, ml.

V_a = volume of sample aliquot titrated, ml. 5.2 Sulfur dioxide emission rate

$$E_{so2} = F_c\ [K_2]\ \frac{M_{so2}}{(M_{af} - M_{ai})} \quad \text{Equation A1-2}$$

Where:

M_{ai} = initial mass of ascarite, grams.

M_{af} = final mass of ascarite, grams.

E_{so2} = Emission rate of SO_2, ng/J (lb/MMBtu).

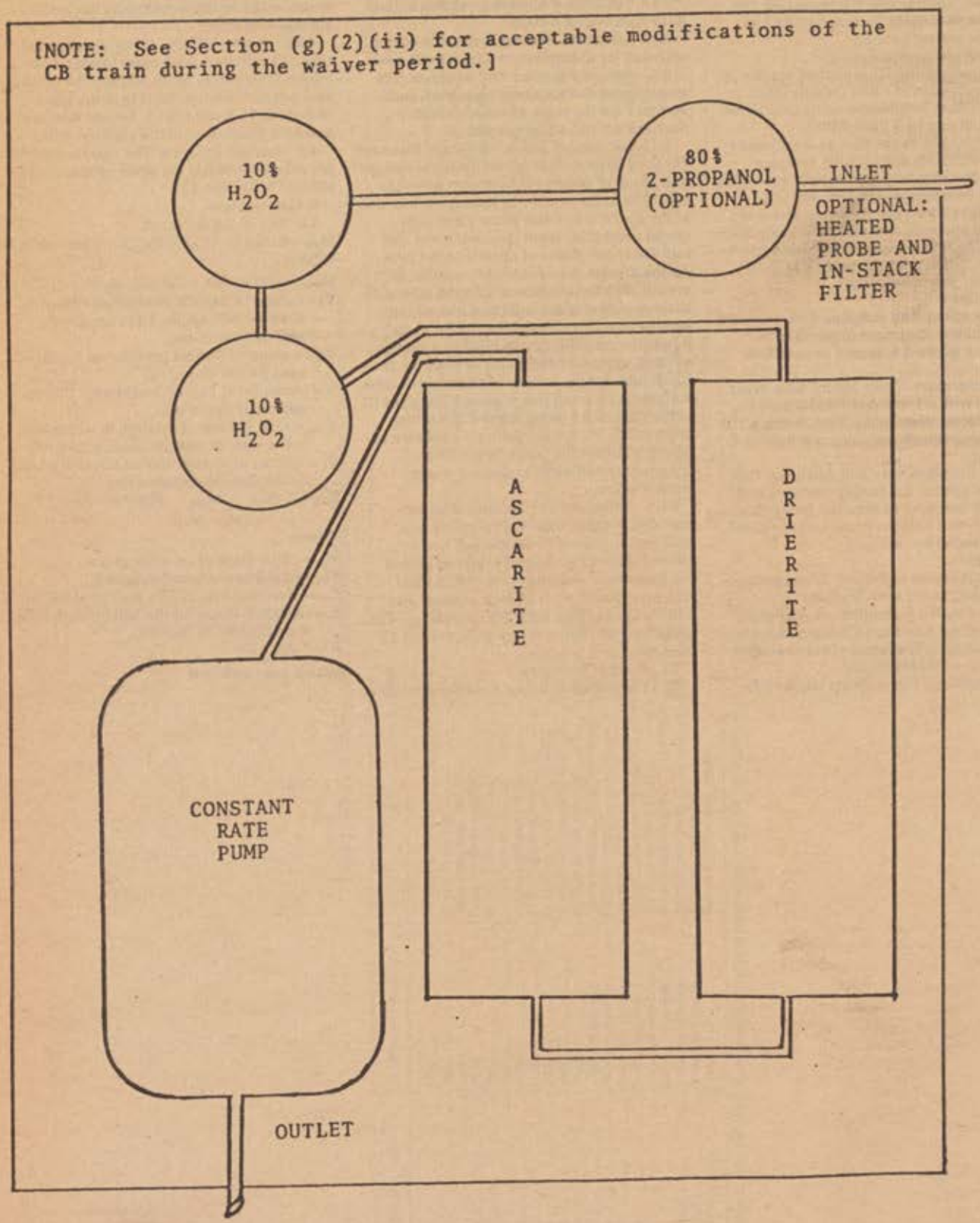
F_c = Carbon F factor for the fuel burned, M^3/J, from Method 19 (Ref. 2)

$K^2 = 1.829 \times 10^9$

BILLING CODE 6560-26-M

FIGURE 1

CONTINOUOUS BUBBLER (SO_2/CO_2) SAMPLING TRAIN



[FR Doc. 81-32510 Filed 11-12-81; 8:45 am]
BILLING CODE 6560-26-C

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-30

[FPMR Amdt. E-246]

Federal Catalog System; Nonperishable Subsistence Items; Correction

AGENCY: General Services Administration.

ACTION: Final rule; correction.

SUMMARY: In FR Doc. 81-20230, appearing at page 35645 in the issue of July 10, 1981, 41 CFR 101-30.404 is corrected by including the words "condiment packets" in the twelfth line to clarify exception items in FSC classes 8940 and 8950 that should not be submitted to the Veterans Administration for supply support.

FOR FURTHER INFORMATION CONTACT: Mr. Robert F. Welsh, Acting Director, Regulations Management Division (703-557-7970).

PART 101-30—FEDERAL CATALOG SYSTEM

Section 101-30.404 is corrected to read as follows:

§ 101-30.404 Supply support.

Civilian agencies requiring supply support on an item of supply shall request this action by preparing Standard Form 1303, Request for Federal Cataloging/Supply Support Action (illustrated at § 101-30.4901-1303), and submitting the form to the General Services Administration (FRIS), Washington, DC 20406. All supply support request for nonperishable subsistence items in Federal Supply Group 89, subsistence (except condiment packets in FSC classes 8940 and 8950), shall be submitted to the Veterans Administration, Catalog Division (901S), Veterans Administration Supply Depot, P.O. Box 27, Hines IL 60141. Guidance on the preparation of supply support requests is in the GSA Handbook, Federal Catalog System-Logistics Data (FPMR 101-30.3), issued by the Commissioner, Federal Supply Service.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

Dated: November 2, 1981.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 81-32773 Filed 11-12-81; 8:45 am]

BILLING CODE 6820-24-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6041

[A-12667]

Arizona; Powersite Restoration No. 760; Revocation of Powersite Reserve No. 602; Partial Revocation of Water Power Designation No. 5 (AR-2)

Correction

In FR Doc. 81-29337 appearing on page 49868 in the issue of Thursday, October 8, 1981; on page 49869, first column, first line should read:

"Sec. 15, N½, N½S½;"

BILLING CODE 1505-01-M

Proposed Rules

Federal Register
Vol. 46, No. 219
Friday, November 13, 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

Animal and Plant Health Inspection Service

7 CFR Part 331

Mediterranean Fruit Fly

Cross Reference: In a document published in the Rules section of today's **Federal Register** Animal and Plant Health Inspection Service withdraws a proposal to quarantine the State of Florida and to establish final regulations to restrict the interstate movement of articles from an area in Hillsborough County in Florida, because of the Mediterranean Fruit Fly. See the Table of Contents in the front of the **Federal Register** for the correct page number.

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 71

Packaging of Radioactive Material for Transport and Transportation of Radioactive Material Under Certain Conditions

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission has under consideration proposed amendments to its regulations that would restrict the air transport of plutonium. Pursuant to the Scheuer Amendment, the proposed rule will require that shipments of plutonium by air be contained in a package specifically certified as air-crash resistant. However, plutonium may be shipped by air in other packages if the plutonium is in a medical device for individual human use or if the plutonium is shipped in quantities or concentrations small enough to present no significant hazard to the public health and safety, even were the plutonium released in an air crash. All NRC licensees authorized to transfer plutonium are subject to the provisions of this proposed rule.

DATES: Comments received after January 12, 1982 will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments filed on or before January 12, 1982.

ADDRESSES: Interested persons are invited to submit written comments and suggestions on the proposed amendments, on the supporting Value/Impact Statement, on the Environmental Impact Appraisal, and on the certification criteria in NUREG–0360 to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Single copies of the Value/Impact Statement, the Environmental Impact Appraisal or NUREG–0360 may be obtained on request from Norman A. Eisenberg (address below). Copies of the Value/Impact Statement, the Environmental Impact Appraisal, NUREG–0360 and other reports cited under supplementary information below, and of comments received by the Commission may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Norman A. Eisenberg, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (Telephone: 301–443–5825).

SUPPLEMENTARY INFORMATION:

Background

The Scheuer Amendment, part of Public Law 94–79 and appearing as a footnote to section 201 of the Energy Reorganization Act of 1974, was enacted into law August 9, 1975. It provides that:

> The Nuclear Regulatory Commission shall not license any shipments by air transport of plutonium in any form, whether exports, imports or domestic shipments: *Provided, however,* that any plutonium in any form contained in a medical device designed for individual human application is not subject to this restriction. This restriction shall be in force until the Nuclear Regulatory Commission has certified to the Joint Committee on Atomic Energy of the Congress that a safe container has been developed and tested which will not rupture under crash and blast-testing equivalent to the crash and explosion of a high-flying aircraft.

On August 15, 1975, NRC issued an order to licensees, prohibiting the air transport of plutonium, except that contained in a medical device for individual human use. Since then, the NRC staff has developed a plutonium package capable of surviving an air crash (Model PAT–1), published qualification criteria for such a package (NUREG–0360), published a Safety Analysis Report for the package (NUREG–0361), and obtained the review of the National Academy of Sciences (NUREG/CR–0928) and the Advisory Committee on Reactor Safeguards (ACRS) for both the certification criteria and the package. This effort culminated on August 4, 1978, when the NRC certified to Congress that a package (Model PAT–1) that would fulfill the requirements of Pub. L. 94–79 had been designed and tested. A certificate of compliance was issued by NRC (see NUREG–0383, Volume 2, Revision 2, pp. 1–4) that authorizes use of the Model PAT–1 package for air transport of plutonium. The Commission will consider certifying other packaging as air-crash resistant, if such packaging is demonstrated to satisfy the criteria stated in NUREG–0360. Comments on these criteria are invited, although selection of certification criteria is not part of this rulemaking action.

On September 1, 1978, the NRC issued an order to NRC licensees (superseding the August 15, 1975 order to licensees) which states that:

> Notwithstanding any provisions to the contrary in the NRC's regulations or in your license, shipments of plutonium by air, other than plutonium contained in a medical device designed for individual human application, may only be made in packages the design of which the NRC has specifically approved for transport of plutonium by air.

Now that the NRC plutonium air transport package certification program has been completed, the NRC plans to issue a regulation implementing the mandate of Congress.

The Proposed Rule

This regulation is a reasonable interpretation of the law. Reflecting the specific language of the law, it will require the use of a package certified to be air-crash resistant for the air shipment of plutonium, unless the plutonium is contained in a medical

device for individual human use. In addition the regulation permits air shipment of plutonium in packaging other than that certified by the NRC to be air-crash resistant for low specific activities (less than 0.002 microcurie per gram) or for small quantities (less than an A_2 quantity [1]).

The allowance to ship very low specific activities in other than air-crash-resistant packaging is a practical interpretation of the law, recognizing the definition of radioactive materials used in transport regulations. Since the atomospheric nuclear weapon tests in the 1950s and 1960s, soil, animals, and virtually all terrestrial materials contain very small quantities of plutonium. Obviously the law was not intended to apply to these materials in an absolute sense.

Similarly this proposed regulation, as a reasonable interpretation of the legislation, allows the air shipment of small quantities of plutonium in packaging other than that certified to be air-crash resistant. An NRC staff analysis (The Environmental Impact Appraisal) shows that an A_2 quantity of plutonium released to the human environment as a result of an air crash would generally be expected to produce no more than minor public health consequences. This realistic, but still conservative assessment, taking into account the environmental dispersion and population density exposed, shows the health effects produced would be a small fraction of a latent cancer fatality. With that margin of safety, large public health consequences would be essentially impossible, even if more than one package were involved in a single air crash. Furthermore the PAT-1 package certified to Congress by the NRC to be air-crash resistant allows the release of an A_2 quantity in a period of a week, after "crash and blast testing equivalent to the crash and explosion of a high-flying aircraft." Radioactive material shipments of an A_2 quantity or less would be exempt from the proposed Department of Transportation (DOT) requirements (44 FR 1852) and the proposed NRC requirements (44 FR 48234) for shipping in accident-resistant (type B) packaging, because such small quantities pose negligible risk and hazard to the public. For NRC licensees these exemptions would, however, be superseded by the NRC regulations implementing of the Scheuer Amendment. The allowance to ship as much as an A_2 quantity of plutonium in packaging other than that certified to be air-crash resistant will be consistent with the U.S. policy to support effective international safeguards by permitting the shipment of certain safeguards samples by air in packaging less expensive and less cumbersome than air-crash-resistant packaging. On this basis the proposed rule would allow these small quantities of plutonium to be shipped in other than air-crash-resistant packaging.

The A_2 quantity is in the context of the 1973 IAEA regulations, the same break point as 1 millicurie in the context of current NRC/DOT regulations. When the 1973 IAEA regulations are incorporated into the U.S. system by making final the NRC and DOT proposed rules, the reference to an A_2 quantity in this proposed rule will be consistent with the new regulatory structure. (For long-lived alpha-emitting isotopes of plutonium, the A_2 quantity is 2 or 3 millicuries; for Pu-241, a beta emitter, the A_2 quantity is 0.1 curie, but Pu-241 is substantially less radiotoxic than the other isotopes of plutonium.)

Petition to Ship Small Quantities

Related to this rulemaking, Eberline Instrument Corporation, in a letter dated July 18, 1977, formally petitioned the Commission (PRM-70-6) to allow air shipment of small quantities of plutonium (less than 5 microcuries) contained in calibration sources. On August 18, 1977, the NRC published a notice (42 FR 41675) of filing of a petition for rulemaking. Commission action on the rule proposed herein will define NRC policy and constitute a definitive response to this petition.

Differing Views of Commissioners Gilinsky and Bradford

Commissioners Gilinsky and Bradford believe that legislation is necessary to exempt A_2 quantities of plutonium.

Environmental Impact Statement

The Commission has determined under Council of Environmental Quality guidelines (40 CFR Part 1500) and the criteria in 10 CFR Part 51 that an environmental impact statement for these proposed amendments to 10 CFR Part 71 is not required, based on a finding of no significant impact on the quality of the human environment. Concurrent with publication of this notice of proposed rulemaking, the Commission is making available for public inspection, in its Public Document Room at 1717 H Street NW., Washington, DC, an "Environmental Impact Appraisal for Proposed Amendments to 10 CFR Part 71 to Restrict the Air Transport of Plutonium," to support a Negative Declaration,[2] and copies of the Value/Impact Statement supporting the proposed rule. Single copies of either document may be obtained on request from Dr. Norman A. Eisenberg, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (Telephone: 301-443-5825). Copies of any comments received on these proposed amendments may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, DC.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The proposed regulation, if promulgated, will relieve the restrictions on the air shipment of plutonium imposed by the current NRC order to licensees by permitting the air shipment of small quantities of plutonium in packaging other than that certified to be air-crash resistant. Currently the schedules and work routines, principally of small organizations, are disrupted by the inability to acquire small calibration sources containing plutonium in a timely fashion by air shipment. Because the proposed regulation reduces the regulatory burden imposed by the NRC's current order to licensees, the proposed rule does not have a significant economic impact within the context of the Regulatory Flexibility Act.

The Commission has made this certification regarding compliance with the requirements of the Regulatory Flexibility Act based on the analyses contained in the Value/Impact Statement and the Environmental Impact Appraisal. These analyses were based on the best estimates of costs and number of entities affected that were available to the Commission staff at the time these analyses were prepared. The Commission specifically invites comments on aspects of these analyses that will either support or dispute the determination made regarding compliance with the requirements of the Regulatory Flexibility Act. Unless the Commission receives comments on other information that causes the conclusions regarding these determinations to change, the Commission intends to repeat them at the final rule stage.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, section 553 of title 5 of the United States Code, and Pub. L. 94-79 (the Scheuer Amendment), notice is hereby given that adoption of the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 71 is contemplated.

[1] An A_2 quantity of plutonium is defined in Appendix C of the proposed amendments to 10 CFR Part 71 (44 FR 48234) published August 17, 1979 and in Table VII of the International Atomic Energy Agency Regulations for the Safe Transport of Radioactive Materials, IAEA Safety Series No. 6 (1973 Revised Edition).

[2] A copy of this appraisal is filed with the Office of the Federal Register.

PART 71—PACKAGING OF RADIOACTIVE MATERIAL FOR TRANSPORT AND TRANSPORTATION OF RADIOACTIVE MATERIAL UNDER CERTAIN CONDITIONS

1. A new § 71.43 is added to read as follows:

§ 71.43 Air transport of plutonium.

(a) Notwithstanding the provisions of any general licenses and notwithstanding any exemptions stated directly in this part or included indirectly by citation of 49 CFR Chapter 1, as may be applicable, plutonium in any form, whether for import, export, or domestic shipment, may not be transported by air or delivered to a carrier for air transport unless:

(1) The plutonium is contained in a medical device designed for individual human application; or

(2) The plutonium is contained in a material in which the specific activity is not greater than 0.002 microcuries per gram of material and in which the radioactivity is essentially uniformly distributed; or

(3) The plutonium is shipped in a single package containing no more than an A_2 quantity[3] of plutonium in any isotope or form and is shipped in accordance with § 71.5; or

(4) The plutonium is shipped in a package specifically authorized for the shipment of plutonium by air in the Certificate of Compliance for that package issued by the Commission.

(b) Nothing in paragraph (a) of this section is to be interpreted as removing or diminishing the requirements of § 73.24.

(Secs. 53, 161b. and i., Pub. L. 83-703, as amended, 68 Stat. 930, 948, as amended (42 U.S.C. 2073, 2201(b., i.)); Sec. 201, Pub. L. 93-438, as amended, 88 Stat. 1242, as amended, (42 U.S.C. 5841); Pub. L. 94-79)

Dated at Washington, D.C. this 6th day November 1981.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 81-32839 Filed 11-12-81; 8:45 am]

BILLING CODE 7590-01-M

[3] An A_2 quantity of plutonium is defined in Appendix C of the proposed amendments to 10 CFR part 71 (44 FR 48234) published August 17, 1979 and in Table VII of the International Atomic Energy Agency Regulations for the Safe Transport of Radioactive Materials, IAEA Safety Series No. 6 (1973 Revised Edition).

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 8, 9, 15, 16, 17, 18, 21, 33, 145, 147, 155, 166, and 180

Domestic Exchange-Traded Commodity Options

Correction

In FR Doc. 81-31791 appearing at page 54570 in the issue for Tuesday, November 3, 1981, make the following corrections:

(1) On page 54570, in the third column, in the fifth line from the top of the column, the last word in the line should have read "domestic".

(2) On page 54571, in the first column, in the last paragraph, in the eighteenth line, the word "be" should have read "by".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 145

[Docket No. 81N-0271]

Canned Tropical Fruit Salad; Advance Notice of Proposed Rulemaking on Possible Establishment of a Standard

Corrections

In FR Doc. 81-30469 appearing at page 51923 in the issue for Friday, October 23, 1981, make the following corrections:

1. On page 51924, in the first column, under 1.2(b), in the twenty-ninth line, *"Rambutan (Nephelium L.)"* should have read *"Rambutan (Nephelium lappaceum L.)"*;

2. On page 51926, in the first column, the footnote reading "See last paragraph of the section of this publication entitled "Introduction"." refers to the text of paragraph 8, and the footnote reading "Do not use the original drained weight of the product before separation of the fruits." refers to the equation.

BILLING CODE 1505-01-M

21 CFR Part 148

[Docket No. 81N-0272]

Quick Frozen Blueberries; Advance Notice of Proposed Rulemaking on Possible Establishment of a Standard

Corrections

In FR Doc. 81-30470 appearing at page 51926 in the issue for Friday, October 23, 1981, make the following corrections:

1. On page 51927, in the third column, paragraph 2.41 should have been designated as 2.4.1;

2. On page 51927 in the third column, and on page 51928, in the first column, the headings of paragraphs 3.2.1, 3.2.2, and 3.3.1 should have been italicized.

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[A-5-FRL-1961-5]

Ohio; Approval and Promulgation of Implementation Plan; Ohio Sulfur Dioxide Control Strategy

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The purpose of this notice is to repropose rulemaking to approve certain portions of the Ohio State Implementation Plan (SIP) for sulfur dioxide which were originally proposed on January 27, 1981 (46 FR 8575) and to discuss the results of EPA's review of the additional technical support and documentation the Ohio Environmental Protection Agency (OEPA) submitted to EPA during the public comment period.

EPA is today proposing to approve the state of Ohio's sulfur dioxide emission limitations for the following counties or portions thereof: Athens County (Columbus and Southern Ohio Electric (C&SOE)—Poston) Hamilton County (Du Pont—Fort Hill), Montgomery County (Dayton Power and Light—Tait and Hutchings), Pike County (Southern Wood Piedmont) Seneca County (Union Carbide Fostoria Plant) and Wayne County (Orrville Municipal Power Plant).

Additionally, EPA is proposing to redefine the SO_2 attainment area for Hamilton County into two distinct attainment areas. The purpose of this redefinition is to restrict the size of the area that is affected by a previously established baseline date, pursuant to the Prevention of Significant Deterioration (PSD) regulations (45 FR 52676) and section 107(d)(5) of the Clean Air Act. The existing primary nonattainment area is unaffected by this revision.

DATE: Comments on this proposed rule must be submitted on or before December 14, 1981.

ADDRESSES: Copies of the Docket #5A-80-3 are on file for copying and inspection during normal business hours at the following address. (It is

recommended that you telephone the contact person given below before visiting the Region V office).

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, 11th Floor, Chicago, Illinois 60604.

Environmental Protection Agency, Central Docket Section, West Tower Lobby, Gallery 1, 401 M Street SW., Washington, D.C. 20460

Copies of the Ohio Administrative Code (OAC) Rules for this SIP revision are available for inspection in the Docket #5A–80–3 cited above and at:

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

Ohio Environmental Protection Agency, Office of Air Pollution Control, Division of Authorization and Compliance, 361 East Broad Street (6th floor), Columbus, Ohio 43215

Written copies should be sent to: (Please submit an original and five copies if possible) Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio at the Region V address given above or at (312) 886–6088.

SUPPLEMENTARY INFORMATION:

I. Introduction

On September 12, 1979, the Governor of Ohio submitted a Sulfur Dioxide (SO_2) Control Plan to the United States Environmental Protection Agency (EPA) for inclusion in the State Implementation Plan (SIP) for Ohio. Supplemental technical support materials were submitted by the Director of the Ohio Environmental Protection Agency (OEPA) on October 23, 1979, January 10, 1980, January 28, 1980, May 16, 1980 and March 30, 1981.

On February 12, 1980, the Director of the OEPA submitted the Ohio Administrative Code (OAC) rule 3745–18–01 to 3745–18–94, in final form, as adopted by the Order of November 14, 1979, effective in Ohio December 28, 1979. OEPA requested that its Sulfur Dioxide Control Plan be substituted for the existing Federal control strategy and regulations for sulfur dioxide. The SO_2 plan was submitted pursuant to the requirements specified in section 110 of the Clean Air Act and 40 CFR Part 51.

On February 25, 1980, (45 FR 12266) EPA proposed: (a) To approve those portions of the Ohio submittal for which there was an enforceable control strategy that assures the attainment and maintenance of the National Ambient Air Quality Standards for sulfur dioxide, (b) to approve other portions of the submittal only if the State of Ohio provided specified technical support and documentation during the public comment period, and (c) to disapprove those portions of the submittal for which there were deficiencies in the methodology or inadequate technical justification.

On January 27, 1981, (46 FR 8481) EPA took final rulemaking action to approve and disapprove specific portions of the SO2 control plan for the State of Ohio. EPA took final action at that time on the general requirements, including a 30 day averaging period within the compliance test methods in Ohio's SO_2 plan, Ohio Administrative Code (OAC) rules 3745–18–01 to 3745–18–06. On February 12, 1981 (46 FR 11972) and on April 2, 1981 (46 FR 19936), EPA deferred until further notice the effective date of its January 27, 1981 rulemaking, including the general requirements.

EPA is not proposing to take action on the 30-day averaging issue in this notice. EPA will take action on the deferral of the effective date of its rulemaking on the general requirements in a future **Federal Register** notice. It is not taking any action on these general requirements today, but the general requirements as ultimately acted upon, will apply to the emission limits being proposed for public comment today.

Additionally, on January 27, 1981, (46 FR 8575) EPA additionally reproposed rulemaking to approve and disapprove other portions of the SO_2 plan. At the time of the January 27, 1981 reproposal, a 30 day public comment period was provided. On February 26, 1981 (46 FR 14135) the public comment period was extended to March 30, 1981.

Background information regarding the history of the Ohio SO_2 plan is discussed in the January 27, 1981 notice of proposed rulemaking (46 FR 8575).

Today, EPA reproposes to approve the State of Ohio's sulfur dioxide emission limitations for the following counties or portions thereof based on additional information now available: Athens County (C&SOE—Poston), Hamilton County (Du Pont-Fort Hill), Montgomery County (Dayton Power and Light-Tait and Hutchings), Pike County (southern Wood Piedmont) Seneca County (Union Carbide Fostoria Plant) and Wayne County (Orville Municipal Power Plant). EPA also proposes to approve a redefinition of the attainment area for Hamilton County.

II. Control Strategy Demonstration

OEPA has submitted a comprehensive control strategy and regulations to protect the primary and secondary standards for sulfur dioxide in the State of Ohio. Individual emission limitations are specified for the majority of sulfur dioxide sources in the State on a county-by-county basis, although some smaller sources are required to comply with a process compliance equation or a county-specific fuel burning regulation. Further discussion of the control strategy demonstration can be found in the February 25, 1980 **Federal Register** (45 FR 12266) and in the final Rationale Documents contained in docket 5A–80–3.

OEPA generally used the same models that EPA used in developing the Federal control strategy for sulfur dioxide in Ohio, although the application of the models occasionally differed. OEPA utilized 1964 meteorological data and a 1974 emissions inventory.

A. Hamilton county (Du Pont-Fort Hill)

On January 27, 1981, (46 FR 8575) EPA proposed to approve the control strategy for the Du Pont-Fort Hill facility in Hamilton County. In the notice, EPA stated that final action would not be taken until Ohio submitted the necessary PSD analysis and the analysis had been subject to public comment.

On March 30, 1981, Ohio EPA requested EPA to redefine the attainment area in Hamilton County, in lieu of a PSD analysis. Currently, the entire County is attainment except for Whitewater Township. The purpose of this request was to restrict the size of the area that is affected by a previously established baseline date, pursuant to the PSD regulations (45 FR 52676) and section 107(d)(5) of the Clean Air Act (CAA). Emission increases occurring from existing sources after the baseline data are counted against the applicable PSD increments.

A baseline area is defined as any intra-state area designated as attainment or unclassifiable under section 107 of the CAA in which the major source establishing the baseline date is located or has an annual air quality impact of 1 $\mu g/m^3$ or more for the pollutant for which the baseline date is established. In Hamilton County, there are only two PSD sources; GMAD (1979) and Emery Industries (1980). Since the new GMAD boilers are a major source of SO_2, they triggered the baseline date in 1979 for SO_2 in the entire designated attainment area which is currently the entire County except Whitewater Township.

To restructure the size of the attainment area affected by the established baseline date, the annual impacts of the PSD sources must be determined. As long as no PSD source

has located in or has no significant annual impact on a clean area, that area can be redesignated as a new attainment area, even if that area was previously part of a larger clean area where the baseline date has been triggered. See Federal Register dated August 7, 1980 (45 FR 52676).

Therefore, EPA in response to Ohio EPA's request is redefining the attainment area for Hamilton County. Hamilton County will be defined as two separate attainment areas. The annual significant impact areas from the 2 PSD sources are included in Attainment Area #1. Thus, the triggered baseline date is only applicable to Attainment Area #1. Consequently, since the Du Pont-Fort Hill plant is located in Attainment Area #2 (where a baseline date has not been triggered), a PSD analysis is no longer necessary for Du Pont. Therefore, EPA proposes to approve the emission limitations for the Du Pont-Fort Hill facility in Hamilton County and to revise the attainment boundaries for Hamilton County as follows.

Attainment Area #1—the City of Cincinnati bounded on the west by I 75 and U.S. Route 127, and on the south by the Ohio and Little Miami Rivers; the Cities of Norwood Fairfax, Silverton, Golf Manor, Amberly, Deer Park, Arlington Heights, Elwood Place and St. Bernard.

Attainment Area #2–The remainder of the County (except for Whitewater Township).

B. Montgomery County (Dayton Power and Light–Tait and Hutchings)

On January 27, 1981, (46 FR 8575) EPA proposed to disapprove the emission limitations for the Dayton Power and Light–Tait and Hutchings facilities based on the receptor resolution analysis (see Rationale Document for Proposed Rulemaking located in Docket 5A–80–3).

In response to the notice of proposed rulemaking, Ohio EPA submitted an urban/rural assessment of the Hutchings area demonstrating that EPA's application of an urban model was inappropriate. OEPA also submitted a reference PTMAX rural screening analysis which demonstrates that the Ohio emission limitation for the Hutchings facility is adequate to protect the NAAQS. These data are available for review in Docket 5A–80–3. Based on these data, EPA proposes to approve the emission limitations for the Dayton Power and Light Hutchings plant.

EPA conducted an additional review of the results of the receptor resolution analysis in an attempt to specify the sources that dominate the modeled violations. During this review, EPA found that the Dayton Power and Light Tait facility was incorrectly referenced as the source causing the violation. Rather, the Defense Electronics Supply Center (DESC) facility is the source which dominates the high concentration. A further review of that concentration, however, showed that it occurred on plant property. Since the property is restricted from access to the general public, the ambient standards are not applicable there. Consequently, the high modelled concentration is not a violation. Thus no violations resulted from the receptor resolution analysis.

Since the receptor resolution analysis demonstrates that the Dayton Power and Light–Tait facility does provide for attainment and maintenance of the NAAQS, and since this revision represent a decrease in the allowable sulfur dioxide emissions at this facility EPA is proposing to approve the emission limitations for this source.

C. Pike (Southern Wood Piedmont Company) and Wayne (Orrville Municipal Power Plant) Counties

On January 27, 1981, (46 FR 8575) EPA proposed to disapprove the emission limits for Orrville Municipal Power Plant (Wayne County) and all of Pike County.

In response to the notice of proposed rulemaking, Ohio EPA submitted a reference modeling analysis of Orrville Municipal Power Plant in Wayne County based on revised, current stack exit parameters and provided EPA with a current emission inventory for Southern Wood Piedmont in Pike County. The revised Orrville Municipal modeling demonstrated that the Ohio EPA limit for this source, which is identical to the existing federal emission limitation, is adequate to attain the NAAQS. Thus, EPA proposes to approve the Ohio EPA limit for the Orrville Municipal Power Plant.

As for Pike County, EPA performed a reference screening analysis using the emission inventory provided by Ohio EPA. This analysis demonstrated that the Ohio EPA emission limitation for the Southern Wood Piedmont Company in Pike County is adequate to attain the NAAQS. Although EPA did not require an emission limitation for this source in the federal plan, Ohio EPA requested an emission limitation of 7.00 lbs. SO_2/MMBTU. Thus, EPA proposes to approve the Ohio EPA Limit for the Southern Wood Piedmont Company in Pike County.

D. Athens County–C&SOE (Poston)

On December 12, 1979 (44 FR 71847), EPA proposed approval of a revision to the Federally promulgated SO_2 plan for C&SOE—Poston Units 1–4, from 3.72 lbs. SO_2/MMBTU to 7.90 lbs. SO_2/MMBTU.

C&SOE based its revision request on its new stack configuration where two 61 meter stacks have been replaced by a single 152.4 meter stack. The modeling demonstration also incorporated air quality impacts and GEP determinations based on the proposed new Units 5 and 6 which were scheduled for completion in 1982. On February 25, 1980, (45 FR 12266) EPA also proposed to approve the same emission limit and control strategy demonstration for Poston as submitted by the State of Ohio on September 12, 1979 in the Ohio EPA sulfur dioxide plan.

Subsequent to these proposals, C&SOE has notified EPA that Units 5 and 6 will not be completed as scheduled and, in fact, may not be constructed at all in the near future. Accordingly, C&SOE has submitted to both the EPA and OEPA a new control strategy demonstration that does not incorporate the impacts of the proposed Units 5 and 6 in support of the revised emission limits. EPA and OEPA have reviewed the attainment control strategy and have determined that the 7.9 lbs. SO_2/MMBTU for Units 1–4 will attain and maintain the NAAQS for SO_2 whether units 5 or 6 are built or not. Further discussion of the technical analysis of this revision can be found in the Technical Support Document for this proposal.

In lieu of reproposing a revision to the existing Federal plan for C&SOE—Poston, EPA proposes to approve the limits for the C&SOE–Poston Units 1–4 and Diesel Units 1–5 in Athens County contained in OAC rule 3745–18–11–(B), (1) and (2), since these limits are identical to those requested by the source as a revision to the Federal plan.

EPA reserves action on OAC rule 3745–18–11–B(3) for Units 5 and 6 since the boilers if constructed, will be subject to the applicable New Source Performance Standards.

E. Seneca County—Union Carbide Fostoria Plant

On January 27, 1981 (46 FR 8481), EPA published an approval of portions of the Ohio SO_2 plan. This approval included rules for Seneca County, Ohio which specifically identified the Union Carbide plant in Fostoria, Ohio.

On March 16, 1981, the State of Ohio requested a stay of the effective date of these regulations because it found that in the development of these regulations erroneous data were utilized which resulted in giving the facility a more stringent emission limitation than the existing Federal plan. The March 16,

1981 letter further explained that the imposition of these rules on this plant would cause a severe economic hardship since the only method of compliance available would be closure of the plant.

On April 2, 1981 (46 FR 19936), EPA, for other related reasons, deferred the effective date of the January 27, 1981 final rule until further notice. The effective date is still deferred. Therefore, no action on the requested stay for the Union Carbide facility is necessary since the Ohio plan has not yet become effective.

On April 30, 1981, Ohio EPA submitted a request to revise the regulation for the Union Carbide facility. The revised emission rate requested by Ohio will allow emission of less sulfur dioxide than the Federally promulgated sulfur dioxide plan. Additionally, this revised emission limit represents status quo conditions, and no actual increase in SO_2 emissions will occur.

The revision request contained a dispersion modeling analysis performed by Ohio EPA. Worst-case emissions were modeled to demonstrate the effectiveness of the SIP under representative meteorological conditions. Five years of meteorological data were used. Further discussion of the modeling analysis is contained in the Technical Support Document for the Union Carbide facility which is contained in the docket.

Based on the corrected data and the modeling analysis submitted by Ohio EPA, it has been determined that the revised emission limitation for the Union Carbide Fostoria plant will provide for attainment and maintenance of the NAAQS. Therefore, EPA is proposing to approve the revised emission limitation.

Interested persons are invited to comment on this proposed rulemaking. Comments should be submitted to the address listed in the front of this notice. Public comments received on or before December 14, 1981 will be considered in EPA's final rulemaking action. All comments received will be available for inspection at EPA, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Note.—Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. Today's action does not constitute a major regulation since it merely approves regulations adopted by the State and is not imposing any new requirements. This action was submitted to the Office of Management and Budget (OMB) for review as required by the Order.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator has certified (46 FR 8709) that SIP approvals under Section 110 of the Clean Air Act would not have a significant economic impact on a substantial number of small entities. This action merely approves state actions. Therefore, this action imposes no new requirements for the sources in Ohio.

(Sec. 110, Clean Air Act as amended (42 U.S.C. section 7410))

Dated: August 14, 1981.

Valdas V. Adamkus,

Acting Regional Administrator.

[FR Doc. 81-32803 Filed 11-12-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 123

[SW-6-FLR-1985-4]

Texas Application for Interim Authorization, Phase II, Components A and B, Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of a public hearing.

SUMMARY: Today EPA is announcing the availability for public review of the Texas application for Phase II, Components A and B, Interim Authorization, Hazardous Waste Management Program inviting public comment, and giving notice of a public hearing to be held on the application.

DATE: A public hearing will be held on Monday, December 21, 1981, at 7:00 p.m. Comments on the Texas Interim Authorization application must be received by the close of the public hearing on December 21, 1981.

ADDRESSES: EPA will hold a public hearing on Texas' application for Interim Authorization on Monday, December 21, 1981, at 7:00 p.m., in the Stephen F. Austin State Office Building, Room 118, 1700 N. Congress Avenue, Austin, Texas.

Written comments should be sent to: Environmental Protection Agency, Region 6, Air and Hazardous Materials Division, Attention: Beverly Foster, Solid Waste Branch, 1201 Elm Street, Dallas, Texas 75270, 214/767-2645.

Copies of the Texas Phase II Interim Authorization application are available during normal business hours at the following addresses for inspection and copying:

Environmental Protection Agency, Region 6, Library, 28th Floor, 1201 Elm Street, Dallas, Texas 75270, 214/767-7341

EPA Headquarters Library, Room 2404, 401 M Street, SW, Washington, D.C. 20460

Texas Department of Health, Bureau of Solid Waste Management, Room 602, 1100 West 49th Street, Austin, Texas 78756, 512/458-7271

Texas Department of Water Resources, Stephen F. Austin State Office Building, Library—Room 511, 1700 N. Congress Avenue, Austin, Texas 78711, 512/475-3781

Texas Department of Water Resources District Office, 4301 Center Street, Deer Park, Texas 77536, 713/479-5981

Texas Department of Water Resources District Office, Klee Square Building, Suite 515, 505 South Water Street, Corpus Christi, Texas 78401, 512/882-2548

Texas Department of Water Resources District Office, 2321 A 50th Street, Lubbock, Texas 79412, 806/799-1164

FOR FURTHER INFORMATION CONTACT: Beverly Foster, Solid Waste Branch, U.S. EPA, Region 6, Dallas, Texas 75270, 214/767-2645

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063), the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. Included in these regulations, which became effective 6 months from the date of promulgation, were provisions for a transitional stage in which states would be granted interim program authorization. The interim authorization program will be implemented in two phases corresponding to the two stages in which an underlying Federal program will take effect.

The State of Texas received Interim Authorization for Phase I on December 24, 1980.

In the January 26, 1981, **Federal Register** (46 FR 7965), the Environmental Protection Agency announced the availability of portions of the second phase of Interim Authorization. EPA's decision to make the second phase of Interim Authorization available in components was based on the desire to proceed with authorizing State programs as expeditiously as possible and because some of the Subparts of the Federal regulations containing standards for hazardous waste treatment, storage and disposal facilities (40 CFR Part 264) are to be promulgated at different times, rather than in one single promulgation as previously anticipated.

As noted in the May 19, 1980, **Federal Register**, copies of state submittals for Interim Authorization are to be available for public inspection and comment. The purpose of this notice is

to announce the availability of the Texas submittal for Phase II Interim Authorization, Component A (Permit Program for Containers, Tanks, Surface Impoundments and Waste Piles) and Component B (Permit Program for Incinerators); to invite public comment; and to give notice of a public hearing to be held on Texas' application. A listing and a description of requirements for Interim Authorization are stated in 40 CFR Part 123, Subpart F.

In addition, Texas has applied for delegation from EPA of its authority under the temporary regulations promulgated as the Interim Land Disposal Permitting Program (40 CFR Part 267).

(Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, and Solid Waste Disposal Act Amendments of 1980. 42 USC 6901 *et seq.*)

Dated: November 5, 1981.

Dick Whittington,

Regional Administrator.

[FR Doc. 81-32802 Filed 11-12-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 180

[PP 6E1760/6E1874/7E1929/9E2136/OE2309/OE2361/P182; PH-FRL-1947-5]

Benomyl; Proposed Tolerances

Correction

In FR Doc. 81-28758, at page 48720, in the issue of Friday, October 2, 1981, on page 48721, the third column, make the following changes:

(1) Correct the words of issuance under Part 180 to read:

"Therefore, it is proposed that 40 CFR 180.294 be revised to read as follows:

(2) Under § 180.294, line 4, correct "benzimidozole" to read "benzimidazole."

BILLING CODE 1505-01-M

Notices

Federal Register
Vol. 46, No. 219
Friday, November 13, 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

Rural Electrification Administration

Basin Electric Power Cooperative; Finding of No Significant Impact

Notice is hereby given that the Rural Electrification Administration (REA) has made a Finding of No Significant Impact (FONSI) in connection with the proposed financing assistance to Basin Electric Power Cooperative (Basin) of Bismarck, North Dakota.

The proposed financing assistance will be used by Basin to complete the Antelope Valley Station (AVS) Units 1 and 2.

In May of 1978, REA issued a Final Environmental Impact Statement (FEIS) on the AVS project. There were minor modifications made to the AVS project as described in the FEIS to accommodate the environment. The changes were the elimination of a blowdown discharge line and stabilization of a peripheral drainage ditch by paving it to control erosion. After an independent evaluation of the BER, the EA and information from other sources, REA has concluded the proposed project modifications will not have a significant impact on the quality of the human environment and prepared a FONSI.

The FONSI, EA and BER may be reviewed in the office of the Director, Power Supply Division, Rural Electrification Administration, Room 0230, South Agriculture Building, Washington, D.C. 20250, telephone (202) 382–1400 or at the office of the cooperative, Basin Electric Power Cooperative, 1717 East Interstate Avenue, Bismarck, North Dakota 58501, telephone (701) 223–0441.

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

Dated at Washington, D.C., this 6th day of November, 1981.

Harold V. Hunter,

Administrator, Rural Electrification Administration.

[FR Doc. 81-32748 Filed 11-12-81; 8:45 am]

BILLING CODE 3410-15-M

Cooperative Power Association; Finding of No Significant Impact

Notice is hereby given that the Rural Electrification Administration (REA) has made a Finding of No Significant Impact (FONSI) in connection with the proposed financing assistance to Cooperative Power Association (CPA) of Eden Prairie, Minnesota.

The proposed project is to construct a 115 kV transmission line from Benson to Kerkhoven in Swift County, Minnesota. The line will be 41 km (25.5 mi) long, and will be constructed south and then east from the Benson Substation terminating at the Kerkhoven Substation. The line will follow the road and utility rights-of-way.

A Borrower's Environmental Report (BER) was prepared by CPA on the proposed project and REA prepared an Environmental Assessment (EA) on the proposed project.

After an independent evaluation of the BER, the EA and information from other sources, REA concluded the proposed project will not have a significant impact on the quality of the human environment and prepared a FONSI. The FONSI, EA and BER may be reviewed in the office of the Director, Power Supply Division, Rural Electrification Administration, Room 0230, South Agriculture Building, Washington, D.C. 20250, telephone (202) 382–1400 or at the office of the cooperative, Cooperative Power Association, 8020 Mitchell Road, Eden Prairie, Minnesota 55344, telephone (612) 937–8599.

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 6th day of November, 1981.

Harold V. Hunter,

Administrator, Rural Electrification Administration.

[FR Doc. 81-32747 Filed 11-12-81; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Ash-Loop Creek Watershed, Ill.; Finding of No Significant Impact

AGENCY: Soil Conservation Service.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Warren J. Fitzgerald, State Conservationist, Soil Conservation Service, 301 North Randolph Street, Springer Federal Building, Champaign, Illinois 61820, telephone (217) 398–5267.

SUPPLEMENTARY INFORMATION: Pursuant to Section 192(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidlines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Ash-Loop Creek Watershed, St. Clair County, Illinois.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impact on the environment. As a result of these findings, Warren J. Fitzgerald, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for watershed protection on approximately 5,700 acres. The planned works of improvement include conservation tillage systems (chisel tillage, no-till); terraces; grass waterways; grade stabilization structures; pasture land management; livestock exclusion; critical area treatment; and wildlife habitat management.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting Warren J. Fitzgerald. The environmental assessment has been sent to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until December 14, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding state and local clearinghouse review of federal and federally assisted programs and projects is applicable)

Warren J. Fitzgerald,

State Conservationist.

[FR Doc. 81-32723 Filed 11-12-81; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

Discrete Semiconductor Device Subcommittee of the Semiconductor Technical Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Semiconductor Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 17, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on October 5, 1981 pursuant to the charter of the Committee.

The Discrete Semiconductor Device Subcommittee was formed to study transistor, diode, photoconductive, and thyristor semiconductor devices with the goal of making recommendations to the Department of Commerce relating to the appropriate parameters for controlling exports for reasons of national security.

Time and Place: December 8, 1981, at 9:30 a.m. The meeting will take place at the Main Commerce Building, Conference Room 5611, 14th Street and Constitution Avenue, N.W., Washington, D.C. The Subcommittee will meet only in Executive Session to discuss matters properly classified under Executive Order 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret A. Cornejo, Office of the Director of Licensing, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230. Telephone: 202-377-2583.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to section 10(d) of the Federal Advisory Committee Act, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12065. A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, Telephone: 202-377-4217.

Dated: November 6, 1981.

Saul Padwo,

Director of Licensing, Office of Export Administration.

[FR Doc. 81-32812 Filed 11-12-81; 8:45 am]

BILLING CODE 3510-25-M

Microcircuit Subcommittee of the Semiconductor Technical Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Semiconductor Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 17, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on October 5, 1981 pursuant to the charter of the Committee.

The Microcircuit Subcommittee was formed to study microcircuit and acoustic wave devices with the goal of making recommendations to the Department of Commerce relating to the appropriate parameters for controlling exports for reasons of national security.

Time and Place: December 8, 1981, at 9:30 a.m. The meeting will take place at the Main Commerce Building, Room 6802, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. The Subcommittee will meet only in Executive Session to discuss matters properly classified under Executive Order 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret A. Cornejo, Office of the Director of Licensing, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230. Telephone: 202-377-2583.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to section 10(d) of the Federal Advisory Committee Act, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12065. A copy of the Notice of Determination to closed meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, Telephone: 202-377-4217.

Dated: November 6, 1981.

Saul Padwo,

Director of Licensing, Office of Export Administration.

[FR Doc. 81-32813 Filed 11-12-81; 8:45 am]

BILLING CODE 3510-25-M

Semiconductor Manufacturing Materials and Equipment Subcommittee of the Semiconductor Technical Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Semiconductor Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 17, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on October 5, 1981 pursuant to the charter of the Committee.

The Semiconductor Manufacturing Materials and Equipment Subcommittee was formed to study the technical and strategic value of semiconductor device production equipment and materials for the purpose of maintaining a continuous review of the export control technical parameters, and to formulate recommendations to the Commerce Department for parameter updating as appropriate for reasons of national security.

Time and Place: December 8, 1981, at 9:30 a.m. The meeting will take place at the Main Commerce Building, Conference Room B, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. The Subcommittee will meet only in Executive Session to discuss matters properly classified under

Executive Order 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret A. Cornejo, Office of the Director of Licensing, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230. Telephone: 202–377–2583.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to section 10(d) of the Federal Advisory Committee Act, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12065. A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, Telephone: 202–377–4217.

Dated: November 6, 1981.

Saul Padwo,

Director of Licensing, Office of Export Administration.

[FR Doc. 81-32814 Filed 11-12-81; 8:45 am]

BILLING CODE 3510-25-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly, foreign licensing.

Copies of patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $5.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the PAT–APPL number. Claims are deleted from patent application copies sold to avoid premature disclosure. Claims and other technical data will usually be made available to serious prospective licensees upon execution of a non-disclosure agreement.

Requests for information on the licensing of particular inventions should be directed to: Office of Government Inventions and Patents, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.

Department of Agriculture, Program Agreements and Patent Branch, Admin. Ser. Div., Federal Building, Science and Education, Hyattsville, MD 20782

Patent application 6,228,852: Method of Controlling the European Corn Borer with Trewiasine; filed Jan. 27, 1981

Patent application 6,229,215: Erythro-9, 10-Dihydroxyoctadecan-1-o1 Acetate: A Boll Weevil Anti-Feedant; filed Jan 28, 1981

Patent application 6,229,217: Apparatus to Uniformly Control Wrapping a Filament Around the Surface of a Core Spun Yarn during Ring Spinning; filed Jan. 28, 1981

Patent application 6,233,242: Antibacterial Fatty Anilides; filed Feb. 10, 1981

Patent application 6,235,812: Antimicrobial Glycolic Acid Derivatives; filed Feb. 19, 1981

Patent application 6,236,084: Preparation of alpha-Substituted Acrylic Acids; filed Feb. 20, 1981

Patent application 6,237,186: Decolorization Pulp Mill and Bleach Plant Effluents Using Lignin-Degrading Fungi; filed Feb. 23, 1981

Patent application 6,238,401: Auxiliary Torque Back-Up Roll; filed Feb. 26, 1981

Patent application 6,248,371: Automatic Hatchery Tray Dumper; filed Mar. 27, 1981

Patent application 6,251,667: Heating of Proteinaceous Liquids; filed Apr. 23, 1981

Patent 4,265,048: Automatic Moisture Control for Roller Applicator; filed Dec. 3, 1979, patented May 5, 1981; not available NTIS

Patent 4,265,945: Quaternary Ureidomethyl Phosphonium Salts; filed Nov. 29, 1979, patented May 5, 1981; not available NTIS

Patent 4,266,675: Optical Wood-Bark Segregator; filed Jan. 4, 1980; patented May 12, 1981; not available NTIS

Patent 4,273,722: Method of Enhancing Activity of Homogeneous Ziegler-Type Copper Catalysts; filed Aug. 8, 1980; patented June 16, 1981; not available NTIS

Patent 4,275,167: Preferential Degradation of Lignin in Gramineous Materials; filed June 18, 1980; patented June 23, 1981; not available NTIS

Patent 4,275,649: Mechanical Buncher for Leafy Vegetables; filed Oct. 26, 1979; patented June 30, 1981; not available NTIS

Patent 4,277,364: Encapsulation by Entrapment; filed Oct. 19, 1976; patented July 7, 1981; not available NTIS

Patent 4,277,564: Preparing Entomocidal Products with Oligosporogenic Mutants of Bacillus Thuringiensis; filed June 9, 1980; patented July 7, 1981; not available NTIS.

Department of Transportation, Patent Counsel, 400 7th Street S.W., Washington, DC 20590

Patent application 6,266,016: Road Inclinometer for Moving Vehicles; filed Jan. 19, 1981

Department of Commerce, National Technical Information Service, Office of Government Inventions and Patents, Springfield, VA 22161

Patent application 6,247,684: Method for Producing Carbocyclic Compounds; filed Mar. 26, 1981

Patent application 6,261,415: Echometry Device and Method; filed May 7, 1981

Patent application 6,272,231: Pneumatic Adhesion Tester; filed June 11, 1981

Tennessee Valley Authority, Division of Law, Muscle Shoals, AL 25660

Patent 4,246,248: Simplified Batch Clarification of Liquid Ammonium Polyphosphate; filed May 7, 1979, patented Jan. 20, 1981; not available NTIS

Patent 4,256,479: Granulation of Fertilizer Borate; filed Mar. 5, 1979; patented Mar. 17, 1981; not available NTIS

Department of the Interior, Branch of Patents, 18th and C Streets, N.W., Washington, DC 20240

Patent application 6,209,173: Method for Controlled Burnout of Abandoned Coal Mines and Waste Banks; filed Nov. 21, 1980

Patent application 6,177,978: Electrochemical Apparatus for Simultaneously Monitoring Two Gases; filed Aug. 14, 1980

Patent application 6,213,446: Multilayer Pressure Vent for Explosion Proof Enclosures; filed Dec. 5, 1980

Patent application 6,216,585: Ring Bar Grizzly; filed Dec. 15, 1980

Patent application 6,219,704: Calibrateable Light Ray Scattering Reference Rod; filed Dec. 24, 1980

Patent application 6,237,818: Identification of Chrysotile; filed Feb. 25, 1981

Patent application 6,238,191: A System for Maintaining High Resonance during Sonic Agglomeration; filed Feb. 25, 1981

Patent 4,231,865: Backwashing Reverse-Osmosis and Ultrafiltration Membranes by Electro-Osmosis; filed Aug. 7, 1979; patented Nov. 4, 1980; not available NTIS

Department of Health and Human Services, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, MD 20205

Patent application 6,200,513: Improved Bismuth Germanate Detector for Ionizing Radiation; filed Oct. 24, 1980

Patent application 6,209,305: Nuclear Pulse Discriminator; filed Nov. 21, 1980

Patent application 6,224,957: 4a-Aryl-Decahydrosioquinolines; filed Jan. 14, 1981

Patent application 6,228,681: Gamma Ray Coincidence Analysis System; filed Jan. 26, 1981

Patent application 6,230,498: Method and Apparatus for Preparative Countercurrent Chromatography Employing a Rotating Column Assembly; filed Feb. 2, 1981

Patent application 6,239,015: Anastigmatic High Magnification, Wide-Angle Binocular

Indirect Attachment for Laser Photocoagulator; filed Feb. 27, 1981
Patent application 6,239,448: Macula-Disc Camera with Improved Resolution; filed Mar. 2, 1981
Patent application 6,247,713: Laboratory Rat Feeder; filed Mar. 26, 1981
Patent application 6,250,840: Cross-Slice Data Acquisition System for PET Scanner; filed Apr. 3, 1981
Patent application 6,267,538: Neisseria Gonorrhoeae Vaccine; filed May 27, 1981
Patent application 6,271,271: Infusion Apparatus; filed June 8, 1981
Patent application 6,281,745: Method for Removing Sulfur Dioxide from a Gas Stream; filed July 9, 1981
Patent 4,235,677: Distillation Flask and Apparatus for Producing High-Purity Water Having Overflow Liquid Trap Means; filed Feb. 23, 1978; patented Nov. 25, 1980; not available NTIS
Patent 4,244,787: Apparatus and Method for Determining Serum Concentrates of Metabolites by Monitoring Dialysate Fluid; filed June 11, 1979; patented Jan. 13, 1981; not available NTIS
Patent 4,250,891: Depth-Sense Perception and Two-Point Discrimination Aesthesiometers; filed June 7, 1979; patented Feb. 17, 1981; not available NTIS
Patent 4,254,774: Balloon Catheter and Technique for the Manufacture Thereof; filed Feb. 14, 1979; patented Mar. 19, 1981; not available NTIS
Patent 4,255,443: Homocysteine Thiolactone Perchlorate as a Tumor Promotor; filed Nov. 16, 1979; patented Mar. 19, 1981; not available NTIS
Patent 4,264,589: Separation of Active alpha 1-Acid Glycoprotein and Utilization in the Lipoprotein Lipase Enzyme System; filed July 17, 1979; patented Apr. 28, 1981; not available NTIS
Patent 4,265,694: Method of Making Unitized Three Leaflet Heart Valve; filed Jan. 22, 1980; patented May 5, 1981; not available NTIS
Patent 4,275,057: Seven-Membered Ring Compounds as Inhibitors of Cytidine Deaminase; filed Jan. 28, 1980; patented June 23, 1981; not available NTIS
Patent 4,277,017: Gear Drive for Seal-Less Counter Current Chromatography; filed Oct. 11, 1979; patented July 7, 1981; not available NTIS
Patent 4,277,604: Facile Synthesis of Codeine Precursors from Thebaine; filed Jan. 25, 1980; patented July 7, 1981; not available NTIS
Patent 4,279,817: Method for Producing Dimer Alkaloids; filed May 30, 1975; patented July 21, 1981; not available NTIS

Department of the Air Force, AF/JACP, 1900 Half Street, SW., Washington, DC 20324

Patent Application 6,098,429: Test Sample Support Assembly; filed Nov. 29, 1979
Patent Application 6,105,043: Environmentally Independent Fiber Optics Rotation Sensor; filed Dec. 18, 1979
Patent Application 6,154,718: Focused. Single Strand. Optical Fiber Rotational Alignment Image-Sensing and Comparing System; filed May 30, 1980
Patent Application 6,201,860: Improved Method of Manufacturing Holographic Elements for Fiber and Integrated Optic Systems; filed Oct. 29, 1980
Patent Application 6,212,956: AirFoil Vibration Test Apparatus; filed Dec. 4, 1980
Patent Application 6,225,556: Photon Storage Tube High Power Laser System; filed Jan. 16, 1981
Patent Application 6,227,319: Improved Impact Composite Blade; filed Jan. 22, 1981
Patent Application 6,227,564: Battery Electrode Hardness Tester; filed Jan. 22, 1981
Patent Application 6,227,565: Battery Electrode Fatique Simulator; filed Jan. 22, 1981
Patent Application 6,232,093: Feed-Forward Compensated Low-Loss CCD Regeneration Apparatus; filed Feb. 6, 1981
Patent Application 6,232,094: Implanted Boundary Layer Trip; filed Feb. 6, 1981
Patent Application 6,233,277: Grease Compositions Based on Fluorinated Polysiloxanes; filed Feb. 10, 1981
Patent Application 6,237,020: Cylindrical Microwave Lens Antenna for Wideband Scanning Applications; filed Feb. 23, 1981
Patent Application 6,237,021: Halogen Mass Flow Rate Detection System; filed Feb. 23, 1981
Patent Application 6,239,955: A Broad Bandwidth Surface Acoustic Wave Filter Apparatus with Staggered Tuning; filed Mar. 3, 1981
Patent Application 6,239,961: Polyaromatic Esters; filed Mar. 3, 1981
Patent Application 6,240,048: Vibration Stabilized Image Projection System; filed Mar. 3, 1981
Patent Application 6,242,502: Integral Electric Module and Assembly Jet Cooling System; filed Mar. 10, 1981
Patent Application 6,242,816: An Improved System for Measuring Angular Deviation in a Transparency; filed Mar. 11, 1981
Patent Application 6,242,817: Improved Aerial Day/Night Refueling Stations; filed Mar. 11, 1981
Patent Application 6,244,842: Upper and Lower Arm Load Simulator; filed Mar. 18, 1981
Patent Application 6,247,495: High Voltage Field Effect Transistor Pulse Apparatus; filed Mar. 25, 1981
Patent Application 6,249,255: Pitot-Static Tube Tester System; filed Mar. 30, 1981
Patent Application 6,251,697: Charge-Coupled Device with Improved Signal Regeneration and Reduced Transfer Losses; filed Apr. 7, 1981
Patent Application 6,251,823: Transparency Halation Measurement, Method and Apparatus; filed Apr. 7, 1981
Patent Application 6,251,832: Two-Axis Electromechanical Controller; filed Apr. 7, 1981
Patent Application 6,253,453: Phase-Shifting Amplifier; filed Apr. 13, 1981
Patent 4,255,478: Composite Structures; filed Mar. 14, 1979; patented Mar. 10, 1981; not available NTIS
Patent 4,256,363: Speckle Suppression of Holographic Microscopy; filed Aug. 8, 1978; patented Mar. 17, 1981; not available NTIS
Patent 4,256,368: Color Contrast Sensitivity Measuring Device; filed Jan. 7, 1980; patented Mar. 17, 1981; not available NTIS
Patent 4,257,265: Self-Stressed Mode 1 Fracture Mechanics Test Piece; filed Sept. 19, 1979; patented Mar. 24, 1981; not available NTIS
Patent 4,259,546: Electrical Feedthrough System for Pressurized Containers; filed Nov. 1, 1979; patented Mar. 31, 1981; not available NTIS
Patent 4,259,579: Waveguide Line Spread Function Analyzing Apparatus; filed Nov. 1, 1979; patented Mar. 31, 1981; not available NTIS
Patent 4,260,780: Phenylmethylpolysilane Polymers and Process for Their Preparation; filed Nov. 27, 1979; patented Apr. 7, 1981; not available NTIS
Patent 4,261,535: Streamline Afterbody for an Ejection Seat; filed Oct. 5, 1979; patented Apr. 14, 1981; not available NTIS
Patent 4,262,359: Five V Insertion Unit; filed July 16, 1959; patented Apr. 14, 1981; not available NTIS
Patent 4,263,461: Polyphenyl Ether Compounds; filed Oct. 26, 1979; patented Apr. 21, 1981; not available NTIS
Patent 4,266,301: Chemical-Biological Agent Protective Hood; filed Dec. 5, 1979; patented May 12, 1981; not available NTIS
Patent 4,266,742: Ram Wing Aircraft Launch Platform System; filed Oct. 17, 1979; patented May 12, 1981; not available NTIS
Patent 4,267,348: Fluorine-Containing Benzimidazoles; filed Dec. 4, 1979; patented May 12, 1981; not available NTIS
Patent 4,267,484: Parallel Multi-Electrode Spark Gap Switch; filed Aug. 28, 1979; patented May 12, 1981; not available NTIS
Patent 4,267,513: Impulse Generator Apparatus; filed Sept. 7, 1979; patented May 12, 1981; not available NTIS
Patent 4,267,514: Digital Phase-Frequency Detector; filed Feb. 16, 1979; patented May 12, 1981; not available NTIS
Patent 4,267,523: Incident Radiation Absorber; filed Jan. 5, 1979; patented May 12, 1981; not available NTIS
Patent 4,267,526: Continuous Wave Chemically Pumped Atomic Iodine Laser; filed Apr. 13, 1979; patented May 12, 1981; not available NTIS
Patent 4,268,562: Laser Resistant Ceramic Composite; filed Aug. 30, 1979; patented May 19, 1981; not available NTIS
Patent 4,268,654: Acetylene Terminated Matrix and Adhesive Oligomeric Compositions; filed Oct. 26, 1979; patented May 19, 1981; not available NTIS
Patent 4,268,791: Dual Trace Automatic Eddy Current Detection System for Multilayer Structures; filed Dec. 8, 1978; patented May 19, 1981; not available NTIS
Patent 4,269,107: Liquid Propellant/ Regenerative Charging System Bubble Preventer; filed June 19, 1979; patented May 26, 1981; not available NTIS
Patent 4,270,106: Broadband Mode Suppressor for Microwave Integrated Circuits; filed Nov. 7, 1979; patented May 26, 1981; not available NTIS
Patent 4,271,396: Incident Radiation Absorber/Reflector Assembly; filed Jan. 5, 1979; patented June 2, 1981; not available NTIS

Patent 4,273,026: Gun Alignment Adjusting Device; filed Aug. 3, 1979; patented June 16, 1981; not available NTIS

Patent 4,273,419: Light-Scattering Disc Collector; filed Mar. 21, 1980; patented June 16, 1981; not available NTIS

Patent 4,273,446: Light Spot Position Sensor for a Wavefront Sampling System; filed June 26, 1979; patented June 16, 1981; not available NTIS

Patent 4,273,536: Gun Simulator System; filed Jan. 28, 1980; patented June 16, 1981; not available NTIS

Patent 4,273,610: Method for Controlling the Resonance Frequency of Yttrium Iron Garnet Films; filed Sept. 11, 1979; patented June 16, 1981; not available NTIS

Patent 4,273,671: Fluorescent Detection of Flaws; filed Sept. 18, 1979; patented June 16, 1981; not available NTIS

Patent 4,274,049: Integrated Optical R-F Spectrum Analyzer; filed Aug. 28, 1979; patented June 16, 1981; not available NTIS

Patent 4,274,065: Closed Cycle Annular-Return Gas Flow Electrical Discharge Laser; filed July 31, 1979; patented June 16, 1981; not available NTIS

Patent 4,274,612: Multiple Diameter Wire Bundle Support; filed June 15, 1979; patented June 23, 1981; not available NTIS

Patent 4,275,857: Cooling System for Ramjet Engine; filed Nov. 5, 1979; patented June 30, 1981; not available NTIS

Patent 4,275,859: Optical Dome Protection Device; filed Dec. 18, 1979; patented June 30, 1981; not available NTIS

[FR Doc. 81-32724 Filed 11-12-81; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting Levels of Restraint for Certain Cotton Apparel From Malaysia

November 6, 1981.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing by the application of swing and carryforward, the levels of restraint established for women's, girls' and infants' cotton knit shirts and blouses in Category 339 (sublimit), men's and boys' woven cotton shirts in Category 340 and cotton trousers in Category 347/348 during the agreement year which began on January 1, 1981. The increases for swing are accounted for by a reduction in the level of restraint for cotton gloves and mittens in Category 331 from 508,200 dozen pairs to 360,562 dozen pairs during the same twelve-month period.

(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), May 5, 1981 (46 FR 25121), and October 5, 1981 (46 FR 48963)).

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 5, 1980 and February 27, 1981, between the Governments of the United States and Malaysia provides, among other things, that specific limits or sublimits may be exceeded by not more than 5 percent if a corresponding reduction is made in one or more specific limits in the same group during the same agreement year (swing) and for the borrowing of yardage from the following year with the amount used to be deducted from the level in the following year (carryforward). At the request of the Government of Malaysia and pursuant to the foregoing provisions of the bilateral agreement, the levels or restraint established for cotton textile products in Categories 331, 339, 340 and 347/348 are being adjusted for the twelve-month period which began on January 1, 1981 and extends through December 31, 1981.

EFFECTIVE DATE: November 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 (202/377-2184).

SUPPLEMENTARY INFORMATION: On May 5, 1981, there was published in the **Federal Register** (46 FR 25120) a letter dated April 23, 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 cotton, wool and man-made fiber textile products, including Categories 331, 339, 340, and 347/348, produced or manufactured in Malaysia and exported to the United States during the twelve-month period which began on January 1, 1981. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption or withdrawl from warehouse for consumption of cotton textile products in Categories 331, the sublimit for Category 339, 340, and 347/348 in excess of the designated, adjusted levels of restraint.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

November 6, 1981.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: On April 23, 1981, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the twelve-month period beginning on January 1, 1981 and extending through December 31, 1981 of cotton, wool and man-made fiber textile products, produced or manufactured in Malaysia, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 5, 1980 and February 27, 1981, as amended, between the Governments of the United States and Malaysia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on November 10, 1981 and for the twelve-month period beginning on January 1, 1981 and extending through December 31, 1981, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 331, the sublimit for Category 339, 340, and 347/348, produced or manufactured in Malaysia, in excess of the following levels of restraint:

Category	Adjusted 12-month level of restraint [1]
331	360,562 dozen pairs.
338/339	369,433 dozen of which not more than 172,050 dozen shall be in Category 339.
340	300,405 dozen.
347/348	169,830 dozen of which not more than 88,800 dozen shall be in category, 348.

[1] The levels of restraint have not been adjusted to reflect any imports after December 31, 1980.

The actions taken with respect to the Government of Malaysia and with respect to imports of cotton textile products from Malaysia 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.

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 5, 1980 and February 27, 1981, between the Governments of the United States and Malaysia which provide, in part, that: (1) specific limits or sublimits may be exceeded by not more than 5 percent, if a corresponding reduction is made in one or more other specific limits in the same group during the same agreement year; (2) specific limits may be adjusted for carryover and carryforward up to 11 percent of the applicable category limits; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

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. 81-32811 Filed 11-12-81; 8:45 am]

BILLING CODE 3510-25-M

Controlling Imports of Certain Wool Apparel Products From the Socialist Republic of Romania

November 9, 1981.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling at 7,037 dozen the level of imports of women's, girls' and infants' wool coats and suits in Category 435/444, produced or manufactured in the Socialist Republic of Romania and exported during the twelve-month period which began on April 1, 1981 and extends through March 31, 1982.

(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), May 5, 1981 (46 FR 25121), and October 5, 1981 (46 FR 48963) and October 27, 1981 (46 FR 52409)).

SUMMARY: The Bilateral Wool and Man-Made Fiber Textile Agreement of September 3 and November 3, 1980, between the Governments of the United States and the Socialist Republic of Romania establishes designated consultation levels for certain categories, including Category 435/444, which are not subject to specific ceilings during the twelve-month period which began on April 1, 1981. The United States Government has decided to control imports in Category 435/444 in the same manner as other categories previously designated. Inasmuch as imports in Category 435/444 have exceeded the agreed designated consultation level of 7,037 dozen, no further imports will be permitted.

EFFECTIVE DATE: November 16, 1981.

FOR FURTHER INFORMATION CONTACT: Gordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-4212).

SUPPLEMENTARY INFORMATION: On March 25, 1981, a letter dated March 19, 1981 was published in the Federal Register (46 FR 18576) from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established the levels of restraint applicable to certain specified categories of wool and man-made fiber textile products, produced or manufactured in Romania and exported to the United States during the twelve-month period which began on April 1, 1981. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of wool textile products in Category 435/444. The level of restraint has not been adjusted to reflect any imports after March 31, 1981. Imports during the April-September 1981 period have totaled 9,166 dozen and will be charged.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

November 9, 1981.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on March 19, 1981 by the Chairman, 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.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Wool and Man-Made Fiber Textile Agreement of September 3 and November 3, 1980, between the Governments of the United States and the Socialist Republic of Romania; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed effective on November 16, 1981, and for the period beginning on April 1, 1981 and extending through March 31, 1982, to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of wool textile products in Category 435/444 in excess of 7,037 dozen.[1]

Wool textile products in Category 435/444 which have been exported to the United States prior to April 1, 1981 shall not be subject to this directive.

Wool textile products in Category 435/444 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

[1]The level of restraint has not been adjusted to reflect any imports after March 31, 1981. Imports during the April-September 1981 period have amounted to 9,166 dozen.

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), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), and October 27, 1981 (46 FR 52409).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Socialist Republic of Romania and with respect to imports of wool 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. 81-32859 Filed 11-12-81; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Privacy Act of 1974; Systems of Records; Deletions

AGENCY: Department of the Air Force (AF), DOD.

ACTION: Deletions of Air Force Systems of Records.

SUMMARY: The Air Force is deleting 60 systems of records in its inventory of records subject to the Privacy Act of 1974. This is a periodic updating of the Air Force's systems of records inventory.

FOR FURTHER INFORMATION CONTACT: Mr. Jon E. Updike, HQ USAF/DAAD(S), Washington, D.C. 20330, telephone 202/694-3431.

SUPPLEMENTARY INFORMATION: The Air Force systems of records inventory subject to the Privacy Act of 1974 Title 5, United States Code Section 552a (Pub. L. 93-579; 44 Stat. 1896 *et seq.*), has been published in the Federal Register as follows:

FR Doc. 79-37052 (44 FR 74145) December 17, 1979

FR Doc. 81-897 (46 FR 6443) January 21, 1981

FR Doc. 81-7598 (46 FR 16110) March 11, 1981

FR Doc. 81-19652 (46 FR 34831) July 6, 1981
FR Doc. 81-24894 (46 FR 43228) August 27, 1981

M. S. Healy,
OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.
November 9, 1981.

Deletions:

F01001 AFA A

System name:

Cadet Administrative Records (44 FR 74147).

Reason:

The records in this system have been incorporated into F03502 AFA A, Cadet Management System and F075031LGTT A, Personal Property Movement Records.

F01001 OBXQPCF

System name:

Planning and Resource Management Information (44 FR 74148).

Reason:

This system has been discontinued.

F01001 OJ DP F

System name:

Drug Abuse Ledger (44 FR 74150).

Reason:

This System has been discontinued.

F01001 OJMPLSA

System name:

Instructor of the Month Records (44 FR 74151).

Reason:

Information in this system is not retrieved by any personal identifier.

F01101 OKPNQSD

System name:

Air Force Reserve Officer Training Corps (AFROTC) Guest Lecture Files (44 FR 74158).

Reason:

This system has been discontinued.

F01102 DPXVH F

System name:

Congressional Inquiries (46 FR 6537).

Reason:

The records in this system are not retrieved by any personal identifier.

F02501 OIACYVA

System name:

Manpower Standards Study Reports (46 FR 6538).

Reason:

Information in this system is not retrieved by any personal identifier.

F02503 OJ DP A

System name:

Commander Selection File (44 FR 74171).

Reason:

This system has been discontinued.

F02503 OJ DP B

System name:

Brigadier General Screening Board Results (44 FR 74171).

Reason:

This system has been discontinued.

F03001XOIACYVB

System name:

Inquiries on the Resource Program (46 FR 6540).

Reason:

The records in this system have been incorporated into F 03501 ARPC C, Personnel Management Records.

F03004 OEACYVA

System name:

Military Personnel Expense Distribution Listing (44 FR 74187).

Reason:

This system has been discontinued.

F0300410HAJXFB

System name:

Potential Program Managers Tracking System (PPMTS) (44 FR 74191).

Reason:

This system has been discontinued.

F0300410HAJXFC

System name:

Air Force Systems Command Personnel Data Retrieval System (44 FR 74191).

Reason:

This system has been discontinued.

F03501 AFDPG O

System name:

General Officer Personnel Data System (46 FR 6550).

Reason:

The records in this system have been integrated into F03501 DPMDQ1A Military Personnel Records System.

F03501 SGPC M

System name:

Physician Personnel File (44 FR 74210).

Reason:

This system has been discontinued.

F03501 OCGBUZA

System name:

Information Personnel Training Records (44 FR 74211).

Reason:

This system has been discontinued.

F03501 OTKWRDC

System name:

Informational Personnel Training Records (44 FR 74211).

Reason:

This system has been discontinued.

F03501XOIACYVB

System name:

Application for Separation from the Regular AF to AF Reserve/Air National Guard (46 FR 6558).

Reason:

This system has been discontinued.

F03501AOSSGBP

System name:

Education and Training Fact Sheets (44 FR 74222).

Reason:

This system has been discontinued.

F03501BOSBAEYA

System name:

Request for Clinical Privilege at USAF Hospital—Beale (44 FR 74222).

Reason:

The records in this system are properly part of F16001 SGPC A, Medical Professional Staffing Records (44 FR 74328).

F03501XOIACYVA

System name:

Reserve Supplement Officer (RSO) Case File (44 FR 74224).

Reason:

This program has been phased out of the Air Force Reserve.

F03502 OBXQPCB

System name:

Cadet Personnel Records System (44 FR 74229).

Reason:

The records in this system have been incorporated into F03502 AFA A, Cadet Management System (44 FR 74227).

F03504 OJMPLSB

System name:

Classification Screening Records (44 FR 74240).

Reason:

This system has been discontinued.

F03504 OJMPLSC

System name:

Assessment Screening Records (44 FR 74240).

Reason:

This system has been discontinued.

F03504 OJMPLSD

System name:

Redline Control Report (44 FR 74241).

Reason:

This system has been discontinued.

F03504 OYUEBLA

System name:

Training Status Code (46 FR 6560).

Reason:

This system has been discontinued.

F03504 OSPCZPA

System name:

Bomber Mobilization Recovery Roster (44 FR 74242).

Reason:

This system has been discontinued.

F03505 OIACYVA

System name:

Unfavorable Information Files (UIFs) on Officers and Airmen (44 FR 74245).

Reason:

Unfavorable Information Files are maintained only on active duty personnel. See F03505 DPMAO A, Unfavorable Information Files (UIFs) (44 FR 74244).

F04002 OMUHHZB

System name:

Air Reserve Technician Data System (44 FR 74257).

Reason:

This system has been discontinued.

F04501 OI A

System name:

Air National Guard Information Personnel Background File (44 FR 74262).

Reason:

This system has been discontinued.

F04501 OKPNQSB

System name:

Air Force ROTC Field Training Administration System (44 FR 74264).

Reason:

This system has been incorporated in F04501 OKPNQSA, Cadet Records (44 FR 74263).

F04501 OKPNQSD

System name:

Flight Instruction Program (FIP) (44 FR 74265).

Reason:

This system has been incorporated in F04501 OKPNQSA, Cadet Records (44 FR 74263).

F04501XOIACYVA

System name:

Air Force Service Data of Employees and Relatives (44 FR 74265).

Reason:

This information does not form a separate system of records. It is part of F03501 DPMDQIA, Military Personnel Records System (46 FR 6554).

F04501XOIACYVD

System name:

Air Force Reserve Officer Training Corps (AFROTC) Contract Violators (46 FR 6567).

Reason:.

This system has been discontinued.

F04501XOIACYVE

System name:

Involuntary Recall (46 FR 6567).

Reason:

This system has been discontinued.

F05001 OSGHLNG

System name:

Officers Electronic Warfare Officer (EWO) Training Record (44 FR 74271).

Reason:

This system has been discontinued.

F05001 OSGHLNH

System name:

Missile Procedures Training (MPT) Accomplishment (44 FR 74272).

Reason:

These records have been incorporated into F05002 SAC A, SAC Operations Personnel Training Management System (46 FR 6571).

F05001AOSGHLNB

System name:

Upgrade Training Missile Procedures Training (MPT) Critique Form (44 FR 74274).

Reason:

These records have been incorporated into F05002 SAC A, SAC Operations Personnel Training Management System (46 FR 6571).

F05101 ADC A

System name:

Aircrew Training Records Aerospace Defense Command (ADC).

Reason:

This system has been discontinued.

F06604 AFLC A

System name:

Labor Distribution and Cost System (44 FR 74292).

Reason:

This system was cancelled during development and was never operational.

F08001 OHMASIS

System name:

Research and Development Planning and Programming Records (44 FR 74299).

Reason:

The records in this system are not retrieved by any personal identifier.

F09503 OJMPLSA

System name:

Sound Recordings (44 FR 74301).

Reason:

This system has been discontinued.

F14001 OSGHLNA

System name:

Bachelor Airmen's Quarters (BAQ) Temporary Issue Receipt (44 FR 74327).

Reason:

These records have been incorporated into F09003 SAC A, Unaccompanied

Quarters Assignment/Termination (46 FR 34381).

F16003 ASGH R

System name:

Air Force Clinical Laboratory Automation System (AFCLAS) (44 FR 74331).

Reason:

These records are a sub system of F17101 SG A, Automated Medical/Dental Records System (46 FR 6578).

F16003 OSPCZPA

System name:

Laboratory Course Phase II (44 FR 74331).

Reason:

These records have been incorporated into F05002 ATC TTS, Student Record of Training (46 FR 6569).

F16101 OSSGBPA

System name:

Aerospace Medicine Program—Medical Recommendation Missile Duty (44 FR 74334).

Reason:

The records in this system are now part of F16101 SGPA A, Medical Recommendation for Flying Duty (44 FR 74334).

F16806 SGHB A

System name:

Inpatient Data System (44 FR 74345).

Reason:

These records are a subsystem of F17101 SG A, Automated Medical/Dental Record System (46 FR 6578).

F17101 SGHB A

System name:

Automated Inpatient Data System (44 FR 74347).

Reason:

These records are a subsystem of F17101 SG A, Automated Medical/Dental Record System (46 FR 6578).

F17101 SGHB B

System name:

Medical Recommendation for Flying Duty (44 FR 743447).

Reason:

This system has been discontinued.

F17101 OUMCBVA

System name:

Military Personnel Management System (44 FR 74349).

Reason:

These records are part of F03004 AFDPMDB, Advanced Personnel Data System (APDS) (46 FR 6541).

F1710100JUBJA

System name:

Planning and Resource Management Information System (44 FR 74349).

Reason:

This system has been discontinued.

F1710100HAJXFA

System name:

Personnel Data Used for Management Engineering (ME) Program Manning Purposes (44 FR 74349).

Reason:

This System has been discontinued.

F20002 05HCHLC

System name:

Events and Installation File (44 FR 74378).

Reason:

This system has been discontinued.

F20002 05HCHLD

System name:

Master Alpha Resource List (MARLA) (44 FR 74378).

Reason:

This system has been discontinued.

F20501 OUMCBVA

System name:

Compartmented Intelligence Access Roster (44 FR 74379).

Reason:

The records in this system are properly a part of F20505 AFIS A, Sensitive Compartmented Information Personnel Security Records (44 FR 74380).

F20505 OUMCBVA

System name:

Security Records Behavioral Data Reports (44 FR 74384),

Reason:

The records in this system are properly a part of F20505 SPI C, Special Security Files.

F21301 OJ DPC

System name:

Education Services Test Control Officers (44 FR 74386).

Reason:

This system has been discontinued.

F21401 OKPNQSA

System name:

Pupil Registration and Cumulative Record Cards (44 FR 74388).

Reason:

This system has been discontinued.

F21401 ORKNMDA

System name:

Personnel Management Program (44 FR 74388).

Reason:

This system has been discontinued.

F90001 OKPNQSA

System name:

Air University Outstanding Junior Officer of the Year (44 FR 74392).

Reason:

These records are not retrieved by any personal indentifier.

[FR Doc. 81-32870 Filed 11-12-81; 8:45 am]
BILLING CODE 3910-01-M

DELAWARE RIVER BASIN COMMISSION

Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Friday, November 20, 1981, commencing at 1:30 p.m. The hearing will be part of the Commission's regular November business meeting, which is open to the public. Both the hearing and the meeting will be held in the Hall of Flags, Philadelphia Centre Hotel (formerly known as the Sheraton Hotel), 1715 Kennedy Boulevard, Philadelphia, Pennsylvania. The subject of the hearing will be applications for approval of the following projects as amendments to the Comprehensive Plan pursuant to Article 11 of the Compact and/or as project approvals pursuant to section 3.8 of the Compact.

1. *Ewing-Lawrence Sewerage Authority (D–80–82 CP).* Increase in the capacity of the Authority's existing sewage treatment plant located between Assunpink Creek and the Delaware and Raritan Canal in Lawrenceville Township, Mercer County, New Jersey.

Capacity of the treatment plant will be increased from 11 to 16 million gallons per day. Treatment facilities will provide removal of 90 percent BOD and suspended solids. Treated effluent will continue to discharge into the Assunpink Creek.

2. *Hawley Area Authority (D–81–29 CP).* A sewage collection and treatment plant to serve the Borough of Hawley and portions of Palmyra Township, Wayne County, Pennsylvania. Future service will be provided to portions of Lackawaxen Township. The treatment plant is designed to remove 85 percent BOD and 88 percent of suspended solids from a sewage flow of 200,000 gallons per day. Treated effluent will discharge into the Lackawaxen River.

3. *American Dredging Company (D–74–66 Revision No. 2).* A dredging spoil rehandling basin immediately upstream of the Commodore Barry Bridge, Logan Township, Gloucester County, New Jersey. The existing Klondike Ditch rehandling basin will be abandoned and restored, and the new basin (Whites Basin) will be used to unload barges and pump spoils to existing disposal areas.

4. *Baldwin Hardward Manufacturing Corporation (D–81–55).* An industrial waste treatment project at the company's facility in Reading, Berks County, Pennsylvania. The treatment project is designed to provide 99 percent removal of suspended solids from a wastewater flow of 250,000 gallons per day. Treated effluent will discharge through a ditch to the Schuylkill River.

5. *Tiffany Investments (D–81–63).* An existing well water supply project serving the company's facilities in Pennsauken Township, Camden County, New Jersey. The project is designed to utilize approximately 360,000 gallons per day, which will be used for air conditioning purposes and returned to the ground water aquifer.

Documents relating to the above-listed projects may be examined at the Commission's offices. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the date of the hearing.

Dated: November 4, 1981.

W. Brinton Whitall,

Secretary.

[FR Doc. 81-32732 Filed 11-12-81; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF EDUCATION

Fund for the Improvement of Postsecondary Education; Application Notice

AGENCY: Department of Education.

ACTION: Application notice for comprehensive program for fiscal year 1982.

Preapplications and applications are invited for new awards under the Comprehensive Program of the Fund for the Improvement of Postsecondary Education, Department of Education.

The Secretary awards grants to institutions of postsecondary education and other public and private educational institutions and agencies for the purpose of improving postsecondary educational opportunities.

Authority for this program is contained in Title X of the Higher Education Act, as amended.

(20 U.S.C. 1135)

Closing Dates for Transmittal of Preapplications and Applications: Preapplications for awards must be mailed or hand-delivered by December 14, 1981. However, in order to ensure a timely grant awards process, applicants are strongly encouraged to submit their preapplications by December 1, 1981, the date referenced in the program information package previously sent to everyone on the mailing list of the Fund for the Improvement of Postsecondary Education. Applications must be mailed or hand-delivered by March 2, 1982.

Preapplications and Applications Delivered by Mail: A preapplication or application sent by mail must be addressed to the Comprehensive Program, Attention: 84.116A, Department of Education, Fund for the Improvement of Postsecondary Education, 400 Maryland Avenue, S.W., (Room 3100, Regional Office Building 3) Washington, D.C. 20202–3328.

To establish proof of mailing, an applicant must show one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any proof of mailing acceptable to the Secretary.

If an application is sent through the U.S. Postal Service, the Secretary does not accept a private metered postmark or a receipt that is not dated by the U.S. Postal Service as proof of mailing. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Preapplications and Applications Delivered by Hand: A preapplication or application that is hand-delivered must be taken to the Comprehensive Program, Attention: 84.116A, Department of Education, Fund for the Improvement of Postsecondary Education, 7th and D Streets, S.W., Room 3100, Regional Office Building 3, Washington, D.C.

The Secretary will accept hand-delivered preapplications and applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Preapplications that are hand-delivered will not be accepted after 4:30 p.m. on December 14, 1981. Applications that are hand-delivered will not be accepted after 4:30 p.m. on March 2, 1982.

Program Information: *Type of Competition:* The Secretary supports a broad range of projects that respond to immediate problems or issues in a variety of categories that seek to improve postsecondary educational opportunities.

Program Priorities: The following program priorities apply to the Comprehensive Program for Fiscal Year 1982.

(1) Increasing the availability of high quality programs for all postsecondary students by developing educational programs and services that allow currently enrolled students from groups previously excluded from postsecondary educational participation to complete their educational goals;

(2) Expanding professional education and employment for racial or ethnic minorities and women by increasing access to postsecondary educational institutions at the graduate level and by increasing employment opportunities within postsecondary educational institutions for these populations;

(3) Expanding learning opportunities for the full-time worker by developing new educational programs and services for workers;

(4) Increasing use of active modes of learning by using educational processes, such as internships, self-directed learning, learning groups, and interactive electronic technologies, that will allow learners to take greater responsibility for their own learning;

(5) Enhancing the knowledge and abilities of postsecondary students by developing new or redefined curricular content and educational subject matters;

(6) Improving leadership for new educational circumstances by encouraging efforts to renew and implement the educational missions of individual institutions or systems of institutions and to improve the management of postsecondary educational institutions.

Under the Comprehensive Program competition, projects that do not address one of these priorities are also eligible for support if they address other

significant problems in postsecondary education.

Preapplications: Preapplications are required for this competition. They are reviewed in the same manner as applications, including review by independent field readers, and are evaluated on the basis of the selection criteria announced below.

Selection Criteria: The Secretary evaluates preapplications and applications on the basis of the following selection criteria:

(a) *Significance for Postsecondary Education.* The Secretary reviews each project for its significance in improving postsecondary education by determining the extent to which it would:

(1) Address an important problem or need;

(2) Represent an improvement upon, or important departure from existing practice;

(3) Involve learner-centered improvements;

(4) Achieve far-reaching impact through improvements that will be useful in a variety of ways and in a variety of settings; and

(5) Increase the cost-effectiveness of services.

(b) *Feasibility.* The Secretary reviews each project for its feasibility by determining the extent to which:

(1) The project represents an appropriate response to the problem or need addressed;

(2) The applicant is capable of carrying out the project, as evidenced by—

(i) The applicant's understanding of the problem or need;

(ii) The quality of the project design, including objectives and approaches;

(iii) The adequacy of resources, including money, personnel, facilities, equipment, and supplies;

(iv) The qualifications of key personnel who would conduct the project; and

(v) The applicant's relevant prior experience.

(3) The applicant and any other participating organizations are committed to the success of the project, as evidenced by—

(i) Contribution of resources by the applicant and by participating organizations;

(ii) Prior work in the area; and

(iii) Potential for continuation of the project beyond the period of the Fund's support (unless the project is self-terminating).

(c) *Appropriateness of the Fund's support.* The Secretary reviews each application to determine whether support of the project by the Fund is appropriate in terms of the availability of other funding sources for the proposed activities.

For purposes of reviewing preapplications, the selection criteria grouped under "significance" ((a) above) are more important than those grouped under "feasibility" ((b) above) and "appropriateness" ((c) above). The group of criteria under "feasibility" ((b) above) is equal in importance to the "appropriateness" criteria ((c) above). In reviewing applications, the selection criteria (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (b)(1), (b)(2), (b)(3), and (c) are of equal importance.

In applying the criteria, the Secretary first analyzes preapplications and applications in terms of the individual criteria. The Secretary then bases the final judgment of a preapplication or application on an overall assessment of the degree to which the application addresses the selection criteria.

Other Information To Be Requested From Applicants: The Secretary will contact by telephone all applicants whose applications are being considered for funding in the final stages of the selection process in order to verify or clarify information relevant to their applications.

Available Funds: Approximately $7,000,000 is estimated to be available for new awards in fiscal year 1982. It is estimated that these funds could support approximately 95 awards. The estimated amount for new awards will be between $5,000 and $250,000 for a 12-month period. Applicants may request approval of a multi-year work plan of up to three years in duration.

However, these estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Preapplication and Application forms: Preapplication and application forms are included in a program information package. These materials have been sent directly to everyone on the mailing list for the Fund for the Improvement of Postsecondary Education. Institutions and persons not on the list can obtain these materials from the Comprehensive Program, Attention: 84.116A, Department of Education, Fund for the Improvement of Postsecondary Education, 400 Maryland Avenue, S.W., (Room 3100, Regional Office Building 3), Washington, D.C. 20202–3328.

The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competition.

Applicable Regulations: The regulations governing awards made by the Fund for the Improvement of Postsecondary Education are contained in:

(1) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants) (formerly 45 CFR Part 100), Part 75 (Direct Grant Programs) (formerly 45 CFR Part 100a), and Part 77 (Definitions) (formerly 45 CFR Part 100c).

(2) When adopted in final form, the regulations for the Fund for the Improvement of Postsecondary Education in 34 CFR Part 630 (formerly 45 CFR Part 1501) published in the **Federal Register** as a Notice of Proposed Rulemaking on September 30, 1981 (45 FR 48092). If public comment on these proposed regulations results in substantive changes in these regulations, applicants will be given the opportunity to amend their applications.

Further Information: For further information contact the Fund for the Improvement of Postsecondary Education, regarding the Comprehensive Program (84.116A); Telephone: (202) 245–8091.

(Catalog of Federal Domestic Assistance No. 84.116A, Fund for the Improvement of Postsecondary Education)

Dated: November 9, 1981.

T. H. Bell,

Secretary of Education.

[FR Doc. 81-32830 Filed 11-12-81; 8:45 am]

BILLING CODE 4000-01-M

Fund for the Improvement of Postsecondary Education; Application Notice

AGENCY: Department of Education.

ACTION: Application Notice for Noncompeting Continuation Awards under the Comprehensive Program for Fiscal Year 1982.

Applications are invited for noncompeting continuation awards under the Comprehensive Program of the Fund for the Improvement of Postsecondary Education, Department of Education.

The Secretary issues awards to institutions of postsecondary education and other public and private educational institutions and agencies for the purpose of improving postsecondary education opportunities.

Authority for this program is contained in Title X of the Higher Education Act, as amended.

(20 U.S.C. 1135)

Closing Date for Transmittal of Applications: Applications for awards should be mailed (postmarked) or hand-delivered by February 2, 1982.

If the application is late, the Department of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications Delivered by Mail: An application delivered by mail must be addressed to the Comprehensive Program, Attention: 84.116C, Department of Education, Fund for the Improvement of Postsecondary Education, 400 Maryland Avenue, S.W., (Room 3100, Regional Office Building 3), Washington, D.C. 20202–3328.

To establish proof of mailing, an applicant must show one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

If an application is sent through the U.S. Postal Service, the Secretary does not accept a private metered postmark or a mail receipt that is not dated by the U.S. Postal Service as proof of mailing. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

Applicants are encouraged to use registered or at least first class mail.

Applications Delivered by Hand: An application that is hand-delivered must be taken to the Comprehensive Program, Attention: 84.116C, Department of Education, Fund for the Improvement of Postsecondary Education, 7th and D Streets, S.W., Regional Office Building 3, Room 3100, Washington, D.C.

The Secretary will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Program Information: Program information will be mailed to eligible applicants. Institutions currently receiving funds and who satisfy the requirements of 34 CFR 75.118 concerning the continuation of multi-year projects are eligible for continuation awards.

Available Funds: It is estimated that approximately $6,300,000 will be available for continuation awards in fiscal year 1982. It is estimated that these funds could support approximately 100 continuation awards. The estimated size of the continuation awards is between $5,000 and $250,000 for a 12-month period. In past years, awards have averaged $70,000 for a 12-month period.

However, these estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms included in program information packages will be sent directly to all potential applicants that are eligible for a continuation award.

The program information package is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competiton.

Applicable Regulations: The regulations governing awards made by the Fund for the Improvement of Postsecondary Education are contained in:

(1) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants), Part 75 (Direct Grant Programs), and Part 77 (Definitions).

(2) When adopted in final form, the regulations for the Fund for the Improvement of Postsecondary Education in 34 CFR Part 630 (formerly 45 CFR Part 1501) published in the **Federal Register** as a Notice of Proposed Rulemaking on September 30, 1981 (46 FR 48092). If public comment on these proposed regulations results in substantive changes in these regulations, applicants will be given the opportunity to amend their applications.

Further Information: For further information contact the Fund for the Improvement of Postsecondary Education, regarding the Comprehensive Program Continuation Grants (84.116C); Telephone: (202) 245–8091.

(Catelog of Federal Domestic Assistance No. 84.116C, Fund for the Improvement of Postsecondary Education)

Dated: November 9, 1981.

T. H. Bell,

Secretary of Education.

[FR Doc. 81-32829 Filed 11-12-81; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Dose Assessment Advisory Group; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting.

Name: Dose Assessment Advisory Group

Date and Time: Wednesday, December 2, 1981—8:30 a.m.–5:00 p.m.; Thursday, December 3, 1981—8:30 a.m.–4:00 p.m.

Place: Department of Energy, Nevada Operations Office Auditorium, 2753 South Highland Drive, Las Vegas, Nevada

Contact: Marshall Page, Jr., Deputy Project Manager, Off-Site Radiation Exposure Review Project, Nevada Operations Office, Department of Energy, Box 14100, Las Vegas, Nevada 89114, Telephone: 702–734–3194

Purpose of Group: To provide the Secretary of Energy and the Manager, Nevada Operations Office (NV), with advice and recommendations pertaining to the Off-Site Radiation Exposure Review Project. This project concerns the evaluation and assessment of the amount of radiation received by members of the offsite population surrounding the Nevada Test Site (NTS) as a result of the nuclear test operations conducted at the NTS.

Tentative Agenda

December 2, 1981

- Introduction and Briefing
- Response to DAAG Recommendations
- Stochastic Modeling, Assumptions and Uncertainties
- Instrument and Film Response to Changing Energy Spectrum
- Population Estimates/Geopolitical Divisions
- Fallout Pattern Reconstruction
- Project Status Reports
- Data Base Status Report
- CIC Status Report
- Three County Survey
- NURE Data for Locating "Hot Spots"
- Historical Estimates of Population Exposure
- Dose Assessment Advisory Group Discussion
- Public Comment (5 minute rule)

December 3, 1981

- Announcements and Instructions
- Population Dose Esimates for Washington, Iron and Lincoln Counties from Harry, Smoky and Annie
- Shielding Factors
- External Gamma
- Pathway Analysis
- Ingestion
- Inhalation
- Discussion and Recommendations by DAAG Committee
- Public Comment and Questions (5 minute rule)

Public Participation

The meeting is open to the public. The Chairperson of the Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Marshall Page at the address or telephone number listed above.

Transcripts

Available for public review and copying at the Public Reading Room, Room 1E190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Executive Summary

Available approximately 30 days following the meeting from the Advisory Committee Management Branch, telephone 202–252–5187.

Issued in Washington, D.C., on November 6, 1981.

K. Dean Helms,

Advisory Committee Management Officer.

[FR Doc. 81–32824 Filed 11–12–81; 8:45 am]

BILLING CODE 6450–01–M

National Petroleum Council; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: National Petroleum Council

Date and time: Thursday, December 3, 1981—9:00 a.m.

Place: The Madison Hotel, Dolly Madison Ballroom, Fifteenth and M Streets, NW., Washington, D.C.

Contact: Georgia Hildreth, Chief, Advisory Committee Management, Department of Energy, 1000 Independence Avenue, SW., Forrestal Building, Room 4B222, Washington, D.C. 20585, Telephone: 202–252–5187

Purpose of committee: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries.

Tentative Agenda:

- Call to Order by John F. Bookout, Chairman, National Petroleum Council
- Remarks by the Honorable James B. Edwards, Secretary of Energy
- Reports of the Committees of the National Petroleum Council
- Committee on Arctic Oil and Gas Resources
- Committee on Environmental Conservation
- Consideration of Administrative Matters
- Discussion of Any Other Business Properly Brought Before the National Petroleum Council
- Public Comment (10 minute rule)

Public Participation

The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts

Available for public review and copying at the Public Reading Room, Room 1E190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. between 8:00 a.m. and 4:30 p.m., Monday through Friday except Federal holidays.

Executive Summary

Available approximately 30 days following the meeting from the Advisory Committee Management Office.

Issued at Washington, D.C., on November 9, 1981.

K. Dean Helms,

Advisory Committee Management Officer.

[FR Doc. 81–32825 Filed 11–12–81; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Postponement of Implementation of Monthly Petroleum Product Sales Form, EIA–740 and Solicitation of Comments

AGENCY: Energy Information Administration, Energy.

ACTION: Notice of postponement of implementation of the monthly petroleum sales forms, EIA–740 and solicitation of comments.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy hereby gives notice that Form EIA–740, "Monthly Petroleum Product Sales Report," as noticed in the **Federal Register**, June 5, 1981 (46 FR 30174) will not be implemented. The form was intended to integrate and consolidate into one form basic statistics on prices, supplies, and market shares from seventeen petroleum product forms, some of which were originally scheduled to expire on September 30, 1981

SUPPLEMENTARY INFORMATION:

I. Long-Range Plans
II. Current Action
III. Current Reporting Requirements

I. Long-Range Plans

In order to better meet the data needs of its user community and to address industry objections concerning reporting burden, the EIA plans to redesign and thoroughly pretest a consolidated form. A final version of the form is planned to be fully implemented in 1983—after the new system has been thoroughly tested and preliminary data have been analyzed and linked to key historical data series.

II. Current Action

EIA must continue to fulfill its responsibilities to meet the expressed needs of Congress, other government agencies, State energy offices, and the general public for information on prices, marketing, and supplies. To help meet its obligations until a new survey has been developed, EIA has submitted clearance requests to the Office of Management and Budget (OMB) for continued collection of the five forms listed below.

On September 24, 1981, OMB published in the **Federal Register** a notice of "Agency Forms Under Review" (46 FR 47142) which solicited comments from the public concerning EIA's request for clearance for these forms. Anyone who has submitted comments in response to this request is not requested to resubmit comments in response to this notice to the extent that comments previously provided remain unchanged.

III. Current Reporting Requirements

Until OMB takes final action on EIA's clearance request respondents are required to continue submission of Forms EIA–14, EIA–25 and EIA–460 on a monthly basis. Following submission of data for September, 1981, respondents will be required to submit monthly data on Forms FEA–P306–M–0 and FEA–P314–M–0 on a quarterly basis. Contingent on OMB approval, the next filing date for these two forms is January 31, 1982. Respondents will be notified by letter concerning final OMB action on EIA's clearance request. In the event that OMB approves the continued reporting for these forms, respondents will be provided copies of the forms and

detailed instructions concerning filing dates.

Following submission of data for September, 1981, Form FEA–P315–M–0 will no longer be required. Propane data will now be collected on Form FEA–P306–M–0. Elimination of this reporting requirement has resulted in a net reduction in respondent reporting burden of approximately 114,000 hours.

Revisions of Forms EIA–14, EIA–25, and P–306, summarized below, are reproduced following this notice. Comments should be submitted by November 25, 1981, to the address set forth at the end of this notice.

EIA–14, "Refiners Monthly Cost Report"

Data provide a national current period weighted average acquisition cost of crude oil and purchase volumes and equity production of selected refined petroleum products. Data will be used to continue publication of the refiners acquisition cost of crude oil in the *Monthly Energy Review* and to provide information to Congress.

EIA–25, "Prime Suppliers Monthly Report"

Data are collected to provide State-level supplies of petroleum products and to facilitate analysis of supply trends and shifts in marketing practices.

EIA–460, "Petroleum Industry Monthly Report for Product Prices"

Data are used to monitor economic impact due to supply and demand fluctuations, monitor costs of imported petroleum products and to prepare monthly published reports concerning these trends.

FEA–P306–M–0, "Refiner/Importer Monthly Report of Petroleum Product Distribution"

Data are used to provide continuing information on the relative market share for each of the various marketer categories within the petroleum industry. Summaries of these data are published in various EIA publications.

Part II of Form FEA–P306–M–0 has been revised to include sales to ultimate consumers for propane. In addition, the form will collect monthly data but will be submitted on a quarterly basis.

FEA–P314–M–0, "Monthly Survey of Distillate and Residual Fuel Oil Sales to Ultimate Consumers"

Data are used to maintain a file of petroleum product sales data to determining changes in market shares of each marketer category. Aggregated data are used in EIA publications and from the basis of an ongoing analysis of the availability of refined petroleum products.

The form will collect monthly data, but will be submitted on a quarterly basis.

Comments

The purpose of this notice is to provide all interested parties with some background information on this clearance issue and to notify respondents of changes in reporting requirements.

Comments may be addressed to: Mr. Jimmie L. Petersen, Acting Director, Office of Oil and Gas, Energy Information Administration, EI–40, Room 2G–090, Mail Stop 2G–020, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Issued in Washington, D.C., November 5, 1981.

J. Erich Evered,

Administrator, Energy Information Administration.

Form Approved
OMB No. 1903–0047
(Expires 9/30/81)

U.S. Department of Energy, Energy Information Administration, Washington, D.C. 20686

Instructions for Filing Refiners' Monthly Cost Report

General Information

I. Purpose. Form EIA–14 is designed to provide the summary data necessary for the Department of Energy (DOE) to execute its role in monitoring certain cost and price movements within the United States petroleum industry for the purpose of emergency planning or gathering of statistical information for publication in established forums such as the *Monthly Energy Review.*

II. Who Must Submit. Each firm which is a refiner must submit Form EIA–14, except firms (referred to as independent natural gas processors) that neither refine crude oil nor have crude oil refined by others and solely process natural gas for liquids and related products.

III. When To Submit. 1. Submit Form EIA–14 within 45 days after the last day of the report month. For example, if the report month is March, 1981, this report is due on or before May 15, 1981.

2. DOE will routinely accept resubmission of Form EIA–14 within 1 year after the required submission date of the original filing.

IV. What and Where To Submit. Submit an original copy to: U.S. Department of Energy, Energy Information Administration (EI–47), Forrestal Building, Mail Station BG–086, 1000 Independence Avenue, Washington, D.C. 20585.

V. Sanctions. The timely submission of Form EIA–14 by a company required to report is mandatory under P.L. 93–275, Federal Energy Administration Act of 1974. Late filing, failure to file, or failure otherwise to comply with these instructions may result in criminal fines and penalties, and other sanctions as provided by law.

VI. Provisions For Confidentiality of Information. The information contained on these forms may be (i) information exempt from disclosure to the public under the exemption for trade secrets and confidential commercial information specified in the Freedom of Information Act 5 USC 552(b)(4) (FOIA), or (ii) information prohibited from public release by 18 USC 1905. However, before a determination can be made that particular information is within the coverage of either of these statutory provisions, the person submitting the information must make a showing satisfactory to the Department concerning its confidential nature.

Therefore, you should state briefly and specifically (on an element by element basis if possible), in a letter accompanying your submission of the form, why you consider the information concerned to be a trade secret or other proprietary information, whether such information is customarily treated as confidential by your company and the industry, and the type of competitive harm that would result to your company from disclosure of the information. In accordance with the provisions of 10 CFR 1004.11 of DOE's FOIA regulations, DOE will determine whether any information submitted should be withheld from public disclosure. If DOE has not already received a request for exemption from you, it will assume that you do not object to public disclosure of any information submitted on this form by your company. A new written justification need not be submitted each time a Form EIA–14 is submitted if:

1. veiws concerning information items identified as privileged or confidential have not changed, and

2. a written justification setting forth views in this regard was previously submitted.

By statutory authority, DOE must provide this information, when requested, to the Congress, or any Committee of Congress and the General Accounting Office.

General Instructions

I. Report all data on an ownership basis. Report quantities according to the customary accounting procedures used

by your firm. (For example, if exchanges are reported as offsetting purchases and sales, report them as such.)

II. Use parantheses ( ) to indicate negative entries.

III. Report all quantities in thousands. Quantities ending in 499 or less are to be rounded down; quantities ending in 500 or more are to be rounded up to the next highest number. For example 106,489 is rounded to 106, and 106,589 is rounded to 107.

IV. Resubmissions are only required for changes that exceed five percent of the reported line item. Resubmissions for crude oil exchanges are not required unless the change is large enough to cause a five percent or greater change in the reported total cost of crude oil on line 15. On resubmission forms, report only data which is changed, not all items.

V. the United States (U.S.) is defined as the 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, the Hawaiian Foreign Trade Zone, and the American Territories in the Pacific. Report figures for Puerto Rico and the Virgin Islands only if your firm operates a refinery(ies) in these areas.

Definitions

1. Butane—A normally gaseous parafinic compound (C_4H_{10}) as defined by ASTM Specification D1835 and the GPA Specification for commercial butane.

2. Crude Oil—A mixture of hydrocarbons that existed in underground reservoirs and remains liquid at atmospheric pressures after passing through surface separating facilities. Lease condensate moving to a refinery is also included. Lease condensate is defined as a natural gas liquid recovered from gas well gas (associated and nonassociated) in lease separators of field facilities. Drips are also included, but topped crude oil and other unfinished oils are excluded.

Note.—Unfinished oils are no longer included in crude oil.

3. Crude Oil Purchases—As to a particular refiner, the volume of crude oil (a) booked into its refineries in accordance with accounting procedures generally accepted and consistently and historically applied by the refiner concerned, for its own account or for the account of a firm other than a refiner, or (b) if not previously so booked into its own refineries, delivered by that refiner concerned, whether or not such crude oil has been actually received by that refiner, except that crude oil delivered by one refiner to another refiner pursuant to a processing agreement will be deemed to have been delivered by the delivering refiner when the risk of loss passes to the other refiner under the particular processing agreement, or when the crude oil is received at the refinery of the other refiner, whichever occurs first. Crude oil which has been added by a refiner to its inventory and which is thereafter sold or otherwise disposed of without processing for the account of that refiner shall be deducted from its crude oil purchases at the time when the related cost is deducted from refinery inventory in accordance with accounting procedures generally applied by the refiner concerned.

Note.—This definition was previously used on Form ERA-49.

4. Domestic Crude Oil—Crude oil produced in the United States or from the "outer continental shelf" as defined in 43 USC Section 1331.

5. Exchange—Any transaction in which quantities of crude oil or any other product are received or given up for similar crude or products. Exchanges include reciprocal purchases and sales.

Aspects of Exchange Transaction—"Boot" is monetary consideration included by one of the exchange partners to equate the value of the crude given up with the crude received. For example, one barrel of crude A plus 15 cents per barrel might be exchanged for one barrel of crude B.

A "Quota or Ticket Exchange," also referred to as a "ticket trade," is a type of transaction through which one refiner is able to use another refiner's fee-paid import licenses. Such exchanges are not to be included in this report.

6. Finished Leaded Motor Gasoline—A complex mixture of relatively volatile hydrocarbons, with or without small quanties of additives, all of which have been blended to form a fuel suitable for use in spark ignition engines. Such a mixture meets the detailed requirements for gasoline listed in ASTM D-439 or Federal Specification VV-G-1690B, to include no more than 10 percent boiling at 122°F under atmospheric pressure and at least 90 percent at 374°F at atmospheric pressure, with Reid vapor pressures ranging from 9 to 15 psi. Finished leaded motor gasoline consists of marketable leaded gasoline produced with the use of any lead additive containing more than 0.05 grams of lead per gallon or more than 0.005 grams of phosphorus per gallon. The actual lead content of any given gallon, however, may vary as a function of the size of the producer and company-specific EPA waiver provisions. For example, producers of 5,000 gallons or less per day may include 0.8 to 2.65 grams per gallon; large producers, 0.5 grams per gallon. This definition includes both premium and regular grades, depending on the octane rating. This definition excludes any blendstock until blending has been completed and the blendstock is incorporated in the finished leaded gasoline and is no longer separately identified. Any alcohol to be used in the blending of gasohol is also excluded.

7. Finished Unleaded Motor Gasoline—A complex mixture of relatively volatile hydrocarbons as described above for "leaded motor gasoline." This product meets the same requirements for distillation temperatures and vapor pressure. Finished unleaded motor gasoline consists of marketable unleaded motor gasoline containing no more than 0.05 grams of lead per gallon and not more than 0.005 grams of phosphorus per gallon, regardless of the size of the producer. This definition includes both premium and regular grades, depending on the octane rating. This definition excludes any blendstock until blending has been completed and the blendstock is incorporated in the finished unleaded gasoline and is no longer separately identified. Any alcohol to be used in the blending of gasohol is also excluded.

8. Imported Crude Oil, Purchased or Landed—(a) for refiners reporting on the Transfer Pricing Report (ERA-51), the landed volume and cost reported on that form; (b) for all other refiners, any crude oil which is not domestic crude oil.

9. Kerosene Jet Fuel—A quality kerosene product with an average gravity of 40.7° API, a 10 percent distillation temperature of 400°F, and an end-point of 572°F as covered by ASTM Specification D 1655 and Military Specification MIL-T-5624L (Grade JP5 and JP8). It is used primarily as fuel for commercial turbojet and turboprop aircraft engines and is a relatively low freezing point distillate of the kerosene type.

10. Propane—A normally gaseous paraffinic compound (C_3H_8) as defined by ASTM Specification D 1835, the GPA Specifications for commercial and HD-5 propane, and the ASTM Specification D 2154 for special duty propane.

11. Residual Fuel Oil—Topped crude of refinery operations, including No. 5 and No. 6 fuel oils as defined in ASTM Specification D 396 and Federal Specification VV-F-815C, Navy Special fuel oil as defined in Military Specification MIL 859E, including Amendment 2, and Bunker C fuel oil.

12. Unfinished Oils—All oils, both domestic and imported, requiring further refining; i.e., any operation except mechanical blending or use as an additive.

Specific Instructions

Part I—Identification Data

Item

Instruction

1 Refer to the form. This item is self-explanatory.

2 Enter the six-digit code which the DOE has assigned to you. If you do not presently have a number, leave item number 2 blank and DOE will assign you one.

3 to 7 Refer to the form. These items are self-explanatory

Part II—Certification

Instruction

Item

8 to 11 All filings of Form EIA–14 must be certified in order to constitute filing. Refer to the form for the specific item numbers; these are self-explanatory.

Part III—Summary of Crude Oil Costs and Volumes

For the purposes of this report, crude oil is defined to include lease condensate (see definitions). If your defintion of crude oil differs from this one, report quantitites as they are recorded in your company records. Attach an explanation of your definition of crude oil to the first submission of this modified form.

Note.— Unfinished oils are no longer included in crude oil (see definitions).

Instruction

Item

12 to 16 Refer to the form and/or appropriate definitions

Part IV—Summary of Volumetric Elements

Report total production of each product, including production for the firm's account, under processing agreements. Exclude production for the account of other firms at your refineries under processing agreements. Report total product purchases from all sources including purchases from other refiners and marketers.

Instruction

Item

17 to 24 Refer to the form and/or appropriate definitions.

BILLING CODE 6450-01-M

U.S. DEPARTMENT OF ENERGY
Energy Information Administration
Washington, D.C. 20585

Form Approved
OMB No. 1903-0047
(Expires 9/30/81)

REFINERS' MONTHLY COST REPORT

This report is mandatory under the Federal Energy Administration Act of 1974, P.L. 93-275. Failure to report may result in criminal fines, civil penalties and other sanctions as provided by law. See instructions for provisions concerning confidentiality of information. Submit a separate EIA-14 for each unconsolidated entity.

PART I: IDENTIFICATION DATA

1. Legal Name of Refiner

2. DOE Identification Number

3. Address of Executive Office:
(1) Street: (2) City: (3) State: (4) Zip Code:

4. Report Month: Mo. Yr.

5. This Report Is:
(1) ☐ An Original (2) ☐ A Resubmission

6. Contact Person for Information Concerning This Report:
(1) Name: (2) Telephone Number (Including Area Code)

7. Address of Contact Person:
(1) Street: (2) City: (3) State: (4) Zip Code:

PART II: CERTIFICATION

I, the authorized executive officer, certify that the information submitted on and with this form is factually correct, complete, and in accordance with Federal Energy Regulations (Title 10 Code of Federal Regulations) and instructions to EIA-14.

8. Name:	9. Title:	10. Signature:	11. Date Signed (Mo., Da., Yr.)

The U.S. Code, Title 18 (Crimes and Criminal Procedure), Section 1001 makes it a criminal offense to make a willfully false statement or presentation to any Department or Agency of the United States as to any matter within its jurisdiction.

PART III: SUMMARY OF CRUDE OIL COSTS AND VOLUMES

Item No. (a)	Category Description (b)	Monthly Purchases: Total Cost (In thousands of dollars) (c)	Monthly Purchases: Total Volume (In thousands of barrels) (d)
12	Domestic Crude Oil		
13	Imported Crude Oil Purchased or Landed		
14	Net Revenues and/or Volumes Received or Paid in Exchange of Crude Oil *(Report only differential)*		
15	TOTAL *(Enter Total of lines 12 to 14)*		
16	Unfinished Oils		

PART IV: SUMMARY OF VOLUMETRIC ELEMENTS

Item No. (a)	Volumetric Elements (b)	Monthly Refiner Volume (In thousands of barrels): Production (c)	Purchases (d)
17	No. 2 Oils		
18	Kerosine Jet Fuel		
19	Finished Leaded Motor Gasoline		
20	Finished Unleaded Motor Gasoline		
21	Propane		
22	Butane		
23	Residual Fuel Oil		
24	TOTAL *(Enter Total of lines 17 to 23)*		

EIA-14 (3-81)
BILLING CODE 6450-01-C

U.S. Department of Energy, Energy Information Administration

Instructions for Filing Prime Supplier's Monthly Report

General Information

I. Purpose. To provide data that enables state and federal government agencies to monitor and analyze supply and marketing trends of covered refined petroleum products and residual fuel oil.

II. Who Must Submit This Report. Form EIA–25 must be filed by every Prime Supplier of residual fuel oil and the covered refined petroleum product (see definition). A Prime Supplier is the supplier (or producer in the case of propane) which makes the first sale of such a product into the state for consumption within the state. Transactions which occur for transshipment only are excluded.

If a supplier delivers product to a wholesale-purchaser reseller and the product is for consumption in only one state, the supplier selling the product to the reseller is the prime supplier and must report the volumes involved on Form EIA–25. If, however, a reseller resells the product for consumption not in the state where it was purchased but into one or more other states, the reseller is required to report those volumes as the prime supplier. To preclude double counting of the same volume of product or the omission of certain product volumes, prime suppliers that are resellers are encouraged to coordinate the volumes they report with their suppliers.

III. Where to Submit This Report.

(1) Submit a separate EIA–25 for each state for which the supplier is the Prime Supplier.

(2) Submit two copies to: U.S. Department of Energy, Energy Information Administration (EI–421), Mail Station BH–081 Forrestal, Washington, D.C. 20585.

(3) Submit one copy to the appropriate state energy office. If necessary, contact the EIA–25 Survey Manager, Room BE–012, 1000 Independence Ave., Washington, D.C. 20585 to obtain a list of the state energy offices. If you have questions concerning this form, call toll-free (800) 424–9041 and refer to Form EIA–25.

IV. When to Submit This Report. Submit Form EIA–25 no later than 10 calendar days before the end of each calendar month. For example, the report for October, 1981 is due no later than October 21, 1981.

V. Sanctions. This report is mandatory under P.L. 93–275, the Federal Energy Administration Act of 1974 and P.L. 96–102, the Emergency Energy Conservation Act of 1979. Late filing, failure to file, failure to keep records, or failure otherwise to comply with these instructions may result in criminal fines, civil penalties, and other sanctions as provided by law.

VI. Provisions for Confidentiality of Information.

The information contained on these forms may be:

(1) Information which is exempt from disclosure to the public under the exemption for trade secrets and confidential commercial information specified in the Freedom of Information Act, 5 USC 552(b)(4) (FOIA); or

(2) Prohibited from public release by 18 USC 1905. However, before a determination can be made that particular information is within the coverage of either of these statutory provisions, the person submitting the information must make a showing satisfactory to the Department concerning its confidential nature.

Therefore, respondents should state briefly and specifically (on an element by element basis if possible), in a letter accompanying submission of the form, why they consider the information concerned to be a trade secret or other proprietary information, whether such information is customarily treated as confidential information by their companies and the industry, and the type of competitive hardship that would result from disclosure of the information. In accordance with the provisions of 10 CFR 1004.11 of DOE's FOIA regulations, DOE will determine whether any information submitted should be withheld from public disclosure.

If DOE receives a response and does not receive a request, with substantive justification, that the information submitted should be released to the public, DOE may assume that the respondent does not object to disclosure to the public of any information submitted by it on the forms.

A new written justification need not be submitted each time the EIA–25 is submitted if:

(1) Your views concerning information items identified by you as privileged or confidential have not changed; or

2. A written justification setting forth your views in this regard was previously submitted.

By statutory authority, the information must be made available, upon request, to the Congress or any committee of Congress and the General Accounting Office.

General Instructions

I. Do not include prior period adjustment in the report for the current month. Submit revised reports for the month(s) being adjusted. Also, submit a revised report to correct a reporting error. Do not correct errors by adjusting amounts in subsequent original reports.

II. An attested computer printout that is acceptably conforming in format to the EIA–25 is an acceptable form for filing this report.

Definitions

1. *Covered Refined Petroleum Products*—For the purpose of this report the following petroleum products are covered: Propane, Motor Gasoline, Unleaded Motor Gasoline, Kerosene, #1 Heating Oil, #1 Diesel Fuel, #2 Heating Oil, #2 Diesel Fuel, Other Middle Distillates, Aviation Gasoline, Kerosene-Base Jet Fuel, Naptha-Base Jet Fuel, #4 Fuel Oil For Utility Use, #5, #6 Fuel Oils For Utility Use, #4 Fuel Oil For Non-Utility Use, Bunker C, Navy Special Fuel Oil, Other Residual Fuel Oils, Crude Oil (Used as Fuel Only).

2. *Diesel Fuel*—Fuel oil grade #1 and #2, as defined in ASTM D–975–71 used primarily for on-and-off highway diesel engine fuel (including railroad engine fuel).

3. *Following Month*—The month following the "Report Month". For example: if the "Report Month" is May 1980, the "Following Month" is June 1980.

4. *Gasohol*—A blend of unleaded motor gasoline with alchohol (generally ethanol) in which 10% or more of the product is alcohol or such other blend as recognized by DOE.

5. *Heating Oil*—Fuel oil grade #1 and #2 as defined in ASTM D–396–71 used primarily for residential and small commercial space heating.

6. *Middle Distillates*—(Kerosene, No. 1 heating oil and No. 1–D diesel fuel (Code 310); No. 2 heating oil (Code 320); No. 2–D diesel fuel (Code 330); and all other distillates (Code 340))—Any derivatives of petroleum including kerosene, range oil, stove oil, home heating oil, and diesel fuel which have a 50% boiling point in the ASTM D86 standard distillation test falling between 371 and 700 degrees F. Products specifically excluded from this definition are kerosene-base and naphtha-base jet fuel, heavy fuel oils as defined in VV–F–815C or ASTM D–396 grades #4, 5, and 6, intermediate fuel oils (which are blends combining #6 oil), and specialty items such as solvents, lubricants, waxes, and process oil.

7. *Motor Gasoline (Code 200)*—A misture of volatile hydrocarbons, suitable for operation of an internal combustion engine, whose major components are hydrocarbons with

boiling points ranging from 140 to 390 degrees F, and whose source is distillation of petroleum and cracking, polymerization, and other chemical reactions by which the naturally occurring petroleum hydrocarbons are converted to those that have superior fuel properties.

8. *Preceding Month*—The month immediately prior to the "Report Month". For example, if the "Report Month" is May, 1980, the "Preceding Month" is April, 1980.

9. *Prime Supplier*—The supplier, or producer, which makes the first sale of the covered refined petroleum product or residual fuel oil into the State for consumption within the State.

As further explanation, a prime supplier is any firm (usually a refiner, importer, gas processing plant operator, or wholesale purchaser-reseller) which supplies any quantity of a covered refined petroleum product or residual fuel oil into the State distribution system of any State for consumption within the State. A prime supplier may introduce products into a State's distribution system for consumption within that State through its own wholesale/retail outlets or through sales to their customers who distribute products through their own distribution system.

10. *Producer*—A firm which producers propane in a refinery, natural gas processing plant or fractionating plant, or which imports more than 2,000,000 gallons per year, including firms which own natural gas and have their gas processed for their account by others but retain title to it (10 CFR 211.82).

11. *Propane (Code 110)*—See the definition of "Propane" in 10 CFR Section 211.51.

12. *Refiner*—A firm that owns, operates or controls the operation of one or more refineries.

13. *Refinery*—An industrial plant, regardless of capacity, which processes crude oil feedstock and manufacturers covered refined petroleum products, except when such a plant is a petrochemical plant.

14. *Report Month*—The calendar month in which the Prime Supplier's Monthly Report (EIA–25) is required to be filed with the Department of Energy.

15. *Residual Fuel Oil (Codes 510, 520, 530, 540, 550, 560, 570, 940)*—The fuel oil commonly known as: (a) No. 4, No. 5, and No. 6 fuel oils; (b) Bunker C; (c) Navy Special Fuel Oil; and all other fuel oils which have a 50% boiling point over 700 degrees F in ASTM D86 standard distillation test.

16. *State*—Each of the fifty states, the District of Columbia, Puerto Rico, possessions and territories of the United States, other than the Panama Canal Zone.

17. *Total Supply For Month*—The total amount that the prime supplier estimates will be available for distribution within the state. This is the sum of a prime supplier's estimated production, including amounts received under processing agreements, imports, purchases, and any reduction in inventory of a covered refined petroleum product or residual fuel oil.

18. *Unleaded Motor Gasoline (Code 220)*—Motor gasoline containing not more than 0.05 grams of lead per gallon and not more than 0.005 grams of phosphorus per gallon. The alcohol content of mixtures containing alcohol and motor gasoline shall not be included.

Specific Instructions

Instruction

Item

1–8 Make corrections on one report only, and put that report on top of all the reports being returned.

Columns (a) and (b) Do not enter any punctuation such as decimals, commas, etc. in the columns.

Column (a) Enter the total amount of each product for which the firm made the first sale into the state distribution system for consumption within the state during the preceding month.

Column (b) Enter that portion of the prime supplier's total volume of each product which the prime supplier anticipates will be available for distribution in the state. Exclude any amounts supplied to customers through exchange agreements.

13–16 Complete a certification each time Form EIA–25 is submitted. Type or print in block letters the name and title of the individual who has signed the certification.

BILLING CODE 6450-01-M

U.S. DEPARTMENT OF ENERGY
Energy Information Administration

PRIME SUPPLIER'S MONTHLY REPORT

Form Approved
OMB No.
(Expires

This report is mandatory under P.L. 93-275, the Federal Energy Administration Act of 1974 and P.L. 96-102, The Emergency Energy Conservation Act of 1979. Late filing, failure to keep records, or failure otherwise to comply with these instructions may result in criminal fines, civil penalties, and other sanctions as provided by law. See Instructions for Confidentiality Statement.

FOR DOE USE ONLY
Form Number 0 4
Accession Number
State Code

IDENTIFICATION

(label)

Complete items 1 thru 8 for new suppliers and corrections to label only.

1. Prime Supplier's EIN
2. Name
3. Name of Contact Person
4. Contact's Telephone Number
5. Street/Box/RFD
6. City
7. State
8. Zip Code
9. Date of This Report — Month / Day / Year
10. What state is this report for?
11. What type of report is this?
(1) ☐ Original
(2) ☐ Revision, to Report Dated → Month / Day / Year

PETROLEUM DATA

12.0 Covered Refined Petroleum Products	Code	Enter total barrels of first sale during the preceding month of: _____ (a)	Enter estimated barrels of total supply for the following month of: _____ (b)
(1) Propane	110		
(2) Motor Gasoline *(Total)*	200		
(3) Unleaded Motor Gasoline	220		
(4) Kerosene, #1 Heating Oil, #1 Diesel Fuel	310		
(5) #2 Heating Oil	320		
(6) #2 Diesel Fuel	330		
(7) Other Middle Distillates	340		
(8) Aviation Gasoline	410		
(9) Kerosene-Base Jet Fuel	420		
(10) Naphtha-Base Jet Fuel	430		
(11) #4 Fuel Oil For Utility Use	510		
(12) #5, #6 Fuel Oils For Utility Use	520		
(13) #4 Fuel Oil For Non-Utility Use	530		
(14) #5, #6 Fuel Oils For Non-Utility Use	540		
(15) Bunker C	550		
(16) Navy Special Fuel Oil	560		
(17) Other Residual Fuel Oils	570		
(18) Crude Oil (Used as Fuel Only)	940		

CERTIFICATION

I certify that the information provided herein and appended hereto is true and accurate to the best of my knowledge

13. Name	14. Title	15. Signature	16. Date Signed

Title 18 USC 1001 makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

EIA-25 (10-81)
BILLING CODE 6450-01-C

Refiner/Importer Monthly Report of Petroleum Product Distribution

[FEA-P306-M-0]

INSTRUCTIONS

I. Purpose

Form FEA P306–M–0 provides the means to:

- Collect information on market shares within the petroleum industry in accordance with the Federal Energy Administration Act of 1974 (P.L. 93–275) and,
- Collect additional information on refined petroleum products as authorized by the Emergency Energy Conservation Act of 1979 (P.L. 96–102).

II. Who Must Submit

- Form FEA–P306–M–0 has been sent to a scientifically selected sample of refiners and importers of refined petroleum products. Each sample firm which has been selected and notified by FEA must complete and submit this form each month.

III. To Whom

- Form FEA–P306–M–0 should be submitted to Energy Information Administration (EI–47), Mail Station BG–086, 1000 Independence Avenue, Washington, D.C. 20585.
- Additional copies of the reporting form may be obtained from the above address. Indicate the number of copies needed and the address to which they should be sent.

IV. When

- Form FEA P306–M–0 for each month of the quarter must be received no later than the last day of the month following the reporting quarter. (e.g., a form for each of the months January, February and March must be received by April 30, 1982.)

V. Definitions

- "Aviation Gasoline" means petroleum based fuels designed for use in aircraft internal combustion engines and complying with MIL–G–5572 specification (ASTM[1] specification D–910–70).
- "Bonded Fuels" means those fuels produced outside the customs limits of the United States, held in bond under continuous United States customs custody in accordance with Treasury Department Regulation, and destined for use outside of the United States, its territories or possessions.
- "Branded Independent Marketer" means a firm which is engaged in the marketing or distribution of refined petroleum products pursuant to:

(1) An agreement or contract with a refiner (or a firm which controls, is controlled by, or is under common control with such refiner) to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner (or any such firm), or

(2) An agreement or contract under which any such firm engaged in the marketing or distribution of refined petroleum products is granted authority to occupy premises owned, leased, or in any way controlled by a refiner (or firm which controls, is controlled by, or is under common control with such refiner).

but which is not affiliated with, controlled by, or under common control with any refiner (other than by means of a supply contract, or an agreement or contract described in paragraph (1) or (2) of this definition), and which does not control such refiner.

- "Branded Product" means a refined petroleum product sold by a refinery with the understanding that the purchaser has the right to resell the product under a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner.
- "Commission Agent" means an agent who wholesales or retails a refined petroleum product under a commission arrangement. Typically, he does not take title to the product but receives a percentage of the wholesale or retail margin for serving as the agent.
- "Commission Operated Retail Outlet" means any retail outlet operated by a commission agent.
- "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a firm, whether through the ownership of voting securities, by contract, or otherwise. This definition includes the terms "controlling," "controlled by," and "under common control with."
- "Distillate Fuel Oil" means a fuel oil of a petroleum fraction which, when produced in conventional distillation operations, has a boiling range from 10 percent point at 300° F. to 90 percent at 675° F. Included are products known as American Society for Testing and Materials (ASTM) grades No. 1, No. 2, and No. 4 fuel oils and diesel fuels, kerosene, and range oil. For purposes of this report, Distillate Fuel Oil is further subdivided into the categories of *No. 2 Distillate Fuel Oil* and *Other Distillate Fuel Oil.*
- "End-User" means any firm which is an ultimate consumer of a refined petroleum product other than a wholesale purchaser-consumer.
- "Firm" means any association, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any other entity, however organized, including charitable, education, or other eleemosynary institutions, and the Federal Government, including corporations, departments, Federal agencies, and other instrumentalities, and State and local governments. For purposes of this report, a firm includes a parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls.
- "Importer" means any firm that owns, at the first place of storage, any refined petroleum product brought into the United States.
- "Importing Terminal" means, as used herein, the first place of storage used by the importer (as defined above) of any refined petroleum product to store the refined product, regardless of whether the "importer" owns or operates the "importing terminal."
- "Independent Marketer" means either a branded independent marketer or a nonbranded independent marketer.
- "Independent Refiner" means a refiner which obtained directly or indirectly, in the third quarter of 1973, *more than* 70 percent of its refinery input of domestic crude oil (or 70 percent of its refinery input of domestic and imported crude oil) from producers who do not control, are not controlled by, and are not under common control with such refiner.
- "Jet Fuel" means kerosene-base and naphtha-base jet fuel.
- "Kerosene" means a petroleum distillate in the 300° to 550° F. boiling range and generally having a flash point higher than 100° F. by ASTM Method D 56, a gravity ranging from 40° to 46° API, and a burning point in the range of 150° to 175° F. It is a clean-burning product suitable for use as an illuminant when used in wick lamps. Kerosene is often used as range oil.
- "Kerosene-Base Jet Fuel" means a quality kerosene product with an average gravity of 40.7° API and 10 percent to 90 percent distillation temperatures of 390° to 470° F. covered by ASTM D 1655 specifications. Used primarily as fuel for commercial turbojet and turboprop aircraft engines. A relatively low freezing point distillate of the kerosene type. Includes Military JP–5 (MIL–T–5624G Amend. 1).

[1] American Society for Testing Materials Standards, Part 1B—Petroleum Products, Annuals.

• "Large Independent Refiner" means an independent refiner whose total refinery capacity (including the refinery capacity of any company which controls, is controlled by, or is under common control with such refiner) is *greater than* 175,000 barrels per day.

• "Large Integrated Refiner" means a refiner which obtained directly or indirectly, in the third quarter of 1973, *less than* 70 percent of its refinery input of domestic crude oil (or 70 percent of its refinery input of domestic and imported crude oil) from producers who do not control, are not controlled by, and are not under common control with such refiner.

• "Leaded Motor Gasoline" means motor gasoline which is not unleaded gasoline as defined by the Environmental Protection Agency.

• "Lessee Dealer" means an independent marketer who leasses the station and land and has use of tanks, pumps, signs, etc. He typically has a supply agreement with a refiner or a distributor and purchases products at dealer tank wagon prices. As used herein, this marketing category is limited to those lessee dealers who are supplied directly by a refiner or any affiliated or subsidiary company of a refiner.

• "Motor Gasoline" means a mixture of volatile hydrocarbons, suitable for operation of an internal combustion engine, whose major components are hydrocarbons with boiling points ranging from 140° to 390° F., and whose source is distillation of petroleum and cracking, polymerization, and other chemical reactions by which the naturally occurring petroleum hydrocarbons are converted into those that have superior fuel properties.

• "Naphtha-Base Jet Fuel" means a fuel in the heavy naphtha boiling range with an average gravity of 52.8° API and 10 percent to 90 percent distillation temperatures of 210° to 420° F. and meeting Military Specifications MIL–F–5624 and MIL–T–5624G. Used for turbojet and turboprop aircraft engines, primarily by the military. Includes JP–4. Excludes ramjet and petroleum rocket fuels.

• "Nonbranded Independent Marketer" means a firm which is engaged in the marketing or distribution of refined petroleum products, but which (1) is not a refiner, (2) is not a firm which controls, is controlled by, is under common control with, or is affiliated with a refiner (other than by means of a supply contract), and (3) is not a branded independent marketer.

• "Nonbranded Product" means any refined petroleum product which is not a branded product.

• "No. 1–D Diesel Fuel" means diesel fuel grade No. 1 as defined in American Society for Testing and Materials (ASTM) D975–71.

• "No. 1 Heating Oil" means heating oil grade No. 1 as defined in American Society for Testing and Materials (ASTM) D396–71.

• "No. 2–D Diesel Fuel" means fuel grade No. 2 as defined in American Society for Testing and Materials (ASTM) D975–71.

• "No. 2 Distillate Fuel Oil" means a petroleum distillate which meets the specifications for No. 2 Heating Oil as defined in ASTM D396–71 and/or the specifications for No. 2–D Diesel Fuel as defined in ASTM D975–71.

• "No. 2 Heating Oil" means heating oil grade No. 2 as defined in American Society for Testing and Materials (ASTM) D396–71.

• "No. 4–D Diesel Fuel" means diesel fuel grade No. 4 as defined in American Society for Testing and Materials (ASTM) D975–71.

• "No. 4 Fuel Oil" means fuel oil grade No. 4 as defined in American Society for Testing and Materials (ASTM) D396–71.

• "Other Distillate Fuel Oil" means, for purposes of this report, all distillate fuel oils except No. 2 Distillate Fuel Oil. (This product category includes kerosene and range oil which were reported separately on Form FEA P–305–S–0.)

• "Open Dealer" means an independent marketer who owns the station or land of a retail outlet, and has use of tanks, pumps, signs, etc. He typically has a supply agreement with a refiner or a distributor and purchases products at or below dealer tank wagon prices. As used herein, this marketing category is limited to those open dealers who are supplied directly by a refiner or any subsidiary or affiliated company of a refiner.

• "Parent" means a firm which is not directly or indirectly controlled by another firm.

• "Propane" means a normally gaseous paraffinic compound (C_3H_8), which includes all products covered by NGPA specifications for commercial and HD–5 propane.

• "Range Oil" means a grade of kerosene similar to No. 1 distillate heating oil, with a gravity of about 43° API and having a maximum end-point of 625° F.

• "Refiner-operated Retail Outlet" means any retail outlet which is under the direct control of the refining company filing this report by virtue of the ability to set the retail product price and directly collect all or part of the retail margin. This category includes retail outlets: (1) being operated by salaried employees of the refiner and/or its subsidiaries and affiliates; and/or (2) involving personnel services contracted by the refiner.

• "Refiners" means those firms that own, operate, or control the operations of one or more refineries.

• "Refineries" means those industrial plants, regardless of capacity, processing crude oil feedstock and manufacturing refined petroleum products, except when such a plant is a petrochemical plant.

• "Reporting Month" means the calendar month for which Form FEA–P306–M–0 is being submitted.

• "Reseller" means, for purposes of this report, a firm or that part of such a firm which carries on the trade or business of purchasing refined petroleum products and reselling them without substantially changing their form to purchasers other than ultimate consumers.

• "Residual Fuel Oil" means the fuel oil commonly known as: (a) No. 5 and No. 6 fuel oils; (b) Bunker C; (c) Navy Special Fuel Oil; (d) Crude oil when burned directly as a fuel; and all other fuel oils which have a 50 percent boiling point over 700° F. in the ASTM D–86 standard distillation test.

• "Retail Outlet" means a site on which a supplier maintains an ongoing business of selling any refined petroleum product to ultimate consumers.

• "Retailer" means, for purposes of this report, a firm (other than a refiner or reseller) or that part of such a firm which carries on the trade or business or purchasing refined petroleum products and reselling them to ultimate consumers without substantially changing their form.

• "Sales" means, for purposes of this report, the transfer of fuel from the seller to a buyer for a price. Include all sales in the United States, including U.S. territories and U.S. possessions, made by the reporting firm during the reporting month. All military sales, including those directed to post exchanges, are to be considered as part of direct sales to ultimate consumers. Exclude intra-firm transfers, product consumed directly by the reporting firm, sales of bonded fuels and all other types of sales outside of the United States. Also exclude product delivered/loaned through exchange except where the amount transferred exceeds the amount received and is in fact invoiced as a sale during the reporting month.

• "Small Refiner" means a refiner whose total refining capacity (including the refining capacity of any company

which controls, is controlled by, or is under common control with such refiner) *does not exceed* 175,000 barrels per day.

• "Ultimate Consumer" means an individual or firm which purchases refined petroleum products for its own consumption and not for resale. This category includes end-users and wholesale purchaser-consumers.

• "Unleaded Motor Gasoline" means unleaded gasoline as defined by the Environmental Protection Agency.

• "Wholesale Purchaser-consumer" means any firm that is an ultimate consumer, which as part of its normal business practices, purchases or obtains a refined petroleum product from a supplier and receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location and which either (a) purchased or obtained more than 20,000 gallons of that product for its own use in agricultural production in any completed calendar year subsequent to 1971; or (b) purchased or obtained more than 84,000 gallons of that product in any completed calendar year subsequent to 1971.

VI. General Instructions

• Please review all instructions and definitions carefully before completing the form. If you have any questions, please call (301) 779–1814.

• Report all requested data on an aggregate basis covering the sales of all branches, divisions, subsidiary and affiliated companies under the direct or indirect control of the parent firm filing this report.

• On the top of each page, enter as indicated, the reporting firm's control number; the reporting firm's IRS Employer Identification Number, the reporting firm's name, and the date of this report (by month and year). This information is required for computer processing and must be completed on *all* pages as indicated.

VII. Specific Instructions

A. Part I—Identification Data

Item No. 1: Date of Report

• In Item I, enter the date this form was completed by month, day, and year. For example, January 15, 1975, would be entered as 0 1 1 5 7 5.

Item No. 2: Type of Report

• In Item 2, check the applicable box to indicate whether this submission is an original or a revision to an earlier submission for the same reporting month.

• If you are submitting an original report, indicate in the appropriate boxes the month and year for which the report is being submitted.

• A revision to the original report should be submitted only when data contained in the original report needs to be corrected or updated based on information unknown at the time the original report was completed. If you are submitting a revision to the original report, indicate in the appropriate boxes the reference month of the original report by month and year.

Item No. 3: Firm Identification

• In Item 3(a), enter the firm's Control Number furnished in the original mailing package.

• In Item 3(b), enter the reporting firm's IRS Employer Identification Number.

• In Item 3(c), enter the reporting firm's name.

• In Items 3(d) through 3(g), enter the reporting firm's complete address, including ZIP Code.

• In Items 3(h) and 3(i), enter the name and telephone number, including area code, of an official of the reporting firm who can be contacted to answer questions regarding the submitted FEA–P306–M0O.

• Complete Item 3(j) as indicated on the face of the form.

B. Part II—State Sales to Ultimate Consumers

• Enter in Part II for each State the firm's total volume sales of No. 2 Distillate Fuel Oil, Other Distillate Fuel Oil and Residual Fuel Oil made directly to ultimate consumers during the reporting month.

• Exclude from sales, intra-firm transfers and product consumed directly by the reporting firm.

• For this item, exclude sales to resellers and/or retailers.

• Enter in Column (A) the State and State Codes in which the sales were made. A list of codes to be used in Column (A) is provided in Appendix A.

• Sales volumes should be entered in thousands of gallons. Round numbers to the nearest thousand, e.g. enter 6,500 as 7, enter 6,400 as 6.

• Enter in the columns indicated the firm's total sales of the specified products made to ultimate consumers during the reporting month.

• *Important Note:* Procedure for Providing Additional Information. If additional copies of the chart in Part II are required, they may be obtained by reproducing enough copies from one of the blank charts provided. The total number of attachments of the same Part II item should be annotated on each like page in the box provided.

C. Part III—Report Change Status

• The information in Part VII of Form FEA–P306–M–O is required to update FEA records. A change need only be submitted on FEA–P306–M–O one time.

• If there have been no changes to the information covered in Part VII of FEA–P306–M–O which have not been previously reported to the FEA on this monthly report, check the box preceding the statement "Not required."

• If there has been a change in the information covered in Part VII of FEA–P306–M–O which has not been reported to the FEA on this monthly report, check the box preceding the statement "Required and is attached." Part VII of the form should be completed and attached as indicated below.

D. Part IV—Certification

• Type the name and title of the individual who has signed the certification, and the date of signing, in the spaces provided on the form. The individual who signs and certifies this form must be the Chief Executive Officer of the parent or such other executive officer of the entity as authorized by the Chief Executive Officer to sign for him for this purpose. In the latter case, the reporting firm must file with the addressee office, a letter of authorization signed by the Chief Executive Officer which identifies other officials authorized to certify forms for the firm. A sample format for this letter is available from any FEA regional office.

• Title 18, U.S. Code 1001, makes it a crime for any person knowingly and willfully to make to any agency or department of the United States, any false, fictitious, or fradulent statement as to any matter within its jurisidiction.

E. Part V—State Sales of Branded Motor Gasoline

• Provide the requested information for each state in which the firm's brands of motor gasoline were sold through retail outlets supplied directly by the firm during the reporting month.

• Enter in Column (A) the State and State Code (obtained from Appendix A) in which sales were made.

• Enter in the columns indicated the number of refiner operated, commission operatd, open dealer and lessee dealer retail outlets which the firm supplied directly with branded motor gasoline during the reporting month and which were in operation on the last day of the month.

• Do not include retail outlets which sold branded motor gasoline of the firm but received so direct supplies from the firm.

• The sum of Columns (B), (D), (F) and (H) should equal Column (J).

• Enter in the Columns indicated the volumes of branded motor gasoline which the firm supplied directly to refiner operated, commission operated, open dealer and lessee dealer retail outlets during the reporting month.

• The volumes of motor gasoline supplied to retail outlets by independent marketers should *not* be included as part of the direct supplies made by the reporting firm.

• Enter volumes in thousands of gallons rounded to the nearest thousand.

• The sum of Columns (C), (E), (G), and (I) should equal Column (K).

• *Important Note:* Procedure for Providing Additional Information. If additional copies of the chart in Part V are required, they may be obtained by reproducing enough copies from one of the blank charts provided. The total number of attachments of the same Part V item should be annotated on each like page in the box provided.

F. Part VI—Petroleum Product Sales to Marketing Categories

• Enter in Part VI the firm's total volume sales of each listed product made to ultimate consumers and to resellers and/or retailers during the reproting month.

• Exclude from sales, intra-firms transfers and product consumed directly by the reporting firm.

• Do not report sales to other refiners or to any subsidiary or affiliate of a refiner for this item. A partial listing of the subsidiary and affiliated companies of refiners is provided in Appendix B.

• The reported sales volume for each product should reflect the actual sales of that product made at the first point of sale by the reporting firm to an entity not under common control with nor affiliated with the respondent, regardless of any subsequent alteration in the product which might occur through blending or mixing prior to the last sale to an ultimate consumer.

• Enter in Column (B) through Column (H) the firm's total volume sales of each listed product to the appropriate marketing category.

• The sales volumes reported in Columns (E) "Open Dealers Supplied Directly;" and Column (F) "Lessee Dealers Supplied Directly" should only include the volumes supplied directly by the reporting firms. The volumes supplied to these retail outlets by independent marketers should not be included.

• Sales of nonbranded product to retail dealers leasing property from the refiner filing this form should be reported in Column (F), "Lessee Dealers Supplied Directly," all other gallonage should be reported in the column which bet describes the particular class of sale.

• Enter sales volumes in thousands of gallons rounded to the nearest thousand.

• For each product, Column (I), "Total Sales to Marketing Categories," should equal the sum of Columns (B) through Column (H).

• *Important Note:* Relationship of Parts II and V with Part VI.

For each product in Part II, the sales volume to ultimate consumers summed across all states as reported in Part II should equal the firms's total direct sales for the same product as reflected in the sum of Columns (B) plus (C) plus (D) in Part VI.

For each category of retail outlet in Part V, the volumes of motor gasoline summed across all States as reported in Part V should equal the sum of the volumes of leaded and unleaded motor gasoline sales reproted for the same retail outlet category in Part VI.

G. Part VIII—Report Change Information

• *Important Note:* The information in Part VII constitutes a revision to that data submitted orginally on FEA Form P305–S–0 (Refiner/Importer Historical Report of Petroleum Product Distribution), or on previous submittals of this monthly report (FEA Form P306–M–0). Part VII need only be sumitted when a revision is required.

• Complete Part VII, if required, by providing the information requested on the face of the form. State Codes may be taken from the listing provided as Appendix A.

• *Note:* Procedure for Providing Additional Information. If any additional copies of the chart are required, they may be obtained by reproducing enough copies from the blank chart provided. The total number of attachments should be annotated on each like page in the box provided at the bottom of the page.

VIII. Provisions for Confidentiality of Information

The information contained on these forms may be (i) information exempt from disclosure to the public under the exemption for trade secrets and confidential commercial information specified in the Freedom of Information Act 5 USC 552(b)(4) (FOIA); or (ii) information prohibited from public release by 18 USC 1905. However, before a determinatin can be made that particular information is within the coverage of either of these statutory provisions, the person submitting the information must make a showing satisfactory to the Department concerning its confidential nature.

Therefore, you should state briefly and specifically (on an element by element basis if possible), in a letter accompanying your submission of the form, why you consider the information concerned to be a trade secret or other proprietary information, whether such information is customarily treated as confidential by your company and the industry, and the type of competitive harm that would result to your company from disclosure of the information. In accordance with the provisions of 10 CFR 1004.11 of DOE's FOIA regulations, DOE will determine whether any information submitted should be withheld from public disclosure. If DOE has not already received a request for exemption from you, it will assume that you do not object to public disclosure of any information submitted on this form by your company. A new written justification need not be submitted each time a Form P306 is submitted if:

1. Views concerning information items identified as privileged or confidential have not changed, and

2. A written justification setting forth views in this regard was previously submitted.

By statutory authority, DOE must provide this information, when requested, to the Congress, or any Committee of Congress and the General Accounting Office.

APPENDIX A.—NUMERIC STATE CODES

[Source: FIPS 5-1]

State	Code
Alabama	01
Alaska	02
Arizona	04
Arkansas	05
California	06
Colorado	08
Connecticut	09
Delaware	10
District of Columbia	11
Florida	12
Georgia	13
Hawaii	15
Idaho	16
Illinois	17
Indiana	18
Iowa	19
Kansas	20
Kentucky	21
Louisiana	22
Maine	23
Maryland	24
Massachusetts	25
Michigan	26
Minnesota	27
Mississippi	28
Missouri	29
Montana	30
Nebraska	31
Nevada	32
New Hampshire	33
New Jersey	34
New Mexico	35
New York	36
North Carolina	37
North Dakota	38
Ohio	39
Oklahoma	40

APPENDIX A.—NUMERIC STATE CODES—Continued

[Source: FIPS 5-1]

State	Code
Oregon	41
Pennsylvania	42
Rhode Island	44
South Carolina	45
South Dakota	46
Tennessee	47
Texas	48
Utah	49
Vermont	50
Virginia	51
Washington	53
West Virginia	54
Wisconsin	55
Wyoming	56

Territories and possessions	Code
American Samoa	60
Canal Zone	61
Canton and Enderbury Islands	62
Caroline Islands	63
Cook Islands	64
Gilbert and Ellice Islands	65
Guam	66
Johnson Atoll	67
Line Islands—Southern	68
Mariana Islands	69
Marshall Islands	70
Midway Islands	71
Puerto Rico	72
Ryukyu Islands—Southern	73
Swan Islands	74
Tokelau Islands	75
U.S. Misc. Caribbean	76
U.S. Misc. Pacific Islands	77
Virgin Islands	78
Wake Island	79

BILLING CODE 6450-01-M

FEA-P306-M-0

FEDERAL ENERGY ADMINISTRATION
CODE 2896
Washington, D.C. 20461

Approved by OMB
OMB No.

REFINER/IMPORTER MONTHLY REPORT OF PETROLEUM PRODUCT DISTRIBUTION

READ INSTRUCTIONS CAREFULLY BEFORE ATTEMPTING TO COMPLETE THIS FORM

This report is mandatory under Public Laws 96-102 and 93-275.

Failure to respond may result in criminal fines, civil penalties and other sanctions as provided by law.

Part I – Identification Data

1. Date of Report — Mo Day Yr

2. Type of Report
   a. ☐ Original for — Mo Yr
   b. ☐ Revision to Report for — Mo Yr

FEA Use Only
Trans.
Status
No. of Pages

3. Firm Identification
   a. Control Number
   b. EIN
   c. Firm Name
   d. Address
   e. City
   f. State
   g. ZIP Code
   h. Contact Person
   i. Telephone No. ( )- -
   j. ☐ Check if Firm Identification data has changed during the past month.

Part II – State Sales to Ultimate Consumers

Enter the firm's total volume of sales for each State, which were made directly to ultimate consumers during the Reporting Month.

	STATE	STATE CODE (A)	SALES VOLUME TO ULTIMATE CONSUMERS (1,000's of Gallons) No. 2 Distillate Fuel Oil (B)	Other Distillate Fuel Oil (C)	Residual Fuel Oil (D)	Propane (E)
10102						
10104						
10106						
10108						
10110						
10112						
10114						
10116						
10118						
10119	Total Volume – All States listed on this page					

If additional copies of the above chart have been completed to provide the requested information, enter the number of copies attached. ☐

Part III – Report Change Status

Part VII – Report Change Information, is: (Check One)
☐ Not required
☐ Required and is attached

Part IV – Certification

I certify that the information submitted on this form is factually accurate and complete to the best of my knowledge.

Name	Date	Signature
Title		

FEA-P306-M-0

Firm Identification

a. Control Number

b. EIN

c. Firm Name

d. Report Covers Mo Yr

Part V—State Sales of Branded Motor Gasoline

Enter the number of retail outlets and the volumes of gasoline supplied directly to them by the firm in each State during the reporting month.

	STATE	STATE CODE (A)	NUMBER OF BRANDED RETAIL OUTLETS AND VOLUME SALES (1,000's of Gallons)									
			Refiner Operated		Commission Operated		Open Dealers Supplied Directly		Lessee Dealers Supplied Directly		Total Retail Outlets	
			Number (B)	Volume (C)	Number (D)	Volume (E)	Number (F)	Volume (G)	Number (H)	Volume (I)	Number (J)	Volume (K)
20102												
20104												
20106												
20108												
10110												
20112												
20114												
20116												
20118												
20120												
20122												
20124												
20126												
20128												
20130												
20132												
20134												
20136												
20138												
20140												
20142												
20144												
20146												
20148												
20150												
20151	Total number of outlets and volume—All States listed on this page											

If additional copies of the above charts have been completed to provide the requested information, enter the number of copies attached.

FEA-P306-M-0

Firm Identification

a. Control Number [ ][ ][ ][ ][ ][ ]

b. EIN [ ][ ][ ][ ][ ][ ][ ][ ][ ]

c. Firm Name _____

d. Report Covers [ ][ ][ ][ ] Mo Yr

Part VI—Petroleum Product Sales to Marketing Categories

Enter the firm's sales of each of the products to the specified marketing categories during the reporting month.

Product (A)		SALES TO MARKETING CATEGORIES (Volumes in Thousands of Gallons)							
		Direct Sales (not through Retail Outlets) to Ultimate Consumers (B)	Branded Product Sold					Nonbranded Product Sold to Independent Marketers (H)	Total Sales to Marketing Categories (I)
			Through Refiner Operated Retail Outlets (C)	Through Commission Operated Retail Outlets (D)	To Open Dealers Supplied Directly (E)	To Lessee Dealers Supplied Directly (F)	To Other Independent Marketers (G)		
30210	Leaded Motor Gasoline								
30220	Unleaded Motor Gasoline								
30320	No. 2 Distillate Fuel Oil								
30340	Other Distillate Fuel Oil								
30410	Aviation Gasoline								
30440	Jet Fuel								
30580	Residual Fuel Oil								

FEA–P306–M–0

Firm Identification

a. Control Number ☐☐☐☐☐☐

b. EIN ☐☐☐☐☐☐☐☐☐

c. Firm Name _____

d. Report Covers ☐☐☐☐ Mo Yr

Part VII–Report Change Information

Important Note: The information in Part VII constitutes a revision to the data submitted originally on FEA Form P305–S–0 (Refiner/Importer Historical Report of Petroleum Product Distribution) or on previous submittals of this monthly report (FEA Form P306–M–0). Part VII need only be submitted when a revision is required.

If there has been an addition to or deletion from the list of subsidiary and affiliated refineries, importers and marketing companies whose sales are included in the sales of the reporting firm, which has not been previously reported to the FEA on FEA Form P305–S–0 or P306–M–0, provide the information requested below as appropriate.

a. Firms Added:

	Company Name (A)	Address (B)	City (C)	State Code (D)	ZIP Code (E)	EIN (F)
40101						
40102						
40103						

b. Firms Deleted:

	Company Name (A)	EIN (B)
50101		
50102		
50103		

If additional copies of the above charts have been completed to provide the requested information, enter the number of copies attached. ☐

[FR Doc. 81-32573 Filed 11-12-81; 8:45 am]

BILLING CODE 6450-01-C

GPO 918-675

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 5344-000]

Auslam & Associates Inc.; Application for Preliminary Permit

November 6, 1981.

Take notice that Auslam & Associates Incorporated (Applicant) filed on September 8, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)—825(r)] for Project No. 5344 to be known as the Sugar Pine Water Power Project located on North Shirttail Creek in Placer 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. Jay Noel, Vice President, Auslam & Associates Incorporated, 601 University Ave., Suite 288, Sacramento, California 95825.

Project Description—The proposed project located at one of the two potential sites would consist of: (1) a 870-foot long, 14.5-inch diameter penstock at Site #1; (2) a 6,000-foot long, 14.5-inch penstock at Site #2; (3) a powerhouse with a rated capacity of 150 kW at Site #1; (4) a powerhouse with a rated capacity of 300 kW at Site #2; and (5) a transmission line from the powerhouse to an adjoining existing 12-kV transmission line. The Applicant estimates that the average annual energy production would be 0.7 million kWh at Site #1 and 1.5 million kWh at Site #2.

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 24 months during which it would conduct technical, environmental and economic studies, and also prepare an FERC license application. No new roads would be needed for conducting these license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $25,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 8, 1982, 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 petition to intervene in accordance with the requirements of the Rules of Practice and Procedures, 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 January 8, 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. 81-32728 Filed 11-12-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER81-181-000]

Bangor Hydro-Electric Co.; Compliance Filing

November 6, 1981.

The filing Company submits the following:

Take notice that on October 16, 1981, Bangor Hydro-Electric Company filed a compliance report pursuant to the Commission's letter order of September 14, 1981.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before November 27, 1981. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32727 Filed 11-12-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-55-000]

Carolina Power & Light Co.; Filing

November 6, 1981.

The filing Company submits the following:

Take notice that Carolina Power & Light Company on October 29, 1981, tendered for filing an electric Service Agreement with North Carolina Municipal Power Agency Number 3 (Power Agency) for the supplying of power to Power Agency's Participants who are presently served by Virginia Electric and Power Company. This Service Agreement will become effective only if the negotiated sale of Carolina Power & Light Company generation facilities to the Power Agency does not become effective by December 30, 1981. If Service Agreement does become effective, it will automatically terminate as of midnight on the first closing date.

Carolina Power & Light requests that the Commission waive the notice requirements to allow for an effective date of December 30, 1981.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 18, 1981. 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. 81-32728 Filed 11-12-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-1-44-000]

Commercial Pipeline Co., Inc.; PGA Filings

November 5, 1981.

Take notice that on October 23, 1981, Commercial Pipeline Co., Inc. (Commercial) tendered for filing Thirty-Sixth Sheet No. 3A reflecting Purchased Gas Adjustments and effective dates as set out below:

Sheet No.	Current adjustments	Surcharge adjustment	Cumulative adjustments	Effective date
Thirty-Sixth Sheet No. 3A.	.5085	(.0550)	.7471	Nov. 23, 1981.

Commercial states that these revisions track precisely similar revisions in the tariff of Cities Service Gas Company, its sole supplier. Commercial requests waiver of notice to the extent required to permit said tariff sheets to become effective as proposed.

Commercial requests that it be able to reflect in the proposed surcharge adjustment in its Thirty-Sixth Sheet No. 3A, the proper computation of its "Rate After Current Adjustment" from its base rates and cumulative adjustments in its 33rd Revised Sheet No. 3A. Commercial states that the surcharge contained in tariff sheets filed October 1, 1981, reflected such a computation, while the surcharge in tariff sheets filed October 22, 1981, did not. Both the October 1, 1981, and October 22, 1981, filings requested an effective date of May 23, 1981. In that regard, Commercial has also submitted its Revised Third Substitute Thirty-Fifth Revised Sheet No. 3A, which does not reflect the subject computation in the surcharge, and which shows the following:

Sheet No.	Current adjustments	Surcharge adjustment	Cumulative adjustments	Effective date
Revised Thirty-Sixth Sheet No. 3A.	.5085	(.1309)	.7471	Nov. 23, 1981.

Commercial requests that its Thirty-Sixth Sheet No. 3A be permitted to go into effect, particularly if the aforementioned October 22, 1981, filing is accepted. If the October 1, 1981, filing is accepted, Commercial requests that the Commission accept its Revised Thirty-Sixth Sheet No. 3A.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 10, 1981. Protests will be considered by the Commission in determining the appropriate action 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. 81-32741 Filed 11-12-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP82-4-000]

Dorchester Gas Producing Co.; Petition for Clarification of Stripper Well Regulations

November 6, 1981.

Take notice that on October 20, 1981, Dorchester Gas Producing Company (Dorchester), 5735 Pineland Drive, Dallas, Texas 75231, filed a petition for clarification pursuant to § 1.7 of the Commission's Rules of Practice and Procedure.

Dorchester initially requests clarification of § 217.805, which governs continuing qualification of stripper wells under section 108 of the Natural Gas Policy Act of 1978 (NGPA). Dorchester states that it produces natural gas from six wells that have previously been qualified as stripper wells.[1] Subsequent to Dorchester's filing for stripper well determinations on these wells, each well produced gas at a rate in excess of the stripper well limit. Pursuant to § 271.805, Dorchester filed Notices of Disqualification and Petitions seeking determinations that these wells continue to qualify for the stripper well price because the increased production was allegedly the result of either seasonal fluctuations or recognized enhanced recovery techniques.

Dorchester states that "there has been a question raised" as to whether any or all of the relevant Notices and Petitions were filed timely under § 271.805 and what impact, if any, untimely filings would have on Dorchester's ability to collect the stripper well rate. Dorchester asks that the Commission confirm that it is entitled to charge and collect the section 108 rate for gas produced from these wells from the date the original applications were filed to the present time. Dorchester also asks that, if necessary, a waiver of the regulations be granted to achieve the requested result.

Dorchester further requests that the Commission, if unable to reach the above-requested result, confirm that Dorchester need not wait until it can requalify the six wells in question as stripper wells before seeking determinations that any excess production is due to seasonal fluctuations or recognized enhanced recovery techniques.

Any person desiring to be heard or to protest this petition must file a petition to intervene or a protest in accordance with § 1.8 or 1.10. All petitions or protests shall be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 on or before November 30, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to this proceeding. Any person desiring to become a party must file a petition to intervene. Copies of the filing in this docket are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32755 Filed 11-12-81; 8:45 am]

BILLING CODE 6717-01-M

[1] Identification of each well and all relevant filing dates are set forth in Exhibit A of Dorchester's petition.

[Project No. 5490-000]

Homestake Consulting & Investments Inc.; Application for Preliminary Permit

November 6, 1981.

Take notice that Homestake Consulting & Investments Incorporated (Applicant) filed on October 13, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a) 825(r)] for Project No. 5490 to be known as the Red Top Creek Waterpower Project located on Red Top Creek in Lincoln County, Montana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Homestake Consulting and Investments Incorporated, Route 3, Box 174 H, Sandpoint, Idaho 83864.

Project Description—The proposed project would consist of: (1) a 4400-foot

long, 16-inch diameter penstock; (2) a powerhouse with a total installed capacity of 200 kW; and (3) a 800-foot long, 5-kV transmission line from the powerhouse to an existing Northern Lights Incorporated transmission line. The Applicant estimates that the average annual energy production would be 0.9 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks the issuance of a preliminary permit for a period of 36 months during which it would conduct the technical, environmental and economic studies, and also prepare an FERC license application. No new roads would be needed to conduct these studies. The Applicant estimates that the cost of undertaking these studies would be $3628.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 25, 1982, 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 January 25, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32730 Filed 11-12-81; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5495-000]

Hydro Resource Co.; Application for Preliminary Permit

November 6, 1981.

Take notice that Hydro Resource Company (Applicant) filed on October 14, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for Project No. 5495 to be known as the Dungeness River Project located on Dungeness River in Clallam County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Jerry L. Johnson, Agent, Post Office Box 485, Lynden, Washington 98264.

Project Description—The proposed project would consist of: (1) A 100-foot long, 8-foot high diversion dam on Dungeness River; (2) a 16000-foot long, 60-inch diameter penstock; (3) a powerhouse with a total rated capacity of 10,000 kW; and (4) a 16000-foot long, 55-kV transmission line from the powerhouse to an existing transmission line. The Applicant estimates that the average annual energy output would be 66 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 24 months during which it would conduct technical, environmental and economic studies, and also prepare an FERC license application. No new roads would be needed to conduct these studies. The Applicant estimates that the cost of undertaking these studies would be $150,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 7, 1982, 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 January 7, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal 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. 81-32729 Filed 11-12-81; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5445-000]

Hydro Resource Co.; Application for Preliminary Permit

November 6, 1981.

Take notice that Hydro Resource Company (Applicant) filed on October 2, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)—825(r)] for Project No. 5445 to be known as the Chiwaukum Creek Project located on Chiwaukum Creek in Chelan County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Jerry L. Johnson, Agent, Hydro Resource Company, P.O. Box 485, Lynden, Washington 98264.

Project Description—The proposed project would consist of: (1) 50-foot long, 8-foot high diversion dam on Chiwaukum Creek; (2) a 9,000-foot long, 48-inch diameter penstock; (3) a powerhouse with a total installed capacity of 5,600 kW; and (4) a 5,000-foot long, 115-kV transmission line from the powerhouse to an existing transmission line. The Applicant estimates that the average annual energy production would be 30 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 24 months during which it would conduct technical, environmental and economic studies, and also 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 $150,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 11, 1982, 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 January 11, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32743 Filed 11-12-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-15-000]

Long Island Lighting Co., Application

November 6, 1981.

Take notice that on November 2, 1981, Long Island Lighting Company (Applicant) filed an application seeking authority, pursuant to Section 204 of the Federal Power Act, to issue from time to time not more than $400 million of short-term debt with final maturities not later than September 30, 1984.

Any person desiring to be heard or to make any protest with reference to the application should, on or before November 30, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32731 Filed 11-12-81; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5428-000]

Lawrence J. McMurtrey; Application for Preliminary Permit

November 6, 1981.

Take notice that Lawrence J. McMurtrey (Applicant) filed on September 29, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5428 to be known as the Martin Creek Waterpower Project located on Martin Creek in King County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Lawrence J. McMurtrey, 12122—196th N.E., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) a 30,000-foot long, 18-inch diameter diversion conduit; (2) a powerhouse with a total rated capacity of 1450 kW; and (3) a 0.5-mile long 115-kV transmission line from the powerhouse to an existing 115-kV Puget Sound Power and Light Company transmission line. The Applicant esimates that the average annual energy output would be 11,800 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 permit of 36 months during which it would conduct technical, environmental and economic studies, and also 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 $20,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 11, 1982, 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 petition to intervene in accordance with the requirements of the Rules of Practice and Procedures, 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 petition to intervene must be received on or before January 11, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32734 Filed 11-12-81; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5429-000]

Lawrence J. McMurtrey; Application for Preliminary Permit

November 6, 1981.

Take notice that Lawrence J. McMurtrey (Applicant) filed on September 29, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5429 to be known as the Money Creek Waterpower Project located on Money Creek in King County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Lawrence J. McMurtrey, 12122-196th N.E., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) A 20,000-foot long, 24-inch diameter diversion conduit; (2) a powerhouse with a total rated capacity of 1450 kW; and (3) a 0.5-mile long, 115-kV transmission line from the powerhouse to an existing 115-kV Puget Sound Power and Light Company transmission line. The Applicant estimates that the average annual energy output would be 9,600 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 it would conduct technical, environmental and economic studies, and also prepare an FERC license application. No new roads would be needed to conduct these studies. The Applicant estimates that the cost of undertaking these studies would be $20,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 11, 1982, 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 January 11, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32733 Filed 11-12-81; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5434-000]

Lawrence J. McMurtrey; Application for Preliminary Permit

November 6, 1981.

Take notice that Lawrence J. McMurtrey (Applicant) filed on September 29, 1981 an applicataion for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for Project No. 5434 to be known as the Twin Lake Waterpower Project located on West Fork, Troublesome Creek in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Lawrence J. McMurtrey, 12112-196th NE., Redmond, Washington 98052

Project Description—The proposed project consists of: (1) an inlet placed in the lakebed; (2) a diversion pipeline 7,000 feet long; (3) a powerhouse containing a turbine generator with 1.45 MW capacity and 11.3 GWh annual energy production; (4) transmission lines; and (5) appurtenant facilities. The project will be constructed on Snoqualmie National Forest land. Generated power will be sold to Puget Sound Power and Light, Bonneville Power Administration, or a power user.

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 he will conduct studies to ascertain project feasibility and to support application for a license to construct and operate the project. The estimated cost of activities

during the preliminary permit period is $20,000.

Competing Applications—Anyone desiring to file a competing aplication must submit to the Commission, on or before January 6, 1982, 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 January 6, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION" "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32732 Filed 11-12-81; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5430-000]

Lawrence J. McMurtrey; Application for Preliminary Permit

November 6, 1981.

Take notice that Lawrence J. McMurtrey (Applicant) filed on September 29, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for Project No. 5430 to be known as the Deception Creek Waterpower Project located on Deception Creek in King County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Lawrence J. McMurtrey, 12122—196th N.E., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) a 30,000-foot long, 18-inch diameter diversion conduit; (2) a powerhouse with a total rated capacity of 1450 kW; and (3) a 0.5-mile long 115-kV transmission line from the powerhouse to an existing 115-kV Puget Sound Power and Light Company transmission line. The Applicant estimates that the average annual energy output would be 10,900 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 permit of 36 months during which it would conduct technical, environmental and economic studies, and also prepare an FERC license application. No new roads would be needed to conduct these studies. The Applicant estimates that the cost of undertaking these studies would be $20,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 11, 1982, 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 January 11, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32744 Filed 11-12-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP80-581 and CP81-308-000]

Pataya Storage Co. and El Paso Natural Gas Co.; Informal Technical Conference

November 6, 1981.

Take notice that on November 19, 1981, an informal technical conference will be held at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Room 7312A-A, Washington, D.C. at 10:00 a.m.

The purposes of the conference is to discuss environmental issues involved in the Pataya Storage Company (Pataya) proposal in Docket No. CP80-581 to solution-mine two underground storage caverns in a salt formation located in Mohave County, Arizona. Such issues include, but are not limited to, the design of the brine settling and evaporation ponds, and possible ground water problems resulting from such ponds.

For further information, contact Lon Lister, 825 North Capitol St., N.E., Washington, D.C. 20426, Tel. (202) 357-8870.

The informal conference is open to the public; however, attendance or participation at the conference will not serve to make attendees parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of the applicant's filings are on file with the Federal Energy Regulatory Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32735 Filed 11-12-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RA82-4-000]

Placid Refining Co.; Filing of Petition for Review

November 6, 1981.

Take notice that Placid Refining Company on November 2, 1981, filed a Petition for Review (under 42 U.S.C. 7194(b) (1977) Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before Nov. 23, 1981, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before November 23, 1981, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, S.W. Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32736 Filed 11-12-81; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5402-000]

Puget Sound Power & Light Co.; Application for Preliminary Permit

November 6, 1981.

Take notice that Puget Sound Power & Light Company (Applicant) filed on September 23, 1981 an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5402 to be known as the West Fork Miller River Project located on West Fork Miller River in King County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Robert V. Myers, Vice President, Generation Resources, Puget Sound Power & Light Company, Puget Power Building, Bellevue, Washington 98009

Project Description—The proposed project would consist of: (1) A concrete gravity diversion dam 10 feet high with an overflow spillway; (2) steel penstock 7,200 feet long; (3) powerhouse containing two turbine- generator units with 5.5 MW capacity and 19,900 MWh average annual energy output; (4) transmission line; and (5) appurtenant facilities. The market for power produced will be Puget Power's existing service network. The project is located almost entirely on Snoqualmie National Forest land. Specific public lands to be occupied are listed in the preliminary permit application.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The applicant seeks issuance of a preliminary permit for a period of 24 months, during which time Puget Power plans to conduct engineering, economic and environmental studies necessary for an application for license to construct and operate the project. The estimated cost of conducting these studies and making the application $300,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 11, 1982, 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 January 11, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secratary.

[FR Doc. 81-32737 Filed 11-12-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-54-000]

Southern Company Services, Inc.; Filing

November 6, 1981.

The filing Company submits the following:

Take notice that Southern Company Services, Inc., on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, and

Mississippi Power Company of October 29, 1981, tendered for filing The Southern Company Intercompany Interchange Contract, together with an Allocation Methodology and Periodic Rate Computation Manual showing the basis for interchange and pooling transactions between such companies. The filing also includes informational schedules which detail the charges and derivation of components of the rates to be used during the calendar year 1982. The new Intercompany Interchange Contract is proposed to be effective on January 1, 1982.

The new Southern Company System Intercompany Interchange Contract constitutes a coordination and interchange agreement between the operating companies of The Southern Company system, provides for certain power pooling transactions, including exchange of interchange energy and the pricing thereof, the purchase and sale of capacity and the rates and charges therefor, as well as other interchange arrangements between the operating companies.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 27, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishng to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32739 Filed 11-12-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TC81-63-000 and TC81-64-000]

South Georgia Natural Gas Co. and Southern Natural Gas Co.; Informal Settlement Conference

November 6, 1981.

South Georgia Natural Gas Company (Applicant) submitted for filing in Docket No. TC81-63-000 revised tariff sheets to amend its FERC Gas Tariff, First Revised Volume No. 1, with a proposed effective date of November 1, 1981.

Southern Natural Gas Company (Applicant) submitted for filing in Docket No. TC81-64-000 revised tariff sheets to amend its FERC Gas Tariff, Sixth Revised Volume No. 1, with a proposed effective date of November 1, 1981.

By order of September 30, 1981, the Commission made the tariff sheets effective for an interim period, pending possible settlement of the disagreement over essential agricultural use requirements.

Take notice that on December 2, 1981, at 10:00 a.m., an informal conference will be convened with the applicants, intervenors, Commission staff, and other interested persons, to discuss matters at issue in the above-entitled proceedings. The conference will be held in a room whose number will be posted on the second floor hearing calendar at the offices of the Federal Energy Regulatory Commission, 825 N. Capitol Street, N.E., Washington, D.C.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene in this matter by order of the Commission, attendance will not be deemed to authorize intervention as a party in these proceedings.

All parties will be expected to come fully prepared to discuss the merits of the issues arising in these proceedings and to make commitments with respect to such issues and to any offers of settlement or stipulation discussed at the conference.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-32738 Filed 11-12-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-58-000]

Southwestern Public Service Co.; Filing

November 6, 1981.

The filing Company submits the following:

Take notice that Southwestern Public Service Company (Southwestern) on October 30, 1981, tendered for filing a rate schedule agreement for electric power service to the City of Lubbock, Texas (Lubbock). The service is to be rendered through Southwestern's 230 KV transmission system to its connection with Lubbock.

Southwestern states that Lubbock is a Partial Requirements customer and the new contract provides for Firm Power Service, Emergency Service and Non-Firm Energy Service under rate schedules currently filed and allowed by this Commission for Partial Requirement customers.

Southwestern requests an effective date of January 1, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 17, 1981. 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. 81-32740 Filed 11-12-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-48-000]

Tapoco, Inc.; Filing

November 6, 1981.

The filing Company submits the following:

Take notice that on October 26, 1981, Tapoco, Inc. (Tapoco) tendered for filing documents relating to an amendment to the 1962 Agreement among Tapoco, the Tennessee Valley Authority (TVA), Aluminum Company of America (Alcoa) and Nantahala Power and Light Company (Nantahala), commonly referred to as the New Fontana Agreement.

Tapoco states that since the New Fontana Agreement is a fixed rate schedule, and since this amendment affects only Tapoco and its sole customer, Alcoa, both of whom have consented to it, and does not affect Nantahala, and further since the amendment relates to the non-jurisdictional aspects of the New Fontana Agreement, submission of the detailed information required by 18 CFR 35.13 is unnecessary and superfluous in this instance. Thus, Tapoco requests waiver of the informal requirements of § 35.13.

Tapoco requests an effective date of July 1, 1981, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8

and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 23, 1981. 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. 81-32745 Filed 11-12-81; 8:45 am]

BILLING CODE 6717-01-M

Wisconsin River Power Co.; Filing

[Docket No. ER82-56-000]

November 6, 1981.

The filing Company submits the following:

Take notice that Wisconsin River Power Company (Wisconsin) on October 29, 1981, tendered for filing an initial rate schedule, pursuant to Section 205 of the Federal Power Act providing for the sale of all hydro-electric power produced by Wisconsin to Wisconsin Public Service Corporation, Consolidated Water Power Company, and Wisconsin Power and Light Company. Wisconsin requests an effective date of January 1, 1982.

Copies of the filing have been served upon the public utility's jurisdictional customers and upon the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 27, 1981. 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. 81-32746 Filed 11-12-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. G-5339-001, et al.]

Natural Gas Companies; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

November 6, 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.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 24, 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 timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price Per 1,000 ft.[3]	Pressure base
G-5339-001, C, Oct. 26, 1981	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	United Gas Pipeline Company, Carthage Field, Panola County, Texas.	(1)	14.65
G-5927-000, Oct. 29, 1981	Getty Oil Company, P.O. Box 1640, Tulsa, Oklahoma 74102[5].	El Paso Natural Gas Company, Headlee Field, Ector County, Texas.	(2)	14.65
G-10946-000, Oct. 26, 1981[13]	Gulf Oil Corporation (Operator), *et al.* P.O. Box 2100 Houston, Texas 77252.	Texas Gas Transmission Corporation, South Bell City Field, Calcasieu Parish, Louisiana.	(4)	15.025
G-16093-000, D, Oct. 6 1981	Gulf Oil Corporation, P.O. Box 2100, Houston, Texas 77252.	Transwestern Pipeline Company, Various Fields and Counties, Panhandle or Areas of Oklahoma.	(5)	
CI64-976-000, B, Oct. 30, 1981	Texaco Inc., P.O. Box 2420, Tulsa, Oklahoma 74102.	Kansas-Nebraska Natural Gas Co., Bradshaw Field, Hamilton County, Kansas.	(6)	
CI67-600-000, D, Oct. 30 1981	do.	Northern Natural Gas Company, Gage Field, Ellis County, Oklahoma.	(7)(8)	
CI78-180-001, D, Nov. 2, 1981	Texaco, Inc. (Operator), *et al.* P.O. Box 2100, Denver, Colorado 80201.	Colorado Interstate Gas Company, Delaney Rim Field, Sweetwater County, Wyoming.	(7)	
CI78-181-004, D, Oct. 30 1981	do.	Colorado Interstate Gas Company, Delaney Rim Field, Sweetwater County, Wyoming.	(7)	
CI78-182-003, D, Oct. 30, 1981	do.	Colorado Interstate Gas Company, Delaney Rim Field, Sweetwater County, Wyoming.	(7)	
CI82-39-000, E, F, Oct. 26, 1981[17]	Odeco Oil & Gas Company (Succ. in Interstate to Texaco Inc. and Par. Succ. in Interest to Marathon Oil Company) and Murphy Oil Corporation P.O. Box 61680, New Orleans, Louisiana 70161.	United Gas Pipeline Company and Southern Natural Gas Company, Eugene Island Block 47 in the Gulf of Mexico, Offshore Louisiana (federal domain).	(9)	15.025
CI82-40-000 (G-10979), B, Oct. 28, 1981.	Phillips Petroleum Company, 336 HS&L Building, Bartlesville, Oklahoma 74004.	Warren Petroleum Company, A Division of Gulf Oil Corporation, NE/4 and SW/4, Sec. 19, Blk 24, H&GN RR Co., Survey, Wheeler County, Texas.	(9)	

Docket No. and date filed	Applicant	Purchaser and location	Price Per 1,000 ft.³	Pressure base
CI82-41-000, B, Oct. 26, 1981	Donald C. Slawson, 200 Douglas Building, Wichita, Kansas 67202.	Michigan Wisconsin Pipe Line Company, #1 Quigley Sec. 17-11N-10W, Canadian County, Oklahoma.	(⁵)	
CI82-42-000, A, Oct. 29, 1981	McMoRan Offshore Production Co., P.O. Box 6800, Metairie, Louisiana 70009.	Columbia Gas Transmission Corporation, High Island Block A-471, Offshore Texas.	(¹¹)	14.73
CI82-43-000, A, Oct. 29, 1981	Pogo Producing Company, Post Office Box 2540, Houston, Texas 77001.	United Gas Pipe Line Company, Sabine Pass Block 16, Offshore Texas.	(¹²)	14.73
CI82-44-000, A, Oct. 29, 1981	do	Michigan Wisconsin Pipe Line Company, High Island Block A-325, East Addition, South Extension, Offshore Texas.	(¹³)	14.73
CI82-45-000 (G-6086), B, Nov. 2, 1981.	Mapco Production Company (Succ. to MAPCO Inc.), 1800 South Baltimore Avenue, Tulsa, Oklahoma 74119.	Northern Natural Gas Corporation, Hugoton Field, Texas County, Oklahoma.	(¹⁴)	
CI82-46-000 (CI71-806), B, Nov. 2, 1981.	Mobil Oil Exploration & Producing Southeast Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Texas Eastern Transmission Corporation, Main Pass Block 90, Offshore Louisiana.	(¹⁵)	

¹ Applicant is filing under Gas Purchase Contract dated March 1, 1976, as amended, amended by Gas Purhase Contract dated August 28, 1981.
² Applicant is filing to reflect the substitution of the Headlee Devonian Unit Plant for the Headlee Gas Processing Plant.
³ Applicant is filing under Amendatory Agreement dated August 24, 1981.
⁴ Applicant is filing to add additional delivery point.
⁵ Gulf no longer owns an interest in any of the leases.
⁶ Leasing released.
⁷ Expired BLM leases. Leases expired between 10/1/78 and 3/31/81. Requires their deletion from this contract.
⁸ Applicant is filing under Gas Purchase Contract between Texaco Inc. and Sea Robin dated August 25, 1976, as subsequently amended and assigned to United and Southern and a Gas Purchase Contract dated December 29, 1976 between Marathon Oil Company and Sea Robin as subsequently amended and assigned to United and Southern.
⁹ Applicant request termination of the Certificate issued in Docket No. G-10979 and cancellation of its related FERC Gas Rate Schedule No. 282 because the fixed price contract dated July 20, 1956 has been replaced by a percentage typed contract dated September 3, 1981.
¹⁰ The available supply of natural gas is depleted to the extent that the continuance of service from this well is unwarranted. Sales of natural gas from the well last occurred on September 16, 1979.
¹¹ Applicant is filing Gas Purchase Contract dated October 23, 1981.
¹² Applicant is willing to accept a certificate of public convenience and necessity conditioned in price to the applicable ceiling established by the Natural Gas Policy Act of 1978.
¹³ Release of Gas for Irrigation Fuel.
¹⁴ Production for the leases dedicated under the Certificate in Docket No. CI71-806 has ceased because of depletion of the reservoir and the leases have subsequently expired.
¹⁵ Applicant is filing under Replacement Contract dated January 7, 1977, amended by Letter Agreement dated September 30, 1981.
¹⁶ Leases have expired.
¹⁷ Texaco Inc., has assigned its total interest to Odeco Oil & Gas Company, and Marathon Oil Company has partially assigned its interest to Odeco Oil & Gas Company, effective June 2, 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. 81-32742 Filed 11-12-81; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Objection to Proposed Remedial Orders Filed; October 19 Through October 23, 1981

During the week of October 19 through October 23, 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 December 3, 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.

November 5, 1981.

Saber Refining Co., Houston, Texas, HRO-0004, Motor Gasoline

On October 23, 1981, Saber Refining Company, 1700 Houston Natural Gas Building, 1200 Travis Street, Houston, Texas 77002 filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest District Office of Enforcement issued to the firm on September 25, 1981. In the Proposed Remedial Order the Southwest District found that during the period February 1976 through December 1979 Saber committed violations in its sales of motor gasoline. According to the Proposed Remedial Order, the Saber violations resulted in $4,109,454.00 of overcharges to its customers.

[FR Doc. 81-32697 Filed 11-13-81; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51348; TSH-FRL-1984-7]

Polycyclic Sulfonic Acid Salt; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. 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 one PMN and provides a summary.

DATES: Written comments on PMN 81-570 by: January 3, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-51348]" 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: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of toxic Substances, Environmental Protection Agency, Rm.

E-216, 401 M St., SW., Washington, DC 20460, (202-426-2601).

SUPPLEMENTARY INFORMATION: The following is a summary of information provided by the manufacturer on the PMN received by EPA:

PMN 81-570

Close of Review Period. February 2, 1982.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Polycyclic sulfonic acid salt.

Use. Claimed confidential business information.

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 up to 8 hrs/day, up to 15 days/yr.

Environmental Release/Disposal. The manufacturer states that no release to the environment is anticipated.

Dated: November 5, 1981.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 81-32706 Filed 11-12-81; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-59070; TSH-FRL-1984-6]

Certain Chemicals; Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the **Federal Register** of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of two applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by: November 30, 1981.

ADDRESS: Written comments, identified by the document control number "[OPTS-59070]" and the specific TME number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E-401, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on TMEs received by the EPA:

TME 81-43

Close of Review Period. December 19, 1981.

Importer's Identity. Claimed confidential business information. Organization information provided:

Annual sales—Over $500,000,000.

Specific Chemical Identity. 3-Hydroxy-propanesulfonic acid.

Use. The importer states that the TME substance will be used as an intermediate.

IMPORT ESTIMATES

	Maximum (kilograms per year)
Test marketing use	5

Physical/Chemical Properties

Appearance—Yellow clear solution.

Specific gravity—1.36.

Boiling point at 760 mm Hg (° C.)—>100° C.

Solubility: Water at 20° C.—Dilutable.

Toxicity Data. No data were submitted.

Exposure. The importer states that during processing up to 24 workers may experience dermal and inhalation exposure up to 16 hrs/day, up to 250 days/yr at an average and peak concentration of 0-1 mg/m³. During use, up to 6 workers may experience dermal and inhalation exposure up to 8 hrs/day, 250 days/yr.

Environmental Release/Disposal. The importer states that less than 10 kg/yr will be released to air, land and water. Disposal is to a publicly owned treatment works (POTW). All other wastes will be drummed for destruction in a licensed thermal oxidizer or for disposal in a licensed chemically secure landfill, or for treatment or recovery.

TME 81-44

Close of Review Period. December 19, 1981.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Annual sales—Over $500,000,000.

Specific Chemical Identity. Sodium salt of 3-hydroxy-1-propanesulfonic acid.

Use. The manufacturer states that the TME substance will be used as an intermediate.

PRODUCTION ESTIMATES

	Maximum (kilograms per year)
Test marketing use	5

Physical/Chemical Properties

Appearance—White crystals, slight sulfur dioxide odor.

Melting point—227° C.

Solubility: Water—>10 g/1 at 20° C.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture and processing up to 24 workers may experience dermal and inhalation exposure up to 16 hrs/day, up to 250 days/yr at an average and peak concentration 0-1 mg/m³.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to air, land and water. Disposal is to a POTW. All other wastes will be drummed for destruction in a licensed thermal oxidizer or for disposal in a licensed chemically secure landfill, or for treatment or recovery.

Dated: November 5, 1981.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 81-32763 Filed 11-12-81; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51349; TSH-FRL-1984-5]

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 two PMNs and provides a summary of each.

DATES: Written comments on PMN 81–571 and 81–572 by January 4, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS–51349]" 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: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, DC 20460 (202–426–2601).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 81–571

Close of Review Period. February 3, 1982.

Manufacturer's Identity. Day-Glo Color Corporation, 4515 St. Clair Avenue, Cleveland, OH 44103.

Specific Chemical Identity. Benzo(k.l.) thioxanthene 3,4-dicarboxylic anhydride.

Use. The manufacturer states that the PMN substance will be used as a dye intermediate.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	10	1,000
2d year	1,000	5,000
3d year	2,000	10,000

Physical/Chemical Properties

Appearance—Orange powder.

Melting point—>300° C.

Solubility: water—Insoluble; alcohol—Insoluble; esters—Insoluble; ketones—Insoluble; dimethoxyethane—Slightly soluble in dimethylformamide.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture and use 4 workers may experience dermal and inhalation exposure up to 8 hrs/day, up to 20 days/yr during transfer from the filter press to drums and transfer from drums to the reactor.

Environmental Release/Disposal. The manufacturer states that no release to the environment is anticipated.

PMN 81–572

Close of Review Period. February 3, 1982.

Importer's Identity. Shell Oil Company, P.O. Box 4320, One Shell Plaza, Houston, TX 77210.

Specific Chemical Identity. Magnesium alkyl (C_{16}–C_{18}) salicylate.

Use. The importer states that the PMN substance will be used in a commercial and consumer lubricating oil additive.

Import Estimates. Claimed confidential business information.

Physical/Chemical Properties

APPEARANCE—DARK VISCOUS LIQUID.

Specific gravity—1.079.

Toxicity Data

Oral LD_{50} (rats)—>10 g/kg.

Dermal LD_{50} (rats)—>2 g/kg.

Skin irritation, Draize—Moderate irritant.

Eye irritation—Mildly irritating.

Skin sensitization (guinea pig)—Not a sensitizer.

Exposure. The importer states that during processing workers may experience dermal exposure during loading, canning and clean up operations. Exposure levels will average and peak >100 parts per million (ppm).

Environmental Release/Disposal. The importer states that less than 10 kg/yr will be released to air, land and water 24 hrs/day.

Dated: November 5, 1981.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 81–32785 Filed 11–12–81; 8:45 am]

BILLING CODE 6560–31–M

[W–5–FRL–1984–3]

Aquifer System in Eastern Wisconsin; Request for Determination

AGENCY: Environmental Protection Agency.

ACTION: Notice of petition and comment period.

SUMMARY: The Environmental Protection Agency, Region V, announces the receipt of a petition requesting the designation of the Silurian-Glacial aquifer system in eastern Wisconsin as a sole or principal source of drinking water and opens a public comment period to request information about the area.

DATES: Comments will be accepted until December 31, 1981. The Agency's proposal to grant or deny the petition and the opportunity to request a public hearing on the proposal will be announced concurrently in the Federal Register and in newspapers of general circulation in the affected area. At least 45 days notice will be given before any hearing that may be held.

ADDRESS: Written comments, requests for hearing and data should be sent to Region 5, Environmental Protection Agency, 230 So. Dearborn Street, Chicago, Illinois 60604, ATTN: 5WWS, Wisconsin Aquifer Petition.

FOR FURTHER INFORMATION CONTACT: Tom Thomas, Water Supply Branch, at the above address or telephone (312) 886–6193. Copies of the petition are available upon request.

SUPPLEMENTARY INFORMATION: Section 1424(e) of the Safe Drinking Water Act (Pub. L. 93–523) authorizes the Administrator of the Environmental Protection Agency (EPA) to determine that an area has an aquifer which is the sole or principal drinking water source for the area. Dr. John R. Tinker, Jr., University of Wisconsin Center—Fond du Lac, has requested the Administrator to determine that the aquifers (Silurian through Pleistocene in age) in eastern Wisconsin are the sole or principal drinking water source for that area. The petitioned area includes Brown, Calumet, Dodge, Door, Fond du Lac, Kenosha, Kewaunee, Manitowoc, Milwaukee, Ozaukee, Racine, Sheboygan, Walworth, Washington and Waukesha Counties. Information is solicited about the petitioned area's hydrogeologic system including the surface boundary of its recharge area and about the number and kinds of small entities (business, governmental jursidictions, and organizations) receiving Federal financial assistance in the area. This will assist EPA in evaluating the aquifer system and the potential impact of a designation on small entities pursuant to the Regulatory Flexibility Act requirements. Based on other Regional offices experiences with sole source designations, Federally assisted projects that potentially may be affected included highway construction projects, subdivision construction, and waste disposal sites. EPA will make a decision granting or denying the requested determination at the earliest time consistent with a complete review of the relevant data and information, and a full opportunity for public participation.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 81–32782 Filed 11–12–81; 8:45 am]

BILLING CODE 6560–29–M

[WH-FRL-1985-3]

Management Advisory Group to the Municipal Construction Division; Tentative Meeting

Under Pub. L. 92-463, notice is hereby given that a meeting of the Management Advisory Group (MAG) to the Municipal Construction Division is tentatively scheduled to be held at the Capital Yacht Club, 1000 Water Street, S.W., Washington, D.C., on December 1, 2, 3, 1981. The meeting will begin at 9:00 a.m. on December 1, 1981.

The purpose of the meeting is to discuss and review legislative development related to the Clean Water Act, effective management of the construction grant program, and delegation of the program operations to the States.

The meeting will be open to the public. Any member of the public wishing to attend the meeting should contact the Executive Secretary, William A. Whittington (202-426-8986) after November 23, to confirm the meeting date.

Bruce R. Barrett,

Acting Assistant Administrator for Water (WH-556).

November 6, 1981.

[FR Doc. 81-32767 Filed 11-12-81; 8:45 am]

BILLING CODE 6560-29-M

[ER-FRL-1986-8]

Availability of Environmental Impact Statements

In the matter of availability of environmental impact statements pursuant to 40 CFR 1506.9.

Responsible Agency: USEPA, Office of Federal Activities.

Information Contact: Ms. Kathi Wilson (202) 245-3006.

EISs Filed: November 2-6, 1981.

Comment Due Dates: Drafts—December 28, 1981. Finals—December 14, 1981.

Army Corps of Engineers (COE): Draft—Fairfield/Pleasant Run Water Resources Development, Hamilton and Butler Counties, Ohio (EPA EIS #810920).

COE: Draft—Summerville Multipurpose Reservoir and Dam Complex, Nicholas County, West Virginia (EPA EIS #810923).

Department of Energy: Draft—Oak Ridge Gaseous Diffusion Plant Incineration Facility and Support Facilities, Tennessee, Kentucky and Ohio (EPA EIS #810927).

DOI: National Park Service: Draft—Death Valley National Monument Management Plan, California and Nevada; EXTENDED REVIEW 1/6/82 (EPA EIS #810912).

DOT: Federal Highway Administration (FHWA): Draft—FL-951/Isle of Capri Road Upgrading, Collier County, Florida (EPA EIS #810921).

DOT: FHWA—Jefferson Davis Highway/Rt. 1 Upgrading, Arlington County, Virginia (EPA EIS #810911).

DOT: FWHA Final—TN-67, Appalachian Corridor "B" to TN-37, Washington and Carter Counties, Tennessee (EPA EIS #810916).

DOT: FHWA: Final—Hammond Railroad Relocation and Consolidation Project, Lake County, Indiana (EPA EIS #810926).

Environmental Protection Agency: Region 7: Draft—Lower Missouri River Basin Wastewater Treatment Facilities, St. Louis County, Missouri (EPA EIS #810922).

Department of Housing and Urban Development (HUD): Final—Weber West Housing Development, Mortgage Insurance, Weld County, Colorado (EPA EIS #810915).

HUD: Final—Spring Creek Housing Development, Mortgage Insurance, Big Horn County Montana (EPA EIS #810917).

HUD: Final—Country Meadows Subdivision, Mortgage Insurance, Chambers County, Texas (EPA EIS #810910).

HUD: Final Supplement—Maumelle New Community, Terminataion, Palaski County, Arkansas (EPA EIS #810925).

HUD: 104H: Final—National City Downtown Redevelopment Project, CDBG, San Diego County, California (EPA EIS #810924).

USDA: Forest Service (FS): Final—Western Spruce Budworm Management Plan, Carson National Forest, Taos, Colfax and Rio Arriba Counties, New Mexico (EPA EIS #810918).

USDA: FS: Final—Alpine Lakes Area Management Plan, Mt. Baker-Snoqualmie and Wenatchee National Forests, Washington (EPA EIS #810919).

USDA: Soil Conservation Service: Draft—Burnham Creek Watershed Multipurpose Plan, Polk County, Minnesota (EPA EIS #810913).

Department of the Navy: Draft—Outer Apra Harbor Ammunition Wharf Construction, Guam (EPA EIS #810914).

Dated: November 10, 1981.

Paul C. Cahill,

Director, Office of Federal Actitivies.

[FR Doc. 81-32972 Filed 11-12-81; 8:45 am]

BILLING CODE 6560-37-M

[ER-FRL-1986-8]

Comments on Environmental Impact Statements and Other Actions Impacting the Environment; Availability of Report

AGENCY: Office of Federal Activities (A-104), U.S. Environmental Protection Agency (EPA).

SUMMARY: Pursuant to the requirements of section 102(2)(c) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended. EPA has reviewed and commented in writing on Federal agency actions impacting the environment. A report which identifies EPA's comments released during October 1981 has been prepared and is available upon request. To obtain a copy of this report you should contact: Management Information Unit, Office of Federal Activities (A-104), U.S. Environmental Protection Agency, Washington, D.C. 20460.

Dated: November 10, 1981.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 81-32973 Filed 11-12-81; 8:45 am]

BILLING CODE 6560-37-M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee on Preparations for ITU 1983 Region 2 Broadcasting Satellite Service Planning Conference; Subgroup Meeting

November 6, 1981.

Subgroup 1 Service Requirements.

Meeting: December 11, 1981, 9:30 a.m.—4:00 p.m., Commission Meeting Room (856), Federal Communications Commission, 1919 M Street, NW., Washington, D.C.

Agenda

(1) Approval of Agenda
(2) Review of Working Group Reports
(3) Preparation of Subgroup 1 Report
(4) Other Business
(5) Adjournment

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 81-32706 Filed 11-12-81; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1318]

Petitions for Reconsideration of Actions in Rule Making Proceedings

November 6, 1981.

The following listings of petitions for reconsideration filed in Commission

rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed on or before November 30, 1981. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Part 97.84(a) of the Amateur Radio Service Rules. (PR Docket No. 80-136, RM's 2910, 2939, 3281 and 3302)

Filed by: D. Popkin on 10-28-81.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 81-32707 Filed 11-12-81; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

Federal Savings and Loan Advisory Council; Changed Meeting

November 6, 1981.

Reference **Federal Register** dated October 28, 1981, Vol. 26, No. 208, page 53217, Notice of Meeting for the Federal Savings and Loan Advisory Council on Monday, November 16, Tuesday, November 17, and Wednesday, November 18, 1981.

The Schedule of the meeting is revised as follows:

Monday, November 16

9:00 a.m.—Opening Remarks
9:05 a.m.—Subcommittee Reports
a. Nominating
b. Mergers
c. Government Assistance
d. Regulatory
10:15 a.m.—Break
10:30 a.m.—Subcommittee Discussions
a. FSLIC
b. Low Coupon Loans
c. Conversions
d. FHLMC
12:00 Noon—Lunch
1:15 p.m.-5:00 p.m.—Subcommittee Discussions continued; Prepare Recommendations

Tuesday, November 17

9:00 a.m.—Full Council, Board Room; Discuss and Vote on Recommendations
12:00 Noon—Lunch
1:15 p.m.—Continue Review of Recommendations
2:30 p.m.—Review Status of Recommendations from the June Meeting
3:00 p.m.—Presentation of Recommendations to Board Members
5:30 p.m.—Adjourn

The meeting of the Federal Savings and Loan Advisory Council is open to the public.

Richard T. Pratt,

Chairman.

[FR Doc. 81-31898 Filed 11-12-81; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement and the justification offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10427; or may inspect the agreement 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 the agreement, including request for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before November 23, 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 the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreement and the statement should indicate that this has been done.

Agreements Nos.: T-2750-3 and T-2750-B-3.

Filing Party: William B. Emick, Jr., Deputy, Office of the City Attorney of Long Beach, Harbor Administration Building, P.O. Box 570, Long Beach, California 90801.

SUMMARY: Agreement No. T-2750-3, between the City of Long Beach (City) and United States Lines, Inc. (USL) modifies the basic agreement between the parties providing for City's preferential assignment to USL of a marine container terminal at Berth 230, Pier G, and water area adjacent thereto, at the Port of Long Beach, California. The purpose of the modification is (a) to consolidate the terms of the basic agreement with those of Agreement No. T-2750-A, which provides for the lease of a container freight station, garage, and offices located at Pier A, and (b) to extend the term of the consolidated agreement for an additional ten years. As compensation, USL will pay Port $1,100,000 for the first year of the new term, with an increase of $50,000 per year for the following four years. Compensation for the second five-year period is subject to renegotiation.

Agreement No. T-2750-B-3, between the same parties, modifies and extends the preferential assignment of two container cranes (Agreement No. T-2750-B) at the premises for an additional ten-year term, and increases the monthly rental to $34,848, which is subject to renegotiation after five years.

By Order of the Federal Maritime Commission.

Dated: November 6, 1981.

Francis C. Hurney,

Secretary.

[FR Doc. 81-32696 Filed 11-10-81; 8:45 am]

BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

[E-81-25]

Delegation of Authority to Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Arkansas Public Service Commission involving natural gas rates, Docket No. 81-032U.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Arkansas Public Service Commission involving the application of the Arkansas Louisiana Gas Company for an increase in its natural gas rates in Docket No. 81-032U.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration (GSA), and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add GSA to its service list in this case so that GSA will receive copies of testimony, briefs, and other Department of Defense filings.

Dated: November 2, 1981.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 81-32780 Filed 11-12-81; 8:45 am]

BILLING CODE 6820-AM-M

[E-81-22]

Delegation of Authority to Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Maine Public Utilities Commission involving electric rates, Dockets Nos. 81-113, 81-114, and 81-118.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Maine Public Utilities Commission involving the application of the Maine Public Service Company for an increase in its electric rates in Dockets Nos. 81-113, 81-114, and 81-118.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration (GSA), and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add GSA to its service list in this case so that GSA will receive copies of testimony, briefs, and other Department of Defense filings.

Dated: November 2, 1981.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 81-32781 Filed 11-10-81; 8:45 am]

BILLING CODE 6820-AM-M

[E-81-24]

Delegation of Authority to Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Maryland Public Service Commission involving electric rates, Case No. 7536.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Maryland Public Service Commission involving the application of the Baltimore Gas and Electric Company for an increase in its electric rates in Case No. 7536.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration (GSA), and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add GSA to its service list in this case so that GSA will receive copies of Testimony, briefs, and other Department of Defense filings.

Dated: November 2, 1981.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 81-32779 Filed 11-12-81; 8:45 am]

BILLING CODE 6820-AM-M

[E-81-23]

Delegation of Authority to Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Nevada Public Service Commission involving electric rates, Docket No. 81-081.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Nevada Public Service Commission involving the application of the Nevada Power Company for an increase in its electric rates in Docket No. 81-081.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration (GSA), and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add GSA to its service list in this case so that GSA will receive copies of testimony, briefs, and other Department of Defense filings.

Dated: November 2, 1981.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 81-32778 Filed 11-12-81; 8:45 am]

BILLING CODE 6820-AM-M

[E-81-21]

Delegation of Authority to Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the South Dakota Public Utilities Commission involving natural gas rates, Docket No. F-3384.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the South Dakota Public Utilities Commission involving the application of the Montana-Dakota Utilities Company for an increase in its natural gas rates in Docket No. F-3384.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration (GSA), and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add GSA to its service list in this case so that GSA will receive copies of testimony, briefs, and other Department of Defense filings.

Dated: November 2, 1981.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 81-32782 Filed 11-12-81; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 79N-0047]

Alevaire; Final Decision Following Formal Evidentiary Public Hearing in Adjudicatory Proceeding

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs is issuing his Final Decision on the proposal to withdraw approval of the new drug applications (NDA's) for Alevaire, a drug which is labeled for use as a mucoevacuant inhalant in the treatment of diseases and disorders of the lungs complicated by excessive or thickened bronchopulmonary secretions. The Commissioner has determined that Alevaire has not been shown to be effective for such uses and is withdrawing approval for the drug. The Decision sustains, although in part for different reasons, the Initial Decision of the Administrative Law Judge who found that Alevaire had not been shown by adequate and well-controlled studies to be effective for its intended uses.

EFFECTIVE DATE: December 14, 1981.

ADDRESS: The transcript of the hearing, evidence submitted, and all other documents cited in this Decision may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Tenny P. Neprud, Regulations Policy Staff (HFC-10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: The purpose of this proceeding has been to determine whether the Food and Drug Administration (FDA) should withdraw approval of the NDA's for Alevaire. The drug has been marketed as a detergrent aerosol intended for use as a mucoevacuant inahlant. The effect of this Decision is that Alevaire no longer may be marketed in the United States or exported.

Alevaire is a sterile aqueous solution containing 0.125 percent Superinone™ (brand of tyloxapol) in combination with 2 percent sodium bicarbonate and 5 percent glycerin. The drug is labeled for use in the treatment of diseases and disorders of the lungs accompanied, or complicated, by excessive or thichened bronchopulmonary secretions. Alevaire is recommended for administration in an undiulted form by an aerosol nebulizer delivering a fine mist to the patient in an open tent, croup tent, or incubator. Where short periods of therapy are indicatred, 10 to 20 milliliters are recommended to be administered by a face mask, positive pressure breathing machines, or oral or nasal apparatus. The labeling states that Alevaire mist lowers the surface tension and viscosity of secretions often found in the pulmonary tract (such as mucus, pus, saliva, and amniotic fluid). G-277[1]

In a notice published in the **Federal Register** of March 2, 1979 (44 FR 11835), the Commissioner announced that he was granting a formal evidentiary public hearing on the questions of Alevaire's safety and effectiveness. The notice stated that the issues to be considered at the hearing were:

1. Whether there are adequate and well-controlled investigations, including clinical investigations, by experts qualified by scientific training and experience to evaluate the effectiveness of Alevaire, on the basis of which it can fairly and responsibly be concluded that Alevaire is effective for its labeled conditions.

2. Whether Alevaire has, by all tests reasonably applicable, been proven safe for use as a mucoevacuant inhalant drug.

The notice identified the parties to the hearing as the Bureau of Drugs of FDA (the Bureau) and Winthrop Products, Inc., and Winthrop Laboratories, Division of Sterling Drug, Inc., (Sterling).

I. Background

The history of the proceedings to withdraw the NDA's for Alevaire was set out in detail in the March 2, 1979 notice of hearing and in the several **Federal Register** documents referred to there. The following is a brief review of these matters.

The first NDA for Alevaire (NDA 8-530) became effective in 1952. A second NDA, which authorized export of Alevaire (NDA 10-613), became effective in 1956. Both NDA's became effective at a time when the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321 et seq.) required only proof of safety in order to obtain approval for a new drug. In 1962, the act was amended so that approval for a new drug required proof of effectiveness as well as proof of safety.

The act as amended also required FDA to evaluate the drugs that were issued NDA's before 1962 to determine whether such drugs were effective. The program under which this is being done is known as the Drug Efficacy Study Implementation (DESI). As with other drugs in the DESI program, FDA sought the advice and recommendations of the National Academy of Sciences—National Research Council (NAS/NRC) with respect to the efficacy of Alevaire. The NAS/NRC prepared a report (DESI 8530) that concluded that Alevaire was ineffective because there was no evidence that Alevaire has any effect on secretions in the lung beyond that of a liquid such as water in thinning secretions by simple dilution. FDA issued an evaluation of this report (33 FR 10227; July 17, 1968) in which the agency endorsed the conclusions of the NAS/NRC.

FDA began formal proceedings to withdraw approval of the NDA's for Alevaire on December 6, 1969, with the publication of a notice of opportunity for hearing (34 FR 19389). In the intervening years between the December 6, 1969 notice of opportunity for hearing and the March 2, 1979 notice of hearing, the proceedings to withdraw approval of Alevaire were punctuated by litigation in the Federal courts and by related FDA administrative actions. These matters are discussed in the March 2, 1979 notice. Following a formal

[1] The following abbreviations have been used in citing material in the record: Initial Decision: I.D.; Transcript of hearing: TR; Transcript of Prehearing Conference: Prehearing TR; Brief of a participant to the ALJ: Brief; Exceptions to Initial Decision: Exceptions; Reply to Exceptions to Initial Decision: Reply. This decision refers to the exhibits submitted to the record, inlcuding written direct testimony, by the symbol for the participant and number assigned to them upon filing by the Dockets Management Branch (formerly the Hearing Clerk). The Dockets Management Branch used the following symbols to refer to the exhibits by the participants: Sterling: S; Bureau: G. Other documents (i.e., non-exhibits) in the record have been numbered chronologically by the Dockets Management Branch. These documents are cited here as: Doc.———.

evidentiary public hearing, the Administrative Law Judge (ALJ) on April 17, 1980, issued an Initial Decision in which he concluded that Alevaire had not been shown by substantial evidence to be effective for its indicated uses. The ALJ ordered that NDA's for Alevaire be withdrawn.

II. Hearing

The formal evidentiary public hearing that was announced in the March 2 notice, began on April 19, 1979, and concluded on November 13, 1979. The ALJ ruled that the question of Alevaire's effectiveness as a mucoevacuant was limited to consideration of three studies for the drug, which the ALJ referred to as: Paez-Miller, Cohen, and Chavez. The following specific issues were identified:

1. Effectiveness (for the Paez-Miller, Cohen, and Chavez studies):

a. Whether controls were appropriate;

b. Whether the studies were adequately blinded;

c. Whether pertinent variables were controlled;

d. Whether adequate baseline measurements were made;

e. Whether the statistical analysis was valid, and if not, whether correct analysis can support Alevaire's effectiveness.

2. Whether the Paez-Miller, Cohen, and Chavez studies, taken together with other evidence, justify a conclusion that there is substantial evidence that Alevaire is effective for the labeled indications.[2]

The March 2, 1979 notice identified the safety of Alevaire as a mucoevacuant inhalant as one of the issues to be decided at the hearing. Safety was dropped as an issue, however, following Sterling's motion to strike and the Bureau's subsequent notification to the ALJ that it was not going to pursue the matter. See I.D., p. 4.

The Bureau and Sterling submitted to the ALJ prehearing narrative statements of their respective positions as required by 21 CFR 12.85. In its submission, the Bureau maintained that there are no adequate and well-controlled clinical investigations of Alevaire on the basis of which it could fairly and responsibly be concluded by experts that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling. The Bureau's present position is that an appropriate study of Alevaire's effectiveness should involve a comparison of Alevaire to a control consisting of all of the components of the drug as currently marketed, except the claimed active ingredient, tyloxapol. The Bureau maintains that if there are no studies using such a control, it is impossible to identify the effects of tyloxapol or to conclude that it contributes to any claimed effect of Alevaire. The Bureau states that without this control, it is impossible to determine whether Alevaire is more effective than its vehicle (water, sodium bicarbonate, and glycerin). Doc. 3.

I note here that not always in this proceeding has the Bureau maintained that Alevaire minus tyloxapol is an indispensable control. When FDA issued the July 17, 1968 evaluation of the NAS/NRC report, the agency endorsed the conclusion of NAS/NRC that Alevaire is no more effective than water. The record is unclear whether the Bureau held at that time that water was an indispensable control.[3] However, in the notice of withdrawal (36 FR 18336; Sept. 11, 1971) there was criticism of an Alevaire study because it failed to provide "meaningful" controls in the form of water (36 FR 18338). In any event, in the **Federal Register** of March 8, 1973 (38 FR 6305), when the Bureau issued a notice denying Sterling's request for a hearing and withdrawing the NDA's for Alevaire, the Bureau stated that studies submitted at that time were deficient because, among other reasons, they did not compare Alevaire to a "proper" control, i.e., Alevaire minus tyloxapol.

In its prehearing submission, the Bureau also stated its position on whether Alevaire is a fixed-combination drug subject to FDA's policy on such drugs. It is FDA's policy that two or more drugs may be combined in a single dosage form only when each component makes a contribution to the claimed effects such that the combination is safe and effective for a significant population requiring such concurrent therapy as defined in the labeling for the drug. (See 21 CFR 300.50.) In its prehearing submission the Bureau stated that the question whether Alevaire is a fixed-combination drug is not an essential issue. The Bureau stated, however, that if Alevaire is a fixed-combination drug, Sterling would have to demonstrate the effectiveness of each of its components. Thus, according to the Bureau, if Alevaire were a fixed-combination drug, Sterling would have to conduct separate tests comparing the complete Alevaire solution to one lacking tyloxapol, to one lacking sodium bicarbonate, and finally to one lacking glycerin. In its posthearing brief, the Bureau modified its position to state that Alevaire is a combination drug, and, therefore, each of its active ingredients must be tested for effectiveness. The fixed-combination issue is discussed below in Section IV.

Sterling stated in its prehearing submission that Alevaire is an effective mucoevacuant. Sterling asserts that the three principal studies on which it relies (Paez-Miller, Cohen, and Chavez) conform to the accepted criteria for adequate and well-controlled clinical investigations. Sterling rejects the Bureau's assertion that an essential control to test Alevaire must be Alevaire minus tyloxapol. According to Sterling, the issue is not whether Alevaire is more effective than its vehicle (water, sodium bicarbonate, and glycerin), but whether Alevaire, as marketed, is effective for its labeled indications. Doc. 27.

The Studies

Both the act (21 U.S.C. 355(d)(5)) and FDA regulations (21 CFR 314.111(a)(5)(i)) require that effectiveness for a drug be shown by substantial evidence consisting of adequate and well-controlled investigations. The scientific community has long recognized that certain principles are essential to an adequate and well-controlled clinical investigation. For example, the plan for such a study and the report of the results must include: (1) A clear statement of the objectives of the study, (2) the method of selection of subjects that ensures they are suitable for the study, (3) an explanation of the methods of observation and recording of results, including the variables measured, quantitation, assessment of any subject's response, and steps taken to minimize bias on the part of the subject and the observer, (4) a comparison of the results of treatment or diagnosis with a control in such a fashion as to permit quantification. The precise nature of the control must be stated and an explanation given of the methods used to minimize bias on the part of observers and the analysts of the data, and (5) a summary of the methods of analysis and an evaluation of data derived from the study, including any appropriate statistical methods. (See 21

[2] I.D., p. 4. The ALJ saw the central issue in the hearing as being "whether Alevaire is effective in removing retained secretions according to its label[ing] * * *." I.D., p. 18. The removal of secretions goes to the purported *actions* of Alevaire, as represented in its labeling. G–277. The more significant issue, as discussed in the text, *infra*, is whether the product is effective in treatment of the diseases for which it is labeled. That is, do patients with diseases of the lungs of the type Alevaire is marketed for improve by using the product?

[3] In *Sterling Drug, Inc., et al.* v. *Weinberger, et al.*, 503 F.2d 675, 678 n.6, (2d Cir. 1974), the Court of Appeals for the Second Circuit, without citing the source, stated that: "The FDA had previously [to March 2, 1973] suggested that *either* water or Alevaire minus tyloxapol would be a proper 'control'." (Emphasis in original.)

CFR 314.111(a)(5)(ii)(a)). For Alevaire, the ALJ restated these principles as specific issues to be resolved at the hearing. (See discussion in Section II. above.) The Initial Decision contains the ALJ's determination of these issues for each of the three studies. I.D., pp. 19–27.

The Paez-Miller Study

The Paez-Miller Study is described by the ALJ in the Initial Decision. I.D., pp. 5–8. I find that the ALJ's description of the study is supported by the record. G–275; S–33. I also share the conclusion of the ALJ that this study is insufficient to show that Alevaire is effective for its labeled indications. I.D., po. 18–25.[4] My own examination of the record regarding this study, when considered in a light most favorable to Sterling, shows only that there may have been an increase (compared to the compounds Alevaire was tested against) in the wet volume and dry weight of the sputum expectorated by the patients on whom Alevaire was tested. Significantly, however, this possibly proven result does not answer the key question for this drug: Does Alevaire have the effect it purports or is represented to have under the conditions of use contained in its labeling? Alevaire's labeling states that it is intended for use in the treatment of diseases and disorders of the lungs accompanied or complicated by excessive or thickened bronchopulmonary secretion.[5]

I find that this study does not establish the drug's effectiveness for its stated indications even assuming that the study does show that the drug causes the actions claimed by the manufacturers in the labeling, e.g., lowers surface tension and viscosity and allows mucus to be expelled more rapidly (increases sputum production).

Moreover, I find that the study does not prove even that the purported increase in sputum production is attributable to the action of the drug. (For the purpose of the present discussion only, I assume that the controls used in this study, and the other two studies, were proper. The question of appropriate controls is discussed below in Section III.)

a. *Controls.* The ALJ assumed, without so finding, that water was a proper control for studies to determine the effectiveness of Alevaire. I.D., p. 22. While I agree that water is a proper control, it is not the only essential control for this drug. As discussed below, I conclude that appropriate controls for a clinical study of a drug like Alevaire must be sufficient to show the effects of all claimed and potentially active ingredients of the drug.

The ALJ, however, faulted the Paez-Miller study for failure to control for cigarette smoking and alcohol consumption. I.D., p. 21. Sterling objects that smoking and alcohol consumption are not proper considerations on the issue of adequate controls, but rather should be considered under the issue of variables. S. Exceptions, p. 10. The Bureau agrees with Sterling that these items are variables, but questions whether they were controlled variables. The Bureau further alleges that it "is well known that sick individuals very often change their habits of consumption during the course of an illness." B. Reply, pp. 2–3. I agree with Sterling on this point. Moreover, from my review of the record, I do not believe the issue was adequately addressed at the hearing to permit any meaningful conclusions to be drawn even when considered as a variable. The cited reference (TR 339) was a brief exchange on cross-examination by the Bureau of a Sterling witness. I find scant direct evidence on this point in the record. G–268, p. 12. I find no direct evidence on the Bureau's statement concerning patients' habits.

b. *Blinding.* Blinding is a technique used in clinical investigations of drugs to minimize bias in the test results. It lessens the possiblility that test results will be affected, either intentionally or inadvertently, by the subjective reactions of the persons involved in the study. In a double-blind study neither the patient nor the investigator knows what substance is being tested; in a single-blind study either the patient or the investigator is unaware of the identity of the drug. Double blinding is especially important with respect to pulmonary function tests. G–271, pp. 7–8. Some pulmonary function tests are inherently subjective both with respect to the patient's efforts in breathing and in the observer's measurement of these efforts; the subjective element is heightened when the test patients are asthmatics, because the psychological components of this disease are well established. G–270, p. 7. Such a study must be sufficiently blinded because bias of the subject, or that conveyed to the subject by an observer, could change dramatically the way in which the subject might produce sputum or perform some pulmonary function tests. G–271, pp. 7–8; TR 95–96.

The ALJ found that the Paez-Miller and other studies were deficient in their blinding. I.D., pp. 22–24. Sterling takes exception to the ALJ's determination that Sterling had not "substantiated its burden of showing that additional measures were unnecessary to ensure adequate blinding". I.D., p. 22. The Bureau, in response, cites numerous references in the record to deficiencies in blinding. B. Reply, p. 3; B. Brief, pp. 22, 24, 26.

Although there is some dispute on this point, I find that there is substantial evidence in the record that Alevaire has a distinctive taste, aroma, and physical appearance (color, consistency, and foaming action) such that, unless blinded, it could be recognized by either the subject or the observer. G–270, pp. 7, 12; G–271, pp. 8–9, 18; G–272, pp. 13–14; TR, pp. 64–66, 159, 238. The ALJ found

[4] The ALJ described Alevaire as a mucolytic (i.e., as having a chemical effect in removing sputum). I.D., p. 18. Sterling takes exception to this description and states that the labeling only claims a mucoevacuant (i.e., physical) effect. S. Exceptions, p. 8. I agree with Sterling. The only direct evidence in the record is that Alevaire is labeled as a mucoevacuant, and not a mucolytic. TR 76, 404. I also find, however, that this erroneous description did not detract from ALJ's ultimate determination.

[5] The labeling for Alevaire, a portion of which is reproduced here, is reproduced in full in G–277., p. 1.

ALEVAIRE—Detergent Aerosol for Inhalation:

Description: Alevaire contains 0.125 per cent Superinone™ (brand of tyloxapol) in combination wth 2 per cent sodium bicarbonate and 5 per cent glycerin.

Action: Alevaire mist lowers the surface tension and viscosity of secretions often found in the pulmonary tract (that is, mucus, pus, saliva, amniotic fluid), whereas plain water mist does not (Ravenel). In laboratory tests, Tainter and his co-workers demonstrated that Alevaire loosens and frees secretions from contact with surfaces, and by greatly reducing frictional forces allows mucus to be propelled more rapidly. Because it decreases the surface and interfacial tension of secretions, Alevaire facilitates their removal by normal processes (ciliary action, bronchiolar peristalsis cough).

Indications: Alevaire is indicated for the treatment of patients with diseases and disorders of the lungs accompanied, or complicated, by excessive or thickened bronchopulmonary secretions.

Alevaire is also indicated for persons with those pulmonary diseases in which the normal mechanism for elimination of secretions is diminished or absent (such as bronchiectasis, lung abscess, etc.) or in which the pulmonary excretory mechanism is depressed (following the administration of narcotics, after operation—particularly intrathoracic surgery—and in disorders associated with senility).

Listed below are conditions in which Alevaire aerosol therapy has been applied:

Neonatal asphyxia caused by intrabronchial obstruction; Group, laryngitis, laryngotracheo bronchitis; Bronchiolitis (acute therminal or capillary bronchitis); Pertussis; Paliomyelitis; Bronchial asthma; Bronchiectasis, lung abscess; Pneumonia; Respitory damage due to inhalation of noxious gases or dust; Postoperative pulmonary complications; Routine oxygen therapy; Tracheotomy

The value of Alevaire in the prevention and treatment of hyaline membrane disease in infants has not been determined.

When treating patients with tuberculosis, consideration should be given to concurrent therapy with indicated antituberculous agents to inhibit the spread of infection as a possible result of the detergent action of Alevaire.

that there was no reference to the steps the investigator instituted to mask the physical appearance of the nebulizer and solutions being used. I.D., p. 23. I agree with ALJ that these omissions render the study not adequately blinded. I find further that although the study purports to be double-blind, other important distinguishing characteristics of the drug were not blinded. G–270, p. 7; G–271, p. 18; G–272, pp. 13–14. Therefore, I find that the Paez-Miller study was deficient within the requirements of the act and FDA's regulations because it was not adequately blinded.

c. *Pertinent variables.* I affirm the ALJ's conclusion that the Paez-Miller study failed to control for pertinent variables. I.D., p. 24. The greatest deficiency on this point was the study's failure to determine the impact of the use of a bronchodilator. In both the Paez-Miller and Cohen studies a bronchodilator (Brokometer, manufactured by Sterling) was used to prime patients before the administration of Alevaire and the control substances. Its purpose was to open the airways and thus prevent their constriction by the substances being administered.

Sterling has taken several exceptions to the ALJ's determination (I.D., p. 24) that the use of a bronchodilator in this study (and in the Cohen study) added a confounding variable to the test results. S. Exception, pp. 17–19. Sterling questions the ALJ's determination that there was evidence in the record: (1) That excessive use of the bronchodilator may cause irritative effects; (2) that the bronchodilator can mobilize sputum; and (3) that there were possible interactions between the bronchodilator and the other solutions tested. I.D., p. 24. The single answer to Sterling's several objections on the use of a bronchodilator is that the record shows that the bronchodilator aids in the explusion of mucus. G–271, pp. 21–23; TR 442–445. Because to a large degree the measure of the success of Alevaire is its claimed ability to rid the body of sputum, in order to determine whether it is in fact successful in doing this, confounding variables must be eliminated. Whether the bronchodilator aided in the removal of sputum because of its irritating effect, or whether there were demonstrated interactions between it and the other solutions in not material. Its effect in aiding in the removal of sputum is. Although there is a possibility that the bronchodilator may have affected the results in a manner unfavorable to Sterling, the converse is also possible. Without controlling for this factor, however, the precise effect cannot be known. See, for example, Warner-Lambert/Park Davis Co; Benylin; Final Decision (44 FR 51512; Aug. 31, 1979, at 51521, 51522.)

d. *Baseline measurements.* Alevaire is intended to facilitate the removal of bronchopulmonary secretions and thereby aid in the treatment of diseases and disorders of the lungs. Yet, the Paez-Miller study—and the other two studies—failed to take baseline measurements to determine whether the drug is effective for this purpose. Without baseline measurements of sputum as a point of reference, the subsequent data relative to sputum production are of no value in showing the drug's effectiveness. I affirm the ALJ's determination that this requirement is no less necessary simply because the test compared various compounds. I.D., p. 25. Sterling takes exception to the ALJ's determination that baseline sputum measurements were essential. S. Exceptions, pp. 20–21. Sterling's position is that the studies were intended only to compare the relative volume of Alevaire to the control substances. In the final analysis, however, the drug must be shown to work, not merely relative to other possible medications, but relative to its intended uses as stated in the labeling. TR, pp. 88–89, 98.

e. *Statistical analysis.* The ALJ found that the statistical analysis of the Paez-Miller study was deficient. I.D., pp. 26-27. I affirm this determination. Most notable is the discrepancy between data in Table III, which purports to show the amount of sputum produced by the test subjects in terms of dry weight, and Table II, which lists all the subjects in the study. Table III lists only one-half of the subjects in the study as reported in Table II, and this discrepancy is not explained. G–271, p. 19.

The ALJ also concluded that the number of patients used in the Paez-Miller study was too small to permit an inference to be drawn on dry weight sputum production of Alevaire versus water. I.D., p. 26. Sterling takes exception. S. Exceptions, p. 21. Bureau's witness on this point, Gordon Pledger, Ph. D., a statistician, stated:

> The claim of a statistically significant difference in favor of Alevaire over water with respect to sputum dry weight is based on only five patients. The reason for this small sample size is not given * * *.
>
> I do not feel that much weight should be attached to the claimed statistically significant differences in this study. [My] opinion is based primarily on considerations of study design and sample size. The study was not designed only to compare water and Alevaire, but also included Tergonist and saline.
>
> This drastically reduced the sample size for the water versus Alevaire comparison and, as discussed above, complicated the interpretation of that comparison. The sample size was then further reduced by failure to record sputum weight for some patients. The statistical tests presented require assumptions, such as the lack of an order effect, which cannot be adequately checked on the basis of the small amount of data available. G–273, p. 4.

Sterling attempted to undercut this position through the testimony of Dr. Miller, one of the authors of the study. TR 323. However, Dr. Miller, who is not a statistician, stated only that any statistical imbalance likely would have been against Alevaire. TR 323. Thus, Dr. Pledger's testimony remains in essence unrebutted.

Patient Population

I note, too, that there is a basic flaw in the design of this study—and in the other two studies as well—relating to the patient population. The patient population selected was limited to "[T]wenty patients with chronic bronchopulmonary disease * * *". G–275, p. 312.

Alevaire's labeling, however, states that it is:

> also indicated for persons with those pulmonary diseases in which the normal mechanism for elimination of secretions is diminished or absent (such as bronchiectasis, lung abscess, etc.) or in which the pulmonary excretory mechanism is depressed (following the administration of narcotics, after operation—particularly intrathoracic surgery—and in disorders associated with senility). G–277; see footnote 5, *supra.*

The labeling then lists a number of conditions for which the drug is indicated including neonatal asphyxia, pneumonia, and tracheotomy. See footnote 5. Unless persons with these diseases and disorders were subjects of a clinical study (and from the meager description of the patient population in the Paez-Miller study, there is no way of knowing), I cannot from the record conclude that the drug has been shown to be effective for the diseases and disorders indicated in the labeling. Therefore, I must conclude that the Paez-Miller study does not demonstrate that Alevaire is effective for these labeled indications.[6]

Conclusion

In sum, I concur in the ALJ's determination that the Paez-Miller study is not an adequate and well-controlled study demonstrating the effectiveness of Alevaire for its labeled indications.

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[6] Similarly, the Cohen study (G–274; S–84) was limited to 15 patients with "bronchial asthma and chronic bronchitis" (G–274, p. 52), and the Chavez study (see footnote 8 below) was of 30 patients with "chronic bronchopulmonary diseases." S–184.

The Cohen Study

The Cohen study was a single-blind study of 15 adult patients with obstructive ventilatory diseases (bronchial asthma and chronic bronchitis) comparing the effects of Alevaire to water in the mobilization and expulsion of retained sputum. S–84; G–274; I.D., pp. 8–11. The observations in the study were made for each substance tested during an hour period on 2 consecutive days. G–271, p. 21; S–84, p. A–350. The ALJ found the Cohen study deficient in many respects. Specifically, he found that this study, like Paez-Miller, was not properly blinded. I.D., pp. 22–24. Moreover, the ALJ found that the Cohen study failed to control for pertinent variables—most especially the use of the bronchodilator—and that it had no baseline measurements of sputum. Each of these deficiencies by themselves would be fatal to the study. Because the determination by the ALJ of these factors, and my analysis of them, as applied to the Paez-Miller study apply also to the Cohen study, in general, they will not be repeated.

Sterling, however, takes specific exception to some matters relating to the ALJ's evaluation of the Cohen study. The ALJ stated that there was considerable doubt concerning the validity of results obtained in such a short time. I.D., p. 21. Moreover, the ALJ faulted the study for failing to discuss the effect the time of day would have on the patients being tested. I.D., p. 21. On both these points Sterling takes exception. S. Exceptions, pp. 8–9. On the duration issue, Sterling objects that the ALJ included this deficiency in his consideration of "controls," when he should have dealt with it under interpretation of results. Also, Sterling maintains that the duration of the Cohen study was never placed in issue by the Bureau. For similar reasons, Sterling challenges the ALJ's determination relating to time of day.

Although I agree with Sterling that it is inappropriate to consider these items as deviations from required study "controls," I nevertheless believe they are relevant to the basic issue relating to the sufficiency of the Cohen study. Moreover, I find sufficient support in the record to conclude that the length of time of observation was far too short. G–271, p. 21.

Sterling also objects to the ALJ's conclusion that in the absence of a showing of the effects of bronchodilation on the test subjects, "the 1:00 p.m. measurements relied on in the Cohen study cannot be properly evaluated." S. Exceptions, p. 19; I.D., p. 25. It is Sterling's position that Dr. Cohen's measurements necessarily reflect the activity of Alevaire (or water) and not the bronchodilator because the bronchodilator peaks at 15 to 30 minutes, and its active ingredients are fully metabolized within 4 hours. S. Exceptions, p. 19. However, Sterling ignores an important point. As noted above, the test lasted for only 1 hour for each subject. And if, as Sterling acknowledges, the active ingredients of the bronchodilator are not fully metabolized for as long as 4 hours, there are serious questions as to the impact of the bronchodilator on the test results. The ALJ found that the bronchodilator was a confounding variable. I.D., p. 24. I affirm this determination. I note also that there is evidence in the record that there is at least a possibility that the effects of the bronchodilator could have carried on throughout the day even through the main effects may have worn off. TR 485. Under the circumstances, it was incumbent on Sterling to control for this variable.

Conclusion

I affirm the ALJ's determination that the Cohen study is not an adequate and well-controlled study demonstrating the effectiveness of Alevaire for its labeled indications.

The Chavez Study

The Chavez study presents special problems of analysis. Form the record and the ALJ's initial decision, it is obvious that the Chavez "study" exists in at least three different versions. I will follow the ALJ's lead and denominate the studies as: Chavez #1 (G–276), the study originally submitted by Sterling; Chavez #2 (S–181–98), a study that purported to clarify Chavez #1; and Chavez #3 (G–278), a published version of the study that came to light late in the proceedings. The ALJ discusses the three versions of Chavez at length. I.D., pp. 12–18.[7]

Because of the glaring substantive discrepancies between the different versions of the Chavez study (see I.D., pp. 12–14), it would be within my prerogative to dismiss the study without reaching the ultimate question of whether it is an adequate and well-controlled study that shows the effectiveness of Alevaire. I have elected, however, to consider the merits of the study version most favorable to Sterling—Chavez #2.[8]

The Chavez study compared the effects of Alevaire on bronchial secretions to the effects of normal saline solution (NSS) and an alcohol solution (vodka). The study involved 30 patients—17 males and 13 females—with chronic bronchopulmonary diseases for three phases of drug treatment with tyloxapol, NSS, and vodka nebulization. The patients received daily morning nebulization through a bird respirator for 10 to 15 minutes, 6 days a week for a month. Sputum was colleted before and after nebulization and then submitted to volume and weight measurements. The study concluded that Alevaire produced a statistically significant increase in forced vital capacity, forced expiratory volume, and maximal breathing capacity. In addition, according to the study, sputum volume and weight increased significantly, the density dropped, and surface tension anf viscosity of the sputum also diminished considerably. The study found Alevaire to be more effective than normal saline and alcohol solutions in producing sputum evacuation. I.D., p. 12.

A number of the deficiencies of the Chavez study are identical to those that were discussed above during consideration of the Paez-Miller and Cohen studies (improper controls, lack of baseline sputum data, confounding variables). See I.D., pp 21, 25. Another serious deficiency in the Chavez study relates to its blinding. The Chavez study purports to be blinded in that "[e]ach patient was completely unaware of the composition of the solution given for nebulization." I.D., p. 12. The regulations, however, require an explanation of the methods used to minimize bias on the part of the observers and the analysts of the data. (See 21 CFR 314.111(a)(5)(ii)(a)(4)). A single, conclusory sentence like the one quoted is not adequate for this purpose. There must be an explanation of the steps taken to disguise the solution being tested and of the procedures used to minimize bias by the test administrators. In the absence of any description of special blinding to disguise Alevaire's distinguishing characteristics, the study has not been shown to have been blinded. G–272, p.

[7] Sterling has taken strong issue with the ALJ for devoting several pages in his Initial Decision to what Sterling claims is the "bogus issue" of whether Chavez #3 is the final manuscript. S. Exception, p. 6, fn. I disagree. The ALJ has done a commendable job in sorting out these studies. From my examination of the Initial Decision and the related portions of the record, I find that while there may be no basis to question Sterling's sworn testimony as to the study's veracity, there certainly is a basis to question the witnesses' competency to testify as to the genesis and metamorphosis of this "study." To this date, no one seems to know with certainty how these different versions came to be.

[8] Further references to the Chavez studies will be to Chavez #2 (S–181–198), unless otherwise indicated.

16; G–270, p. 12; TR 36, 420. Under the circumstances I must conclude that Sterling failed to meet the showing required by the regulation.

Conclusion

In sum, I conclude that the Chavez study, like the Paez-Miller and Cohen studies, is not an adequate and well-controlled study demonstrating the effectiveness of Alevaire for its labeled indications.

III. Controls

We come now to the question of the appropriate control for a study to determine the effectiveness of Alevaire. As I discussed at the beginning of this decision, the issue has been controversial throughout this proceeding. At first, the Bureau implied that water was an essential control. Since 1973, however, the Bureau has maintained that an essential control is Alevaire minus its active ingredient, tyloxapol. At bottom, Sterling's position on this issue has been that the effectiveness requirement of the act imposes only the obligation to show that the product works for its intended purposes, however well. Moreover, Sterling says that it used the control suggested by the Bureau, and the Bureau cannot change the ground rules so late in the game.

Sterling's fairness argument appears compelling. The Bureau early on adopted the judgment of NAS/NRC that Alevaire was "no more effective than water" in loosening secretions in the lung. The Sterling studies then attempted to show that Alevaire was indeed more effective than water. Believing it had made this showing, Sterling refused to follow the Bureau's new requirement, the testing for tyloxapol.

Had the Chavez, Cohen, and Paez-Miller studies been adequate and well-controlled studies (assuming the controls employed were proper) the equities against requiring additional testing would have had more credence. However, all three studies were seriously deficient. Moreover, the Bureau's position on the control issue has been stated at least since 1973, and the hearing on this matter did not take place until 1980. Sterling surely has had ample time to commission studies to determine the impact of tyloxapol.

Even though in this case I do not have to address the fairness issue, I will state that had I been forced to, I would have found the controls used were inadequate even though this determination might be viewed as "unfair" to Sterling. Because tyloxapol is the only claimed active ingredient in Alevaire, it is incumbent on Sterling to show that it contributes to the effect the product is represented to have. If this ingredient does not make the product effective for its intended purpose, or if it does not increase effectiveness, it should not be in the formulation. It is basic that a useless ingredient should not be in a drug formulation since even useless substances can have adverse effects. If the substance serves no purpose, there can be no justification for subjecting persons to any risk from it.

I conclude, therefore, that although water is one proper control to determine the effectiveness of Alevaire it is not the only required control. Alevaire must also be tested to determine the impact of tyloxapol. In the event Sterling wishes to submit an NDA for Alevaire in the future, an essential control is tyloxapol. Whether water and tyloxapol are the only essential controls I will not address now. That question is properly one for the Bureau. However, I note that there is in the record considerable evidence to the effect that the "vehicle" for Alevaire (water, glycerin, sodium bicarbonate) and the individual substances in the vehicle also are to some degree active ingredients when used as mucoevacuants.[9] G–268, p. 5; G–270, pp. 4–6; G–271, pp. 11–13; G–272, pp. 5–6, 8; TR 49, 76, 77., 299. If so, then they too must be controlled for.

IV. Combination Issue

Another related, and lingering, issue is whether Alevaire is a fixed-combination drug. As with the issue of the appropriate control, the Bureau's position on this issue has not been consistent. In the August 13, 1974 notice of opportunity for hearing (39 FR 29013), the Bureau's position was that Alevaire is a fixed-combination drug. I.D., p. 20.[10] However, in its prehearing statement of position, the Bureau stated: "The question of whether Alevaire is a combination drug is an interesting but not a pivotal issue." Doc. 3, p. 3. Apparently believing that it would prevail on other issues, the Bureau also did not press the issue at the hearing or include it as an integral part of the hearing. I.D., p. 20; Prehearing TR, pp. 51–53. However, in its posthearing brief, the Bureau strongly argues that Alevaire is a fixed-combination drug. B. Brief, pp. 3–8.

I do not here have to decide the issue whether Alevaire is a fixed-combination drug because the three studies are deficient even assuming that Alevaire is not a fixed-combination drug. Indeed, I would be reluctant to rule on this when it has not been addressed squarely by the parties. In any future proceedings, that issue must be addressed. The record contains many references to support the proposition that tyloxapol is not the only ingredient in Alevaire that has an effect in aiding in the removal of sputum. For example, the following are references to the mucoevacuant properties of glycerin (glycerol) and sodium bicarbonate: G–69, p. 353; G–70, p. 475; G–80, pp. 142–143; G–83, p. 670; G–89, pp. 1075–1076; G–94, pp. 331–332; G–112, p. 259; G–116, p. 11; G–117, pp. 228, 239; G–118, pp. 209, 220; G–144, p. 172; G–155, p. 738; G–168, p. 466; G–189, p. 197; G–211, pp. 17, 20; G–251, p. 464; G–262, pp. 55, 57, 75, 76, 81; G–270, p. 4–6; TR 299.

It is apparent from these references that there is a valid question whether the "vehicle" in Alevaire acts differently than a typical drug vehicle, i.e., as a part of the mechanism to get the active ingredient to the desired locale in the appropriate fashion. Under the circumstances, the fixed-combination issue must be addressed in any future review of any NDA submitted for Alevaire. It may well be that the Bureau will conclude from the evidence that one or more of the compounds making up the vehicle also have the possibility of being pharmacologically active. If so, then as I stated in the preceding section, appropriate clinical tests also would have to control for these other compounds and substances.

V. Conclusion

Based on the foregoing findings, conclusions, and discussion, I affirm the Initial Decision and conclude that:

1. The three studies (Paez-Miller, Cohen, and Chavez) submitted by Sterling do not constitute adequate and well-controlled studies.

2. The NDA's for Alevaire (NDA Nos. 10–613 and 8–530) fail to demonstrate that there is substantial evidence of effectiveness of the drug for its labeled indications in the form of adequate and well-controlled clinical investigations, as defined by 21 CFR 314.111(a)(5)(ii).

3. The applications are, therefore, not supported by adequate and well-

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[9] *Cf.*, the proposed rule on Vaginal Contraceptive Drug Products for Over-The-Counter Human Use (45 FR 82017; Dec. 12, 1980) in which glycerin is listed as an inactive or pharmaceutically necessary ingredient in some OTC contraceptives.

[10] The Court of Appeals in *Sterling Drug, Inc., et al.* v. *Weinberger et al., supra*, fn 2, invalidated a notice of opportunity for hearing issued on December 6, 1969, because it did not mention the combination drug theory as a ground for the proposed withdrawal of approval and that Sterling, therefore, was not provided a meaningful opportunity to submit studies or data to contravene that theory. 503 F. 2d 675. The August 13, 1974 notice obviously was intended to correct this earlier deficiency.

controlled studies sufficient to meet the standards for continued approvability.

4. There is no other evidence demonstrating the effectiveness of Alevaire as a mucoevacuant for prescription use in the treatment of diseases and disorders of the lungs accompanied, or complicated, by excessive or thickened bronchopulmonary secretions.

VI. Order

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 52 Stat. 1052, as amended (21 U.S.C 355(e)), and under authority delegated to the Commissioner (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), the new drug applications (NDA 8-530, NDA 10-613) for Alevaire and all amendments and supplements thereto, are hereby withdrawn, effective December 14, 1981.

Dated: October 14, 1981.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 81-32618 Filed 11-12-81; 8:45 am]

BILLING CODE 4160-01-M

Southern States Cooperative, Inc.; Medicated Red Range Dog Food (Diethylcarbamazine); Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) sponsored by Southern States Coop., Inc., providing for use of Medicated Red Range Dog Food containing 30 milligrams of diethylcarbamazine per pound as an aid in the prevention and elimination of large roundworm infections of dogs. The firm requested the withdrawal of approval.

EFFECTIVE DATE: November 23, 1981.

FOR FURTHER INFORMATION CONTACT: Leonard D. Krinsky, Bureau of Veterinary Medicine (HFV-216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: Southern States Cooperative, Inc., 6606 W. Broad St., P.O. Box 26234, Richmond, VA 23260, is sponsor of an NADA (14-335) that provides for use of Medicated Red Range Dog Food containing 30 milligrams of diethylcarbamazine per pound as an aid in the prevention and elimination of large roundworm (ascarid) infections of dogs.

The application, originally sponsored by Cooperative Mills, Baltimore, MD, a manufacturing subsidiary of Southern States Coop., Inc., became effective September 10, 1963. Approximately 13 years ago the NADA was transferred to Southern States Coop., Inc., Richmond, VA. In its letter of September 15, 1981, the sponsor requested withdrawal of approval of the NADA because the product is no longer being manufactured or marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 14-335 and all supplements for Medicated Red Range Dog Food containing diethylcarbamazine is hereby withdrawn, effective November 23, 1981.

Dated: November 5, 1981.

Terence Harvey,

Deputy Director, Bureau of Veterinary Medicine.

[FR Doc. 81-32585 Filed 11-12-81; 8:45 am]

BILLING CODE 4160-01-M

Springfield Milling Corp.; Tylan Plus Sulfa; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) sponsored by Springfield Milling Corp. providing for the use of Tylan Plus Sulfa (tylosin phosphate/sulfamethazine) in manufacturing complete swine feeds. The firm requested the withdrawal of approval.

EFFECTIVE DATE: November 23, 1981.

FOR FURTHER INFORMATION CONTACT: Howard Meyers, Bureau of Veterinary Medicine (HFV-218), Food and Drug Administration, 5600 Fishers Lane, Roockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: Springfield Milling Corp., Vigorena Feeds, Springfield, MN 56087, is the sponsor of NADA 100-588 which provides for use of the combination premix Tylan Plus Sulfa containing 10 grams per pound each of tylosin (as tylosin phosphate) and sulfamethazine. The premix is used in manufacturing a complete swine feed containing 100 grams per ton each of the two drugs. The feed is used for maintaining weight gains and feed efficiency in the presence of atrophic rhinitis; lowering the incidence and severity of *Bordetalla bronchiseptica* rhinitis; prevention of swine dysentery (vibrionic); and control of swine pneumonia caused by bacterial pathogens (*P. multocida* and/or *C. pyogenes*).

The application originally became effective on July 23, 1976. By letter of July 9, 1981, the sponsor requested withdrawal of approval of the NADA because the product is no longer being manufactured or marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 100-588 and all supplements for Tylan Plus Sulfa (tylosin phosphate/sulfamethazine) is hereby withdrawn, effective November 23, 1981.

Dated: November 5, 1981.

Terence Harvey,

Deputy Director, Bureau of Veterinary Medicine.

[FR Doc. 81-32586 Filed 11-12-81; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 81N-0296]

Recommended International Standard for Raisins

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing the Recommended International Standard for Raisins (Codex standard) (CAC/RS 67-1974) developed by the Codex Alimentarius Commission and announcing that no U.S. standard will be established for raisins based on the Codex standard.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: The Food and Agriculture Organization (FAO) and the World Health Organization (WHO) jointly sponsor the Codex Alimentarius Commission, which conducts a program for developing worldwide food standards. As a member of the Codex Alimentarius

Commission, the United States is obligated to consider all Codex standards for acceptance. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways: full acceptance, target acceptance, or acceptance with specificed deviations. A commitment to accept at a designated future date constitutes target acceptance. A country's acceptance of Codex standard signifies that, except as provided for by specified deviations, a product that complies with the Codex standard may be distributed freely within the accepting country. A participating country which concludes that it will not accept a Codex standard is requested to inform the Codex Alimentarius Commission of this fact and the reasons therefor, the manner in which similar foods marketed in the country differ from the Codex standard, and whether the country will permit products complying with the Codex standard to move freely in that country's commerce.

The United States can accept some or all of the provisions of a Codex standard for any food to which the Federal Food, Drug, and Cosmetic Act (the act) applies by establishing a standard under the authority of section 401 of the act (21 U.S.C. 341), or by revising an existing standard appropriately to incorporate the Codex provisions within the U.S. standard. However, section 401 of the act states that no definition and standard of identity and no standard of quality shall be established for dried fruits. Therefore, there are no U.S. standards for raisins. There are only voluntary grade standards for marketing raisins, including identity and quality requirements, developed by the U.S. Department of Agriculture.

Although no U.S. standard for raisins can be established, FDA is publishing the Codex standard, as set forth below, in accordance with 21 CFR 130.6. Because FDA cannot establish a standard for raisins, no comments are solicited in response to this notice. The Codex Alimentarius Commission will be informed that an imported food which complies with the requirements of the Codex standard may move freely in interstate commerce in this country providing it complies with applicable U.S. laws and regulations.

The Codex standard for raisins is as follows:

CAC/RS 67–1974

Recommended International Standard for Raisins

1. *Scope.*

This standard applies to dried grapes of varieties conforming to the characteristics of *Vitis vinifera* L. which have been suitably treated or processed and which are offered for direct consumption as raisins or sultanas. It also covers raisins packed in bulk containers which are intended for repacking into consumer size containers. This standard does not include a similar dried vine fruit known as dried currants.

2. *Description.*

2.1 *Product Definition.*

Raisins is the product prepared from the sound dried grapes of the varieties conforming to the characteristics of *Vitis vinifera* L. (but excluding currant types) processed in an appropriate manner into a form of marketable raisin with or without coating with suitable optional ingredients.

The dried grapes or raisins:

(1) Shall be properly cleaned, whether washed or unwashed;

(2) Shall be stemmed except for the form of cluster raisins;

(3) Shall be cap-stemmed except for Malaga Muscatel type;

(4) May be dipped (unbleached) in an alkaline lye and oil solution as an aid to drying;

(5) May be bleached by being subjected to bleach treatment by chemical means and are further processed by drying;

(6) May have seeds removed mechanically in seed bearing types;

(7) Shall be reduced in moisture to a level that will assure preservation of the product; and

(8) May be coated with one or more of the ingredients or sugars specified in paragraph 3.1 of this standard.

2.2 *Type Groups.*

(a) Seedless—prepared from grapes that are naturally seedless or almost seedless.

(b) Seed-bearing—prepared from grapes that possess seeds, which may or may not be removed in processing.

2.3 *Styles (or Forms).*

(a) Non-Seeded, (or Unseeded)—with seeds not removed in seed-bearing types.

(b) Seeded—with seeds removed mechanically in seed-bearing types.

(c) Clusters—with main bunch stem attached.

3. *Essential composition and quality factors.*

3.1 *Permitted Ingredients.*

Raisin oil and other edible vegetable oils such as to permit free-flowing raisins, sucrose, invert sugar, dextrose, dried glucose syrup and honey, as may be appropriate to the product.

3.2.1 *Quality Criteria.*

3.2.1 *Maturity Characteristics.*

Raisins shall show development characteristics of raisins prepared from properly matured grapes, as indicated by proper colour and texture for the type, and such raisins shall include a substantial portion of berries that are fleshy and of high sugar content.

3.2.2 *Minimum Quality Requirements.*

Raisins shall be prepared from such materials and under such practices that the finished product shall possess normal colour, flavour, and maturity characteristics for the respective type and in addition comply with the following requirements:

(a) Moisture Content:

	Maximum (percent)
Malaga Muscatel type	31
Seeded (seeds removed) style	19
All other styles and/or types	18

(b) Mineral Impurities—may not be present to the extent that the eating quality or usability is materially affected (paragraph 5.2 of this standard).

(c) Other Defects—substantially free from stems, extraneous plant material and damage.

3.2.3 *Definitions of Defects.*

(a) Piece of stem—Portion of the branch or main stem.

(b) Cap-stem—Small woody stem exceeding 3 mm in length which attaches the grape to the branch of the bunch and whether or not attached to a raisin.

(Cap-stems are not considered a defect in "Unstemmed" Malaga Muscatel type raisins. In considering allowances for cap-stems on a "percentage by count" basis, cap-stems that are loose are counted as being on a raisin).

(c) Immature or Undeveloped Raisins—Refers to raisins that:

(i) are extremely light-weight berries, lacking in sugary tissue indicating incomplete development;

(ii) are completely shrivelled with practically no flesh, and

(iii) may be hard.

(d) Damaged Raisins—Raisins affected by sunburn, scars, mechanical injury, or other similar means which seriously affect the appearance, edibility, keeping quality, or shipping quality.

In "Seeded" forms, normal mechanical injury resulting from normal seeding operations is not considered "damage".

In "Seedless" type, normal mechanical injury resulting from removal of cap-stems is not considered "damage".

(e) Sugared Raisins—Raisins with external or internal sugar crystals which are readily apparent and seriously affect the appearance of the raisin. Raisins that are sugar-coated or to which sugar is added intentionally are not considered "sugared raisins".

(f) Seeds (in seeded forms)—Substantially whole, fully developed seeds which have not been successfully removed during processing of seeded forms.

3.2.4 Allowances for Defects.

Raisins shall not contain excessive defects (whether or not specifically defined or as allowed in this standard). Certain common defects as defined in paragraph 3.2.3 may not exceed the limitations specified in paragraph 3.2.4.

Defects	Maximum	
	Seedless types	Seed-bearing types
Pieces of stem (in stemmed forms).	2 per kg	2 per kg.
Cap-stems (except in "Unstemmed" Malaga Muscatel type).	50 per 500 g	25 per 500 g.
Immature or undeveloped.	6% by weight	4% by weight.
Damaged	5% by weight	5% by weight.
Sugared	15% by weight	15% by weight.
Seeds (in seeded forms)		20 per 500 g.

4. Food additives.

	Maxmium level
4.1 Sulphur dioxide (applies to bleached raisins only).	1,500 mg/kg.
4.2 Mineral oil (food grade)	5 g/kg.
4.3 Sorbitol	5 g/kg.

5. *Hygiene.*

5.1 It is recommended that the product covered by the provisions of this standard be prepared in accordance with the International Code of Hygienic Practice for Dried Fruits (Ref. CAC/RCP 3–1969).

5.2 To the extent possible in good manufacturing practice, the product shall be free from stones and other objectionable matter.

5.3 When tested by appropriate methods of sampling and examination, the product

(a) Shall be free from microorganisms capable of development under normal conditions of storage, and

(b) Shall not contain any substances originating from microorganisms in amounts which may represent a hazard to health.

6. *Weights and measures.*

Containers shall be as full as practicable without impairment of quality and shall be consistent with a proper declaration of contents for the product.

7. *Labelling.*

In addition to Sections 1, 2, 4 and 6 of the General Standard for the Labelling of Prepackaged Foods (Ref. CAC/RS 1–1969) the following specific provisions apply:

7.1 *The Name of the Food.* (See also Optional Declarations, paragraph 7.6).

7.1.1 The name of the product shall be "Raisins"; or it shall be "Sultanas" in those countries where the name sultana is used to describe certain types of raisins.

7.1.2 If the raisins are bleached, part of the name shall include a meaningful term as customarily understood and used in the country of sale, such as: "Bleached," "Golden," or "Golden Bleached."

7.1.3 If raisins are of the seed-bearing type, the name of the product shall include, as appropriate:

(a) The description "Seeded" or "With Seeds Removed";

(b) The description "Non-Seeded", "Unseeded", "With Seeds", or similar description indicating that the raisins are naturally not seedless, except in cluster form and Malaga Muscatel type.

7.1.4 If raisins are in cluster form, the name of the product shall include the description "Clusters", or a similar appropriate description.

7.1.5 If raisins intentionally do not have cap-stems removed, the name of the product shall include the description "Unstemmed", or a similar appropriate description, except in cluster form and Malaga Muscatel type.

7.1.6 Where a characteristic coating or similar treatment has been used, appropriate terms shall be included as part of the name of the product or in close proximity to the name; e.g. "Sugar Coated", "Coated with X".

7.2 *List of Ingredients.*

A complete list of ingredients shall be declared on the label in descending order of proportion in accordance with sub-section 3.2(c) of the General Standards for the Labelling of Prepackaged Foods.

7.3 *Net Contents.*

The net contents shall be declared by weight in either the metric ("Systéme international" units) or avoirdupois or both systems of measurement as required by the country in which the product is sold.

7.4 *Name and Address.*

The name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the product shall be declared.

7.5 *Country of Origin.*

7.5.1 The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

7.5.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labelling.

7.6 *Optional Declarations.*

7.6.1 Raisins may be described as "Natural" when they have not been subjected to dipping in an alkaline lye and oil solution as an aid to drying nor subjected to bleach treatment.

7.6.2 Raisins may be described as "Seedless" when they are of that type.

7.6.3 The product name may include the variety or varietal type group of raisins.

8. *Methods of analysis and sampling.*

The methods of analysis and sampling described or referred to hereunder are international referee methods.

8.1 *Samplirtg.* (Sampling plans to be developed).

8.2 *Determination of Moisture Content.*

8.2.1 According to the FAO/WHO Codex Alimentarius Method CAC/RM 50–1974 (FAO/WHO Codex Alimentarius Methods of Analysis for Processed Fruits and Vegetables, Third Series, CAC/RM 50/53–1974, Moisture Determination—Electrical Conductance Method), or

8.2.2 According to the AOAC (1970) Method (Official Methods of Analysis of the AOAC, 1970, 11th Ed., 22.012, Moisture in Dried Fruits).

8.3 *Determination of Mineral Impurities (Sand Test).*

According to the FAO/WHO Codex Alimentarius Method CAC/RM 51–1974 (FAO/WHO Codex Alimentarius Methods of Analysis for Processed Fruits and Vegetables, Third Series, CAC/RM 50/53–1974, Determination of Mineral Impurities (Sand Test) in Raisins).

8.4 *Determination of Sulphur Dioxide.*

According to the AOAC (1970) Method (Official Methods of Analysis of the AOAC, 1970, 11th Ed., 20.093–20.095, Colorimetric Method (Applicable to dried fruit)).

Results are expressed as mg SO_2/kg product.

8.5 *Determination of Mineral Oil.*

According to the FAO/WHO Codex Alimentarius Method CAC/RM 52–1974 (FAO/WHO Codex Alimentarius Methods of Analysis for Processed Fruits and Vegetables, Third Series, CAC/RM 50/53–1974, Determination of Mineral Oil in Raisins).

8.6 *Determination of Sorbitol.*

According to the FAO/WHO Codex Alimentarius Method CAC/RM 53–1974 (FAO/WHO Codex Alimentarius Methods of Analysis for Processed Fruits and Vegetables, Third Series,

CAC/RM 50/53-1974, Determination of Sorbitol in Raisins and Other Foods).

Dated: October 30, 1981.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 81-32809 Filed 11-12-81; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 81D-0300]

Antimicrobial Drugs for Intramammary Infusion; Availability of Proposed Guideline

Correction

In FR Doc. 81-29101 appearing at page 50152 in the issue for Friday, October 9, 1981, make the following corrections:

(1) On page 50152, in the middle column, in the "DATE" paragraph, the comments due date should read "December 8, 1981".

(2) On page 50152, in the third column, in the last paragraph, in the fourth line, "December 7, 1981" should read "December 8, 1981".

BILLING CODE 1505-01-M

Merck Sharp & Dohme Research Laboratories; Top Form Foal Wormer; Withdrawal of Approval of NADA

Correction

In FR Doc. 81-30821 appearing on page 52430 in the issue for Tuesday, October 27, 1981, make the following corrections:

1. In the first column, the effective date should have read "November 6, 1981";

2. In the second column, in the first paragraph, in the sixteenth and seventeenth lines, "November 7, 1981" should have read "November 6, 1981."

BILLING CODE 1505-01-M

Diamond Shamrock Corp.; 3-Nitro-4-Hydroxphenyl Arsonic Acid Custom Mix ANB; Withdrawal of Approval of NADA

Corrections

In FR Doc. 81-30822 appearing at page 52429 in the issue for Tuesday, October 27, 1981, make the following corrections:

1. On page 52429, in the third column, the effective date should have read "November 6, 1981";

2. On page 52430, in the first column, in the second paragraph, in the last line, "December 7, 1981" should have read "November 6, 1981."

BILLING CODE 1505-01-M

Advisory Committees; Meetings

Correction

In FR Doc. 81-27194 appearing at page 46391 in the issue for Friday, September 18, 1981, make the following correction:

On page 46392, in the second column, in the first paragraph, *Closed presentation of data*, in the fourth line, "PMA P70022" should have read "PMA P790022."

BILLING CODE 1505-01-M

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a)(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:

Blood Products Advisory Committee—Blood Compatibility Testing Workshop

Date, time, and place. December 10 and 11, 8:30 a.m., Auditorium, DC Chapter, American Red Cross, 2025 E St. NW., Washington, DC.

Type of meeting and contact person. Open public hearing, December 10, 8:30 a.m. to 5 p.m., December 11, 8:30 a.m. to 9 a.m.; open committee discussion, December 11, 9 a.m. to 11 a.m.; closed committee deliberations, 1 p.m. to 3 p.m.; Clay Sisk, Bureau of Biologics (HFB-5), Food and Drug Administration, Bldg. 29, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-5455.

General function of the committee. The Committee reviews and evaluates data on the safety, effectiveness, and appropriate use of blood products intended for use in the diagnosis, prevention, or treatment of human diseases.

Agenda—Open public hearing. This portion of the meeting will be held in conjunction with the Bureau of Biologics sponsored Blood Compatibility Testing Workshop. The program for the workshop includes presentations by invited speakers and on blood compatibility testing, comparing the antiglobulin test with antibody type and screen procedures. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will continue the discussion of blood compatibility testing.

Closed committee deliberations. The Committee will discuss the manufacturing of the licensed diagnostic reagents used in blood compatibility testing and in antibody detection. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Applications for reimbursement. Must be received by November 30, 1981.

Ophthalmic Device Section of the Ophthalmic; Ear, Nose, Throat; and Dental Devices Panel

Date, time, and place. December 14 and 15; 9 a.m., Auditorium, 200 Independence Ave. SW., Washington, DC.

Type of meeting and panel section leader. Open public hearing, December 14, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 1 p.m.; closed committee deliberations, 2 p.m. to 5 p.m.; open public hearing, December 15, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 1 p.m.; closed committee deliberations, 2 p.m. to 5 p.m.; Dr. Max W. Talbott, Bureau of Medical Devices (HFK-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7320.

General function of 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 December 4, 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. On December 14, the committee will discuss statistical/epidemiological questions pertaining to intraocular lenses (IOL's), and may discuss premarket approval applications for other ophthalmic products. If discussion of all pertinent IOL issues is not completed, discussion will be continued the following day. On December 15, the committee may discuss premarket approval applications or general issues (including guideline

and matrix revisions) relating to contact lens products.

Closed committee deliberations. The committee will conduct reviews of premarket approval applications for intraocular lenses on December 14 and 15. Portions of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Applications for reimbursement. Must be received by December 1, 1981.

Each public advisory committee meeting listed above 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. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretation.

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.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting desingated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Applications for reimbursement for participation in the meeting(s) 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 meeting(s) announced in this notice. The Office of Consumer Affairs, FDA, will file any application for reimbursement for particiption in the meeting(s) announced in this notice in the docket for this notice.

Dated: November 5, 1981.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 81-32701 Filed 11-12-81; 8:45 am]

BILLING CODE 4160-01-M

Small Business Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming small business exchange meeting to be chaired by Caesar A. Roy, Regional Food and Drug Director, Region II, New York Field Office.

DATE: The meeting will be held at 12:30 p.m., Tuesday, December 1, 1981.

ADDRESS: The meeting will be held at the World Trade Center, Building No. 2, Room 6218, New York, NY 10048.

FOR FURTHER INFORMATION CONTACT: George R. Walden, Small Business Representative, Food and Drug Administration, 20 Evergreen Place, East Orange, NJ 07018, 201-645-6365.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between small businesses and FDA officials. The meeting will provide a forum for the owners and managers of small businesses to express their concerns about FDA, encourage discussion about the effects of regulation and regulatory alternatives, convey knowledge about the agency's operations and procedures, and increase

participation by small businesspersons in FDA's decisionmaking process.

Dated: November 5, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-32700 Filed 11-12-81; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (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:

Gastrointestinal Drugs Advisory Committee

Date, time, and place. December 1, Conference Rms. D and E, 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 6 p.m.; Joan Standaert, Bureau of Drugs (HFD-110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4730.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in gastrointestinal disorders.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will discuss Chenix tablets (chenodeoxycholic acid) (NDA 18-513, Rowell Laboratories) to be used for dissolution of gall-stones.

Applications for reimbursement. Must be received by November 24, 1981.

Psychopharmacologic Drugs Advisory Committee

Date, time, and place. December 3 and 4, 9 a.m., Conference Rms. G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, December 3, 9 a.m. to 10 a.m.; open committee discussion, December 3, 10 a.m. to 5 p.m., December 4, 9 a.m. to 5 p.m.; Cynthia Rushing Brody, Bureau of Drugs (HFD-120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3870.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of psychiatry and related fields.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will discuss Merital (nomifensine maleate) a new antidepressant; proposed revisions to the "Guidelines for Clinical Evaluation of Hypnotic Drugs"; Altapin (dothiepin hydrochloride) a new antidepressant; and Antidepressant Labeling Issues: Discussion of terminology; evidence of effectiveness for additional symptoms and for early onset of action.

Applications for reimbursement. Must be received by November 25, 1981.

Cardiovascular and Renal Drugs Advisory Committee

Date, time, and place. December 14 and 15, Lister Hill Center, Auditorium Building 38A, National Library of Medicine, National Institutes of Health, 8600 Rockville Pike, Bethesda, MD.

Type of meeting and executive secretary. Open public hearing, December 14, 9 a.m. to 10 a.m.; open committee discussion, December 14, 10 a.m. to 5 p.m., December 15, 9 a.m. to 5 p.m.; Joan Standaert, Bureau of Drugs (HFD-110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4730.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in cardiovascular and renal disorders.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will discuss Guanabenz Acetate tablets (NDA 18-587, Wyeth Laboratories) for use as an antihypertensive agent and Pulvules Fibrocil (Aprindine) (NDA 18-633, Eli Lilly and Co.) for use as an antiarrhythmic agent.

Applications for reimbursement. Must be received by December 1, 1981.

Board of Tea Experts

Date, time, and place. December 16, 10 a.m., Board Room, Tea Association of the United States, 230 Park Ave., New York, NY.

Type of meeting and contact person. Open public hearing, 10 a.m. to 11 a.m.; open committee discussion, 11 a.m. to adjournment; Robert H. Dick, Food and Drug Administration, 850 Third Ave., Brooklyn, NY 11232, 212-965-5739.

General function of the Board. The Board advises on establishment of uniform standards of purity, quality, and fitness for consumption of all teas imported into the United States pursuant to 21 U.S.C. 342.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the Board.

Open committee discussion. The Board will discuss standards for black tea.

Applications for reimbursement. Must be received by December 2, 1981.

FDA public advisory committee meeting may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

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: November 9, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-32940 Filed 11-12-81; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

National Eye Institute; Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Eye Institute, December 7 and 8, 1981, Building 31, Room 6A-35, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on December 7 from 8:30 a.m. until approximately 2:30 p.m. for general remarks by the Institute's Scientific Director on matters concerning the intramural programs of the National Eye Institute. 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.C. and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on December 7 from approximately 2:30 p.m. until adjournment and the entire day on December 8 for review, discussion, and evaluation of individual projects conducted by the Laboratory of Sensorimotor Research, NEI. This evaluation and discussion could reveal personal information concerning individuals associated with the projects, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Consequently, this meeting is concerned with matters exempt from mandatory disclosure.

Ms. Mary Carter, Committee Management Officer, National Eye Institute, Building 31, Room 6A-04, National Institutes of Health, Bethesda, Maryland 20205 (310) 496-4903, will provide summaries of the meeting and rosters of committee members.

Substantive program information may be obtained from Dr. Jin Kinoshita, Scientific Director, National Eye Institute, Building 6, Room 222-A, National Institutes of Health, Bethesda, Maryland 20205 (telephone 301/496-4903).

Dated: November 2, 1981.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 81-32749 Filed 11-12-81; 8:45 am]

BILLING CODE 4140-01-M

President's Cancer Panel; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the President's Cancer Panel, December 3, 1981, International Club of Washington, Board Room, 1800 K Street, NW, Washington, D.C. 20006.

The entire meeting will be open to the public from 9:00 a.m. to adjournment. Agenda items are reports by the Director, National Cancer Institute, and the Chariman, President's Cancer Panel. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, Committee Management Offier, 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 Panel members, upon request.

Dr. Elliott Stonehill, Executive Secretary, National Cancer Institute, Building 31, Room 11A35, National Institutes of Health, Bethesda, Maryland 20205 (301/496-1148) will furnish substantive program information.

Dated: November 4, 1981.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 81-32750 Filed 11-12-81; 8:45 am]

BILLING CODE 4140-01-M

Office of the Secretary

Social Security Administration; Statement of Organization, Functions and Delegations of Authority; Office of Field Operations

Part S of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (HHS) covers the Social Security Administration (SSA). Notice is given that Part S, as published in the **Federal Register** at 44 FR 52755-57, September 10, 1979, is being amended to reflect the establishment of the Office of Field Operations. The Office of Field Operations will provide leadership and direction to the 10 SSA Regional Commissioners who are geographically dispersed throughout the United States.

The new material reads as follows:

1. Chapter SD is being redesignated Chapter SDB. All current material which is numbered SDI-SDX should be renumbered SDBI-SDBX.

2. The new Chapter SD is titled and reads as follows:

Sec. SD.00 *Office of Field Operations*—(Mission)

The Office of Field Operations (OFO) provides executive direction and consolidated national direction and leadership for day-to-day operation of the nationwide SSA field organization. The field organization consists of 10 regional offices, more than 1,300 permanent facilities, and over 3,000 other itinerant service points located in each of the 50 States, Guam, The Northern Marianas Trust Territory, Puerto Rico, and the Virgin Islands.

These components provide information on social security matters to the public, take and develop claims, authorize benefits and respond to correspondence for the Retirement, Survivors and Disability Insurance, Supplemental Security Income, and Black Lung Benefit programs. The office plans and assures implementation of

procedures, systems, and direct management support activities. It assures that regional offices provide effective leadership to field operations. It plans and carries out comprehensive analyses and studies and provides leadership and guidance in the implementation of actions to improve the operational effectiveness and efficiency of all the above activities.

Sec. SD.10 *Office of Field Operations*—(Organization)

The Office of Field Operations, under the leadership of the Associate Commissioner for Field Operations, consists of:

A. The Associate Commission for Field Operations (SD).

B. The Deputy Associate Commissioner for Field Operations (SD).

C. The Immediate Office of the Associate Commissioner for Field Operations (SD).

D. The Office of Field Support (SDA), which includes:

1. The Division of Resource Management (SDA1).
2. The Division of Programs (SDA2).
3. The Division of Performance Management and Analysis (SDA3).

E. The Office of the Regional Commissioner (SDBI–SDBII).

Sec. SD.20 *Office of Field Operations*—(Functions).

A. The Associate Commissioner for Field Operations is directly responsible to the Commissioner of Social Security and the Deputy Commissioner for Operations for carrying out the OFO mission and providing general supervision to the major components of the field operations.

B. *The Deputy Associate Commissioner for Field Operations* (SD) assists the Associate Commissioner in carrying out his/her responsibilities and performs such other duties as the Associate Commissioner may prescribe.

C. *The Immediate Office of the Associate Commissioner for Field Operations* (SD) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance in the full range of their responsibilities.

D. *The Office of Field Support* (SDA) directs the administrative and operational activities in support of the OFO. It designs and conducts studies to measure the effectiveness and efficiency of overall OFO processes and interaction. The Office directs and coordinates the implementation of process changes and identifies and directs the timely resolution of major problems and issues. It establishes management objective and monitors progress to assure timely implementation. The Office prepares responses to Congressional and sensitive correspondence requiring the Associate Commissioner's personal attention.

1. *The Division of Resource Management* (SDA1):

a. Analyzes OFO's needs and utilization of management resources in such areas as workforce effectiveness, training, equipment and office space.

b. Presents OFO requirement to SSA's Office of Management, Budget and Personnel (OMBP) to assure that specialized management support is provided timely.

c. Directs the budget management activities of OFO, consistent with overall SSA, HHS, and Office of Management and Budget (OMB) policy guidelines including budget development, analysis, planning and execution.

2. *The Division of Programs* (SDA2):

a. Analyzes policies and procedures proposed by SSA and non-SSA components to determine the operational impact on OFO.

b. Presents OFO's views and requirements in processes and initiatives resulting from new legislation.

c. Develops OFO's planning objectives and goals relating to systems processes and needs.

d. Coordinates with the Treasury Department and other agencies on new operational processes affecting OFO.

3. *The Division of Performance Management and Analysis* (SDA3):

a. Plans and directs a continuing program of performance analysis activities in support of OFO.

b. Presents OFO management information needs to OMBP and evaluates management information to recommend improvement in OFO management and operations.

c. Directs and coordinates the implementation of performance goals and objectives within the field operations, including performance in Merit Pay and SES positions.

Dated: November 2, 1981.

Richard S. Schwieker,

Secretary of Health and Human Services.

[FR Doc. 81-32702 Filed 11-12-81; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPOMENT

Office of Environment and Energy

[Docket No. NI-82]

Intended Environmental Impact Statement; Near Loop Area, Chicago, Ill.

The Department of Housing and Urban Development gives notice that an Areawide Environmental Impact Statement (EIS) is intended to be prepared under HUD programs as described in the appendix: Near Loop Area, Chicago, Illinois. This notice is required by the Council on Environmental Quality under its rules (40 CFR Part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the area to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Each notice shall be effective for one year. If one year after the publication of a notice in the **Federal Register** a Draft EIS has not been filed on a project, then the Notice for that project shall be cancelled. If a Draft EIS is expected more than one year after the publication of the Notice in the **Federal Register**, then a new and updated Notice of Intent will be published.

Issued at Washington, D.C. November 6, 1981.

Francis G. Haas,

Deputy Director, Office of Environment and Energy.

Appendix—EIS on the Near Loop Area, Chicago, Illinois

The Department of Housing and Urban Development (HUD) Area Office intends to prepare an areawide EIS for the Near Loop Area in Chicago, Illinois. The Department hereby solicits comments and information for consideration in this EIS.

Description: The Near Loop Area includes areas to the immediate south and west of the Loop in Chicago. The Near South Loop study area is defined as the area bounded by the Eisenhower Expressway on the north, Lake Shore Drive on the east, Cermak Road on the south, and the Chicago River on the west. The Near West Loop study area is defined as the area bounded on the north by the Chicago and Northwestern Railroad (R.O.W.), by the South Branch of the Chicago River on the east, the Eisenhower Expressway on the south, and Halsted Avenue on the west. A significant amount of development, including Printing House Row, Dearborn Park, River City, and South Loop New Town, has been completed recently or is planned in the Near South Loop. The proximity of the Near West Loop study area to the Loop is such that it is also capable of significant redevelopment. Recent residential proposals in the Near West Loop include Presidential and Olympic Towers.

Need: An areawide EIS is being prepared to eliminate the need for duplicative project level EISs by anticipating the significant impacts and assessing the cumulative overall impact of development in the project area. This analysis will allow for early planning on a more comprehensive scale resulting in policies which can be applied in a consistent, coordinated manner, and provide a uniform data base for site specific environmental assessments.

In addition, project sponsors will be better informed of HUD's position regarding particular issue areas and hence be able to address these areas in their project applications.

Alternatives: Alternative policies to guide HUD project review will be developed for each environmental component or subject area in which issues are expected to arise. These policies will be developed sufficiently to cover the range of possibilities for each policy area. For example, a range of policies concerning the feasibility or desirability of rehabilitation vs. new construction will be presented.

Scoping: A public scoping meeting will not be held. HUD will request information from appropriate government agencies and service organizations. Responses to this notice will help determine potentially significant environmental issues and consequently will assist in identifying policy areas that the EIS should address. Presently, potential issue areas include land use patterns, residential densities, residential types, family and income orientation, rehabilitation and new construction, historic preservation and noise.

Comments: Comments should be sent on or before December 4, 1981 to: Eugene Goldfarb, Area Environmental Officer, Department of Housing and Urban Development, Chicago Area Office, 1 North Dearborn Street, Chicago, Illinois 60602.

[FR Doc. 81-32704 Filed 11-12-81; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Intent To Prepare an Environmental Impact Statement and Notice of Public Scoping Meetings on Commercial Harvest of Anadromous Fish on the Hoopa Valley Indian Reservation, California

AGENCY: Bureau of Indian Affairs.

SUMMARY: This Notice advises the public that the Bureau of Indian Affairs intends to prepare an Environmental Impact Statement (EIS) on a proposal to change current fishing regulations (25 CFR Part 258) to permit a commercial harvest and to establish Indian harvest quotas for anadromous fish on the Hoopa Valley Indian Reservation, California. The Notice is being published pursuant to the National Environmental Policy Act (NEPA) regulations (40 CFR 1501.7).

The Bureau of Indian Affairs, in cooperation with nine Federal government agencies (Forest Service, National Marine Fisheries Service, Environmental Protection Agency, Bureau of Land Management, Bureau of Reclamation, Office of Environmental Project Review, Fish and Wildlife Service Fisheries Assistance Office and Division of Law Enforcement, and National Park Service), two Indian governments (Hoopa Tribe and Karok Tribe), the State of California (Department of Fish and Game and Department of Water Resources), and four county governments (Del Norte, Humboldt, Trinity, and Siskiyou Counties) will hold a series of environmental scoping sessions to gather public comments and advice for preparation of the draft EIS.

The Bureau of Indian Affairs is the lead Federal agency for the draft EIS which will be prepared by the Denver Service Center of the National Park Service under an agreement with the Bureau of Indian Affairs.

Pursuant to the Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act, including 40 CFR 1501.7, 1506.6 and 1508.22, public meetings will be held for the purpose of determining the scope of issues to be addressed and for identifying significant issues related to the proposed action. Suggestions, information and other comments will be sought on the the scope of both direct and indirect environmental impacts of the proposed action, any feasible alternatives, and any appropriate mitigation measures. Comments on these or any other significant issues that should be addressed in the EIS may be presented orally or in writing at the public meetings. Written comments to supplement or in lieu of oral presentations will be accepted through December 24, 1981. The public meetings will be held as follows:

Monday, December 7, 1981, 1:00 p.m., Bureau of Indian Affairs, Klamath Field Office, Courtroom, Salmon Blvd., Klamath, California

Monday, December 7, 1981, 7:00 p.m., Cultural Convention Center, Auditorium, Front and "K" Streets, Crescent, California

Tuesday, December 8, 1981, 1:00 p.m. Ramada Inn, Banquet Room, 4975 Valley West Blvd., Arcata, California

Wednesday, December 9, 1981, Bureau of Indian Affairs, Northern California Agency, Conference Room, Loop Road, Hoopa, California

Wednesday, December 9, 1981, 7:00 p.m., Jack Norton School, Multipurpose Room, Pecwan, California

Thursday, December 10, 1981, 1:00 p.m. Karok Tribe, Community Building, Orleans, California

Thursday, December 10, 1981, 7:00 p.m., Weitchpec Elementary School, Classroom, Weitchpec, California

Friday, December 11, 1981, 7:00 p.m., Happy Camp Elementary School, Multpurpose Room, Happy Camp, California

Saturday, December 12, 1981, 1:00 p.m. and 7:00 p.m., Siskiyou County Court House, Board of Supervisors Chambers, 311 Fourth Street, Yreka, California

Monday, December 14, 1981, 7:00 p.m. Civic Defense Hall, Main Auditiorium, Weaverville, California

The draft EIS will be prepared by approximately March 30, 1982 and will be available for public and agency review following its publication. Public hearings will also be held after the draft EIS is circulated for comments.

For further information concerning the public meetings, the proposed action, draft EIS, or submission of written comments contact: Donald B. Knapp, Natural Resources Specialist, Sacramento Area Office, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825, telephone (916) 484-4391.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: November 9, 1981.

Kenneth L. Payton,

Acting Deputy Assistant Secretary—Indian Affairs (Operations).

[FR Doc. 81-32761 Filed 11-12-81; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Alaska; Cancellation of Classification of Public Lands

November 2, 1981.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

1. Pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601) and the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1761) the following classifications of public lands in Alaska made pursuant to the Classification and Multiple-Use Act of September 19, 1964 (43 U.S.C. 1411) are hereby cancelled.

2. The classification orders affected are:

Arctic Corridor, F 460 (34 FR 5610)
Bornite, F 508 (35 FR 5728–5729)
Nuk, F 850 (35 FR 5729–5730)
Salmon Lake, F 860 (35 FR 5730–5731)
Baldwin Peninsula, F 870 (35 FR 10869–10870)
Copper River, F 955 & AA 2779 (33 FR 19957–19958)
Iliamna, AA 818 (32 FR 14971–14972)
King Cove, AA 3702 (35 FR 17)

The land affected are described in the classification orders. These orders classified approximately 32,625,000 acres of public lands for multiple-use management. The land were segregated in varying degrees from appropriations under the public land laws and in some cases from appropriations under the mining laws.

3. Numerous actions affecting the public lands and Alaska have taken place since these lands were classified. Particularly significant has been the passage of new legislation including the Alaska Native Claims Settlement Act, the Federal Land Policy and Management Act, and the Alaska National Interest Lands Conservation Act. Much of the classified land has been selected by the state of Alaska or Native corporations or has been included in new national parks, forests, and wildlife refuges. The remaining classified lands are subject to one or more of the withdrawals made pursuant to the Alaska Native Claims Settlement Act and are segregated to a greater degree than they were by the classification. Thus, no lands will be opened to additional appropriation by this action, which is primarily for record clearing purposes.

Curtis V. McVee,

State Director.

[FR Doc. 81-32716 Filed 11-12-81; 8:45 am]

BILLING CODE 4310-84-M

[M 28891]

Montana; Classification Vacated

Pursuant to the authority designated by Bureau Order 701 and amendments thereto, Recreation and Public Purposes classification M 28891 is hereby vacated in its entirety.

As of December 8, 1981, the following described public lands are hereby restored to the operations of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, rules and regulations:

Principal Meridian

T. 9 S., R. 27 E.,
Sec. 21, E½ and E½W½; and
Sec. 28, W½E½ and E½W½.

The area described contains 800 acres in Carbon County.

Kannon Richards,

Acting State Director.

[FR Doc. 81-32721 Filed 11-12-81; 8:45 am]

BILLING CODE 4310-84-M

[NM 077260-WR]

New Mexico; Proposed Continuation of Withdrawal; Amendment

November 3, 1981.

In the notice published as FR Doc. 81–20140, page 35559 of the issue for July 9, 1981, an allowance of 30 days was made for comments. An additional 60 days from the date of this publication is hereby provided for comments. All correspondence in connection with this proposed withdrawal continuation should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501.

Leory C. Montoya,

Chief, Division of Technical Services.

[FR Doc. 81-32715 Filed 11-12-81; 8:45 am]

BILLING CODE 4310-84-M

[NM 1180]

New Mexico; Proposed Continuation of Withdrawal; Amendment

November 3, 1981.

In the notice published as FR Doc. 81–11367, pages 22042–3 of the issue for April 15, 1981, an allowance of 23 days was made for comments. An additional 67 days from the date of this publication is hereby provided for comments. All correspondence in connection with this proposed withdrawal continuation should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501.

Leroy C. Montoya,

Chief, Division of Technical Services.

[FR Doc. 81-32713 Filed 11-12-81; 8:45 am]

BILLING CODE 4310-84-M

[NM 46404]

New Mexico; Proposed Withdrawal and Reservation of Lands; Amendment

November 3, 1981.

In the notice published as FR Doc. 81–21530, pages 37981–2 of the issue for July 23, 1981, an allowance of 24 days was made for comments. An additional 66 days from the date of this publication is hereby provided for comments. All correspondence in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501.

Leroy C. Montoya,

Chief, Division of Technical Services.

[FR Doc. 81-32714 Filed 11-12-81; 8:45 am]

BILLING CODE 4310-84-M

Salmon District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Salmon District of the Bureau of Land Management (BLM) announces a forthcoming meeting of the Salmon District Grazing Advisory Board.

DATE: The meeting will be held at 10:00 a.m., Thursday, December 17, 1981.

ADDRESS: The meeting will be held at the Salmon District Office, Bureau of Land Management, Conference Room, South Highway 93, Salmon, Idaho 83467.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with Pub. L. 92–463 and 94–579. The purpose of the meeting will be to discuss (1) Range improvement and maintenance; (2) Range program; (3) Fiscal year 82 projects.

The meeting is open to the public. Anyone may make oral statements to the Board or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of

Land Management, P.O. Box 430, Salmon, Idaho 83467, by December 10, 1981.

Summary minutes of the Board meeting will be maintained in the District Office and will be available for public inspection within 30 days following the meeting.

Dated: November 3, 1981.

K. Grant Harbour,

Acting District Manager.

[FR Doc. 81-32720 Filed 11-12-81; 8:45 am]

BILLING CODE 4310-84-M

Tentative Parcel Selection for First Oil and Gas Lease Sale in National Petroleum Reserve in Alaska; Correction

In the **Federal Register** Document 81-32308 appearing on page 55426 in the issue of Monday, November 9, 1981. The "Action" is corrected to read:

Action: Notice of Competitive Oil and Gas Lease Sale in the National Petroleum Reserve in Alaska.

Dated: November 9, 1981.

D. Dean Bibles,

Assistant Director.

[FR Doc. 81-32785 Filed 11-12-81; 8:45 am]

BILLING CODE 4310-84-M

Uinta-Southwestern Utah Regional Coal Team Hearings; Regional Production Goals

AGENCY: Bureau of Land Management.

ACTION: Public hearings and opening of comment period on regional production goals.

SUMMARY: The Utah State Office of the Bureau of Land Management advises the public that hearings will be held to receive oral and written comments in order to assist the Secretary of Interior, through the Regional Coal Team (RCT), in his review of the Federal Coal Production goals for the Uinta-Southwestern Utah Coal Production Region. The hearings will be held in Salt Lake City, Utah; Kanab, Utah; Price, Utah and Grand Junction, Colorado.

Oral and written comments will be accepted at the public hearings. Individuals commenting orally are asked to provide written copies if possible. Written comments should be sent to the Utah State Director at the address given below:

DATES: Public hearings will be held on the following schedule:

Date	City	Meeting place	Time
11/30/81	Grand Junction, Colorado	District Office, 764 Horizon Drive	7 p.m.
12/1/81	Kanab, Utah	BLM Office, 320 North First East	7 p.m.
12/2/81	Price, Utah	Gomer Peacock Room, Main Bld. CEU	7 p.m.
12/3/81	Salt Lake City, Utah	University Club Bld. 136 E. So. Temple, 13th floor conf. room.	1 p.m.

Written comments will be accepted until December 14, 1981.

ADDRESS: Written comments on the production goals should be addressed to: Utah State Director, University Club Building, 136 E. South Temple, Salt Lake City, Utah, 84111.

FOR FURTHER INFORMATION CONTACT: Max Nielson, Coal Program Manager, Bureau of Land Management, University Club Building, Salt Lake City, Utah 84111, Telephone 801-524-5326.

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE) issued updated national and regional coal production goals in December of 1980. These coal production goals are intended to guide the Department of Interior (DOI) and the RCT in setting a Federal leasing target for the Uinta-Southwestern Utah Federal Coal Production Region.

DOE Final Coal Production Goals—Uinta-Southwestern Utah

(Million tons annually)

Scenario	1990	1995
Low	45.8	60.8
Medium	60.5	89.2
High	76.7	101.2

The coal production goals developed by DOE are provided at three levels of energy consumption growth rates—low, medium and high. The DOE final production goals have been provided to the Uinta-Southwestern Utah RCT.

The Federal Coal Management Regulations (43 CFR 3420.3-2(d)) require that the RCT consider the regional situation and recommend adjustments to the regional production goals based on such factors as: (1) public comment received in writing or in hearing(s) held by the team in the region, (2) State Government, Bureau of Land Management State Office, Indian Tribe and regional development policies, (3) administrative capacity to satisfy the indicated level of leasing based on the final production goals, and (4) other information available to the Regional Coal Team which they believe should receive consideration by the Secretary in his review of the final regional production goals.

The purpose of this notice is to call for public comment on the production goals in order to assist the RCT in formulating its recommendations to the Secretary.

Dated: November 6, 1981.

Roland G. Robison, Jr.,

Utah State Director.

[FR Doc. 81-32776 Filed 11-12-81; 8:45 am]

BILLING CODE 4310-84-M

[U-42074]

Utah; Exchange of Public and Private Lands in Box Elder County; Issuance of Land Exchange Conveyance Document

The United States issued an exchange conveyance document to the Ernest E. Kimber and Celeste H. Kimber Family Partnership on August 4, 1981, Patent No. 43-81-0022 for the following described lands under section 206 of the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716:

Salt Lake Meridian, Utah

T. 11 N., R. 18 W.,
Sec. 18, NE¼NE¼.
Comprising 40 acres.

In exchange for these lands the United States acquired the following described land:

Salt Lake Meridian, Utah

T. 12 N., R. 8 W.,
Sec. 18, lot 3.
Comprising 35.62 acres.

The purpose of this exchange was to acquire the non-Federal lands for use in Federal range management and wildlife habitat management programs in Box Elder County. The public interest was well served through completion of this exchange.

The values of Federal land and the non-Federal land in the exchange were appraised at $2,800 and $2,500 respectively. An equalization payment in the amount of $300 was paid to the United States by the Kimber Family Partnership.

Dated: November 5, 1981.

Robert E. Anderson,

Chief, Division of Technical Services.

[FR Doc. 81-32777 Filed 11-12-81; 8:45 am]

BILLING CODE 4310-84-M

[M 18434]

Montana; Termination of Proposed Withdrawal and Reservation of Lands

Correction

In FR Doc. 81-31266 appearing on page 53527 in the issue of Thursday, October 29, 1981, first column, the third line of the land description should read:

"Sec. 3, E½ NW¼ SE¼ NE¼ and W½ NE¼"

BILLING CODE 1505-01-M

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Davis Oil Co.

AGENCY: Geological Survey, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Davis Oil Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0763, Block 180, West Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the Office of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room, 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: November 6, 1981.

Lowell G Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 81-32718 Filed 11-12-81; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Tenneco Oil Exploration and Production

AGENCY: Geological Survey, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Tenneco Oil Exploration and Production, Unit Operation of the East Cameron Block 353 Federal Unit Agreement No. 14-08-0001-16147, submitted on October 26, 1981, a proposed supplemental plan of development/production describing the activities it proposes to conduct on the East Cameron Block 353 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837-4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: November 6, 1981.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 81-32717 Filed 11-12-81; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Reclamation

[INT-FES 81-49]

Modification of Buffalo Bill Dam, Shoshone Project, Wyo.; Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a final environmental statement on a proposed plan to raise the crest of Buffalo Bill Dam 25 feet. This will provide a firm water supply for irrigation and municipal and industrial use. The proposed plan also includes building a visitor center at the dam site, replacing the Shoshone Powerplant, and building dikes to reduce the dust producing areas.

Copies are available for inspection at the following locations:

Director, Office of Environmental Affairs, Room 7622, Bureau of Reclamation, Washington, DC 20240, Telephone: (202) 343-4991

Division of Management Support, General Services, Library Branch, Code 950, Engineering and Research Center, Denver Federal Center, Denver, CO 80225, Telephone: (303) 234-3019

Regional Director, Bureau of Reclamation, Federal Building, 316 North 26th, Billings, Montana 59103, Telephone: (406) 657-6214

Single copies of the statement may be obtained upon request to the Director, Office of Environmental Affairs, or the Regional Director at the above addresses. Copies will also be available for inspection in libraries in the project vicinity.

Dated: November 9, 1981.

Bruce Blanchard,

Director, Environmental Project Review.

[FR Doc. 81-32808 Filed 11-12-81; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 ICC 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date

of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawfull control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence oc legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extrent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: November 10, 1981.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

MC–F–14736, filed November 6, 1981. CARRIER SYSTEMS, INC. (CSI) (200 Market Street, Philadelphia, PA 19103)—Control—CARRIER SYSTEMS INTERNATIONAL MOTOR FREIGHT INC. (International) (same address as above); and MC–F–14732, ST. JOHNSBURY TRUCKING, INC. (St. Johnsbury) (87 Jeffrey Avenue, Holliston, MA 01746)—Control and Merger—TRUCKING MERGER AND REORGANIZATION, INC. (TMRI) (87 Jeffrey Avenue, Holliston, MA 01746). Representative: Harry J. Jordan, Suite 502, Solar Building, 1000–16th Street, NW, Washington, DC 20036. CSI, a non-carrier holding company, seeks to acquire control of International through the purchase by CSI of all the issued and outstanding stock of International. Concurrently, St. Johnsbury seeks authority to acquire control of TMRI and to merge TMRI into St. Johnsbury for ownership, management, and operation. Sun Carriers, Inc., the sole stockholder of both CSI and TMRI, and, in turn, Sun Company, Inc., the sole stockholder of Sun Carriers, Inc., seek authority to continue in control of CSI and St. Johnsbury through this transaction. In addition to having control of the four companies involved in this application, Sun Carriers, Inc., and in turn, Sun Company, Inc. commonly control Milne Truck Lines, Inc. (MC–44065), Jones Truck Lines, Inc. (MC–111231), and Standard Trucking Company (MC–39973). International holds authority under Docket No. MC–154050 to transport *general commodities* between ports in MA, CT, NY, RI, NJ, DE, MD, VA, PA, NC, SC, GA, FL, IL, AL, MS, LA, TX, OH, MI, IN, WI, and MN, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, KS, OK, and TX. TMRI holds no authority from the Commission. It is regulated as a carrier under the Interstate Commerce Act because if its control of St. Johnsbury. The merger is for purposes of corporate simplification. St. Johnsbury holds authority under Docket No. 108473 and various sub-numbers thereof to transport over a network of regular routes, general commodities and certain specified commodities in ME, NY, VT, NH, MA, CT, RI, NJ, PA, DE, MD, and VA. Condition: Although the two transactions filed under 49 U.S.C. 11343 are part of a plan of corporate simplification, they are two separate and distinct transactions and are not interrelated or dependent upon each other. In view of the filing of the securities application, which is directly related to the St. Johnsbury transaction, we will apply the fee already filed to the St. Johnsbury transaction, and require, as a condition to the approval of the CSI transaction, the filing of an appropriate fee.

Note.—A directly related application under 49 U.S.C. 11301 and 11302 has been filed in FD–29779, St. Johnsbury Trucking Company, Inc.—Assumption of Obligations and Liabilities. St. Johnsbury seeks authority to assume TMRI's liabilities including obligations of a total principal amount not to exceed $10,000.

MC–F–14676, filed August 12, 1981 (Supplemental Publication). TOSE, INC. (Tose) (64 West Fourth Street, Bridgeport, PA 19405)—control and Merger—FOWLER & WILLIAMS, INC. (Fowler) (1300 Meylert Avenue, Scranton, PA 18501). Representative: Anthony C. Vance, Suite 301, 1307/ Dolley Madison Blvd, McLean, VA 22101.

Note.—This application was originally published in the **Federal Register** Issue of September 8, 1981. The purpose of this supplemental publication is to modify the original publication from one seeking only control to one seeking control and merger, as requested in an amendment filed by applicants. In the original publication an impediment was imposed because if the control was granted Tose and Fowler would hold duplicating operating rights. That issue no longer exists in view of the merger of the two companies.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81–32917 Filed 11–12–81; 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-2-216

Decided: November 4, 1981.

By the Commission, Review Board Number 1, Members Parker, Chandler, and Fortier. Member Parker not participating.

MC 8973 (Sub-83), filed October 26, 1981. Applicant: METROPOLITAN TRUCKING, INC., 75 Broad Ave., Fairview, NJ 07022. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048, (212) 466-0220. Transporting *general commodities* (except classes A and B explosives), between the facilities used by Kaiser Aluminum & Chemical Corporation and its subsidiaries or affiliates, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 99213 (Sub-25), filed October 27, 1981. Applicant: RAPPAHANNOCK MOTOR LINES, INC., P.O. Box 80, Lively, VA 22507. Representative: M. LeRoy Ransome (same address as applicant), 804-462-5385. Transporting *general commodities* (except classes A and B explosives), between Baltimore, MD, on the one hand, and, on the other, points in Middlesex, Mathews, Gloucester, Exxes, King and Queen, King William, New Kent, and York Counties, VA.

MC 109583 (Sub-7), filed September 8, 1981. Applicant: JAMES R. SMITH, d.b.a. FIKES TRUCK LINE, 1904 West 5th, Pine Bluff, AR 71601. Representative: Horace Fikes, Jr., P.O. Box 5632, Pine Bluff, AR 71611, (501) 536-8378. Transporting *forest products, pipe and pipe fittings, lumber and wood products, pulp, paper and related products, metal products,* and *building materials* between points in AR, LA, MS, MO, OK, TN and TX.

MC 121653 (Sub-1), filed October 28, 1981. Applicant: BENTON TRANSPORT CORPORATION, 75 Brampton Rd., Garden City, GA 31408. Representative: Barrett G. Benton (same address as applicant), (912) 964-6972. Transporting *general commodities* (except classes A and B explosives), between points in AL, FL, GA, LA, MS, NC, SC, TN, and VA.

MC 121653 (Sub-2), filed October 29, 1981. Applicant: BENTON TRANSPORT CORPORATION, 75 Brampton Rd., Garden City, GA 31408. Representative: James M. Parrish, P.O. Box 1365, Marietta, GA 30061, (404) 424-8132. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Union Camp Corporation, of Wayne, NJ.

MC 123893 (Sub-3), filed October 26, 1981. Applicant: L. J. DENNY AND J. R. DENNY, d.b.a. L. J. DENNY & SON TRUCKING COMPANY, P.O. Box 1035, Vidalia, LA 71373. Representative: John A. Crawford, 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205, 601-948-5711. Transporting *Mercer Commodities,* between points in AL, AR, FL, GA, LA, MS, OK, and TX.

MC 124653 (Sub-2), filed October 28, 1981. Applicant: SAFEWAY SUSTEMS, INC., 215 3rd. St., Newport, RI 02840. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, D.C. 20005, 202-347-3987. Transporting *household goods,* between points in RI, CT, MA, VT, NH, and ME, on the one hand, and, on the other, those points in the U.S., in and east of ND, SD, NE, KS, OK, and TX.

MC 129712 (Sub-63), filed October 29, 1981. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. Box 569, McDonough, GA 30253. Representative: Guy H. Postell, Suite 713, 3384 Peachtree Rd. NE., Atlanta, GA 30326, 404-237-6472. Transporting *metal products,* between points in the U.S., under continuing contact(s) with South Atlantic Steel, Inc., of Raleigh, NC.

MC 138123 (Sub-2), (correction) filed October 5, 1981, published in the **Federal Register,** issue of October 22, 1981, and republished, as corrected, this issue: Applicant: NORTH HAVEN TRANSPORTATION, INC., 19 Montowese Ave., North Haven, CT 06473. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103, (413) 781-8205. Transporting *general commodities* (except classes A and B explosives), between points in CT, MA, NJ, NY, PA and RI.

Note.—AY1The purpose of this republication is to correct the commodity description.

MC 141312 (Sub-13), filed October 22, 1981. Applicant: DOKTER TRUCKING CORP., P.O. Box 408, Weeping Water, NE 68463. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501, 402-476-1144. Transporting *construction materials,* between Kansas City, MO, on the one hand, and, on the other, Omaha, NE.

MC 142603 (Sub-61), filed October 28, 1981. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 179, Springfield, MA 01101. Representative: Tami L. Quinlan (same address as applicant), (413) 732-6283. Transporting *paper and non-woven products,* between points in the U.S., under continuing contract(s) with Boyd Converting Company, Inc., of Pittsfield, MA.

MC 144323 (Sub-10), filed October 21, 1981. Applicant: RICHARD P. CHARAPATA, d.b.a. CHARAPATA TRUCKING, N30 W26466 Peterson Drive, Pewaukee, WI 53072. Representative: Daniel R. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53203, 414-273-7410. Transporting (1) *food and related products,* between points in the U.S., under continuing

contract(s) with Packerland Packing Co., Inc., of Green Bay, WI, and (2) *printed matter*, between points in the U.S., under continuing contract(s) with Quadgraphics, Inc., of Pewaukee, WI.

MC 145842 (Sub-25), filed October 26, 1981. Applicant: SUNDERMAN TRANSFER, INC., P.O. Box 63, Windom, MN 56101. Representative: Carl F. Munson, 469 Fischer Bldg., Dubuque, IA 52001, 319–557–1320. Transporting *twine*, between points in Dubuque County, IA, St. Louis County, MN, and Douglas and Milwaukee Counties, WI, on the one hand, and, on the other, points in the U.S.

MC 146712 (Sub-2), filed October 29, 1981. Applicant: STEEL CARGO, INC., R.R. 1, Box 81, Sharpsville, IN 46068. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *metal products*, between points in the U.S., under continuing contract(s) with Ambassador Steel Corporation, of Butler, IN.

MC 148843 (Sub-2), filed October 23, 1981. Applicant: B. G. HOOKER TRANSPORT COMPANY, East U.S. Hwy 84, Tenaha, TX 75974. Representative: Jack L. Coke, Jr., 4555 First National Bank Bldg., Dallas, TX 75202, 214–741–6263. Transporting *petroleum, natural gas and their products, and chemicals and related products*, between points in TX, LA, MS, and AR.

MC 151522 (Sub-3), filed October 23, 1981. Applicant: DIRECT MOTOR EXPRESS, INC., 2098 Kellogg Ave., Memphis, TN 38114. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St. NW., Washington, D.C. 20423, 202–347–8862. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Sanyo Manufacturing Corp., of Forrest City, AR.

MC 151813 (Sub-4), filed October 26, 1981. Applicant: CONERTY-HENIFF TRANSPORT, INC., 4220 West 122nd St., Alsip, IL 60658. Representative: Abraham A. Diamond, 29 South La Salle, St., Chicago, IL 60603, (312) 236–0548. Transporting (1) *petroleum, natural gas and their products*, and (2) *chemicals and related products*, between points in DE, MD, NJ, NY, PA, VA, and DC.

MC 154883 (Sub-1), filed October 26, 1981. Applicant: LOGGINS TRUCKING COMPANY, 1925 Oakhurst Circle, P.O. Box 6676, Tyler, TX 75711. Representative: Larry Loggins (same address as applicant), 214–593–0620. Transporting *food and related products*, between points in the U.S. under continuing contract(s) with Woodbridge Sweets, of Woodbridge, NJ, and Sunbelt Distributors, of Houston, TX.

MC 155372 (Sub-1), filed October 29, 1981. Applicant: MID-SOUTH FREIGHT LINES, INC., P.O. Box 213, Jasper, GA 30143. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, 317–846–6655. Transporting *general commodities* (except classes A and B explosives, household goods, and comodities in bulk), between the facilities of United States Gypsum Company, at points in the U.S., on the one hand, and, on the other, points in the U.S. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. §11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority, please submit a copy of the affidavit or proof or filing the application(s) for common control to Team 2, Room 2379.

MC 158732, filed October 21, 1981. Applicant: SCHERBARTH, INC., N. Hwy 15, P.O. Box 624, Fairbury, NE 68352. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, 402–397–9900. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of building and paving materials, between points in the U.S., under continuing contract(s) with Endicott Clay Products Company, of Fairbury, NE.

MC 158973, filed October 27, 1981. Applicant: RAIDER TRUCK LINES, INC., 6786 West Haskel Dr., Fairview, PA 16415. Representative: John A. Vuono, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471–1800. Transporting *metal products, refractories and refactory products, building materials, and those commodities which because of their size or weight require the use of special handling or equipment*, between points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI, and DC.

Volume No. OPY–4–432

Decided: November 6, 1981.

By the Commission, Review Board Number 2. Members Carleton, Fisher and Williams.

MC 20626 (Sub-2), filed October 30, 1981. Applicant: ALBERT E. WARD, INC., 23700 Corbin Dr., Bedford Heights, OH 44128. Representative: Robert G. Harris (same address as applicant), (216) 663–0002. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 20626 (Sub-3), filed October 30, 1981. Applicant: ALBERT E. WARD, INC., 23700 Corbin Dr., Bedford Heights, OH 44128. Representative: Robert G. Harris (same address as applicant), (216) 663–0002. Transporting *household goods*, between points in OH and PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 59306 (Sub-8), filed October 26, 1981. Applicant: NIEDERGERKE TRUCK LINE, INCORPORATED, P.O. Box 92, Fulton, MO 65251. Representative: Neal A. Jackson, 1156 15th St., N.W., Washington, DC 20005, (202) 223–6680. Transporting *clay, concrete, glass, stone or metal products*, between those points in the U.S. in and east of MN, IA, MO, AR, OK, and TX. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. § 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to team 4, Room 2410.

MC 105656 (Sub-18), filed October 26, 1981. Applicant: PASQUALE TRUCKING COMPANY, INC., P.O. Box 295, Logansport, IN 46947. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200–A, Park Ridge, IL 60068, (312) 698–2235. Transporting *food and related products, chemicals and related products, rubber and plastic products and machinery*, between MT. Vernon and Evansville, IN and Springfield, MO, on the one hand, and, on the other, points in CT, DC, DE, FL, GA, IA, IL, IN, KY, MA, MD, MI, MN, MO, NC, NJ, NY, OH, PA, RI, SC, TN, VA, WI, and WV.

MC 135046 (Sub-24), filed October 28, 1981. Applicant: ARLINGTON J. WILLIAMS, INC., 1398 S. DuPont Hwy., Smyrna, DE 19977. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113, (215) 365–5141. Transporting *such commodities* as are dealt in or used by manufacturers and distributors or plumbers goods, bathroom, and lavatory fixtures, between Camden, NJ, and points in Greene and Walton Counties, GA, Jasper and Montgomery Counties, IN, Wapello County, IA, Worchester County, MA, Columbiana County, OH, Lawrence County, PA, and Navarro and Medina Counties, TX, on the one hand, and, on the other, points in the U.S. in

and east of ND, SD, NE, KS, OK, and TX.

MC 136546 (Sub-7), filed October 27, 1981. Applicant: PELTON BROS. TRANSPORT LIMITED, R.R. #3, Paris, Ontario, CD 3E3. Representative: William J. Hirsch, 1125 Convention Tower, 43 Court Street, Buffalo, NY 14202, (716) 853–0200. Transporting *farm products, clay, concrete, glass or stone products, ores and minerals, building materials, lumber and wood products, machinery, transportation equipment, and metal products,* between ports of entry on the international boundary line between the U.S. and Canada located in MI and NY, on the one hand, and, on the other, points in AL, AR, CO, FL, GA, IA, IL, IN, KS, KY, LA, MD, MI, MN, MS, MO, NE, ND, NJ, NY, OH, OK, PA, SD, TN, TX, UT, WI, WV, and WY.

MC 140276 (Sub-8), filed October 26, 1981. Applicant: LARRY SCHEFUS TRUCKING, INC., Route 1, Box 202, Redwood Falls, MN 56283. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., (612) 340–0808. Transporting *lumber and wood products,* between points in AR and GA, on the one hand, and, on the other, points in MN, WI, IA, SD, ND, AND NE.

MC 142976 (Sub-10), filed October 26, 1981. Applicant: JOHN D. PERFETTI, R.D. #4, Box 265C, Blairsville, PA 15717. Representative: William A. Gray, 2310 Grant Bldg., Pittsburg, PA 15219, (412) 471–1800. Transporting *general commodities* (except household goods and classes A and B explosives) between points in the U.S., under continuing contract(s) with Star Manufacturing Co, of Homer City, PA.

MC 142976 (Sub-11), filed October 26, 1981. Applicant: JOHN D. PERFETTI, R.D. #4, Box 265C, Blairsville, PA 15717. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *metal products,* between those points in and east of WI, IL, KY, TN, and MS, on the one hand, and, on the other, points in the U.S.

MC 151056 (Sub-4), filed October 30, 1981. Applicant: SUPER SERVICE, INC., 319 Anburn Ave., Somerset, KY 42501. Representative: William L. Willis, Suite 708 McClure Bldg., Frankfort, KY 40601, (502) 227–7384. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) between facilities owned or used by CertainTeed Corp. on the hand, and, on the other, points in the U.S. (except AK and HI).

MC 151566 (Sub-14), filed October 26, 1981. Applicant: PERRY TRANSPORT, INC., 14375–172nd Ave., Grand Haven, MI 49417. Representative: Richard O. Peel, (same address as applicant), (616) 842–3550. Transporting *store and office cases, partitions, furniture,* between points in the U.S. (Except AK and HI), under continuing contract(s) with Structural Concepts Corp., of Spring Lake, MI.

MC 151566 (Sub-13), filed October 26, 1981. Applicant: PERRY TRANSPORT, INC., 14375–172nd Ave., Grand Haven, MI 49417. Representative: Richard O. Peel, (same address as applicant), (616) 842–3550. Transporting *finished leather hide, and wet hides,* between points in the U.S. (except AK and HI), under continuing contract(s) with Eagle Ottawa Leather Co., of Grand Haven, MI.

MC 154716, filed October 27, 1981. Applicant: WALGREEN OSHKOSH, INC., 200 Wilmot Rd., Deerfield, IL 60015. Representative: John T. O'Connell, 521 S. LaGrange Rd., LaGrange, IL 60525, (312) 352–7220. Transporting *household appliances,* between points in the U.S., under continuing contract(s) with General Electric Company, of Louisville, KY.

MC 155266 (Sub-3), filed October 26, 1981. Applicant: JOHN J. VETERI LEASING CORP., P.O. Box 624, West Paterson, NJ 07424. Representative: JOHN J. VETERI, (same address as applicant), (201) 785–8775. Transporting *flat glass and related products,* between points in Taylor County, WV, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 158676, filed October 26, 1981. Applicant: WHITEYS HOT SHOT SERVICE, INC., P.O. Box 10265, Corpus Christi, TX 78410. Representative: Thomas F. Sedberry, P.O. Box 2165, Austin, TX 78768. Transporting (1) *Mercer commodities,* between points in TX, on the one hand, and, on the other, points in AR, LA, MS, OK, and NM.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-32798 Filed 11-12-81; 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** on December 31, 1980, at FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 F.R. 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control., fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtiltle 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 absense 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-2-215

Decided: November 4, 1981.

By the Commission, Review Board Number 1, Members Parker, Chander and Fortier. Member Parker not participating.

MC 149573 (Sub-4), filed October 22, 1981. Applicant: NTL, INC., 4211 South 33rd St., Lincoln, NE 68506. Representative: J. Max Harding (same address as applicant), 402-489-3585. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 158963, filed October 26, 1981. Applicant: JIM SEGREST AND ASSOCIATES, INC., P.O. Box 420, Dolomite, AL 35061. Representative: John R. Frawley, Jr., Suite 200, 120 Summit Parkway, Birmingham, AL 35209, 205-942-9116. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 158992, filed October 27, 1981. Applicant: MARY KAY COSSETT, d.b.a. COSSETTE TRANSPORTATION SERVICES, 2202 5th Ave. North, Fargo, ND 58102. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118, 612-457-6889. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 159013, filed October 28, 1981. Applicant: DORAN-ALABAMA PROPELLER COMPANY, INC., Pinto Island, P.O. Box 286, Mobile, AL 36601. Representative: James W. Elliott, Jr., (same address as applicant), (205) 690-7841. Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons or munitions), between points in the U.S.

Volume No. OPY-3-207

Decided: November 5, 1981.

By the Commission, Review Board Number 2, Members Carleton, Fisher and Williams.

MC 158975, filed October 26, 1981. Applicant: R. L. SHUMWAY, 16460 So. Country Club, Sahuarita, AZ 85629. Representative: (Same as above) (602) 625-1097. Transporting *food and other edible products and by-products 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 158964, filed October 26, 1981. Applicant: ABEL EXPRESS, 2019 Butler St., Easton, PA 18042. Representative: William F. Moran, 512 North New St., P.O. Box 1407, Bethlehem, PA 18016, (215) 865-6770. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeeds 100 pounds, between points in the U.S.

MC 158985, filed October 26, 1981. Applicant: D. A. O'DONNELL, Rt. #6, St. Cloud, MN 56301. Representative: (Same as applicant) (612) 252-5935. As a *broker* of *general commodities* (except household goods), between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-32797 Filed 11-12-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 195]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: November 6, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

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 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 114848 (Sub-68)X, filed October 29, 1981. Applicant: WHARTON TRANSPORT CORPORATION, P.O. Box 13068, Memphis, TN 38113. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205. Sub 57, broaden: to Shelby County, TN, from Memphis, TN and to radial authority.

MC 123201 (Sub-9)X, filed October 20, 1981. Applicant: NORVATH BROS. TRUCKING, INC., 322 Schuyler Ave., Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Sub 8 certificate: Broaden to "metal products" from iron and steel and iron and steel articles.

MC 123389 (Sub-66)X, filed October 2, 1981. Applicant: CROUSE CARTAGE COMPANY, P.O. Box 151, Carroll, IA 51401. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. Lead and Subs 1, 3, 8, 9, 11, 12, 13, 14, 15, 17, 21, 23, 25, 28, 30, 32, 35, 37, 43F, 44F, 48F, 50F, 52F, 53F, 58F, 59, and 60 and authority acquired in MC-F-11923 (assigned Sub-No. 16), MC-F-13118, MC-F-13606F and MC-F-13800F: (1) Broaden the commodity descriptions in (a) lead and Subs 1, 3 11, 15, 17, 23, 24, 30, 37, 58F, MC-F-11923, MC-F-134118, MC-F-13606F and MC-F-13800F to remove all exceptions from the general commodity authorities, except classes A and B explosives; (b) Sub 24 livestock to "farm products", milled feed, farm implements and machinery, lumber, hardware, and coal to "coal and coal products, lumber and wood products, metal products and machinery;" sand to "ores and minerals;" emigrant movables to "household goods and emigrant movables;" (c) Sub 25 iron and steel articles to "metal products", (d) Sub 30 livestock and agricultural commodities to "farm products" and malt beverages to "food and related products," (e) Sub 37 livestock to "farm products", (f) Sub 44F pesticides to "chemicals and related products", (g) Sub 48F alcholic beverages to "food and related products", (h) Sub 53F insulating products and insulating materials to "building materials", (i) Sub 28 materials, equipment and supplies and contractors' outfits used in the manufacture of concrete silos to "construction materials"; (j) MC-F-13800F iron and steel articles to "metal products", (k) Subs 8, 9, 12, 13, 14, 21, 32, 35, 43F, 50F, and 60 meats and meat products, and articles dealt in by meat packinghouses to "food and related products;" and (l) Sub 52F general

commodities (except commodities in bulk) to "general commodities"; (2) broaden the territorial descriptions of the regular route authority in lead and Subs 1, 3, 11, 24, 30, 37, 59, MC–F–11923 and MC–F–13606 to authorize service at all intermediate points on specified regular routes; (3) remove the restrictions against the transportation of (a) traffic between Perry and Des Moines, IA in Sub 1, para. 2 (b) traffic between Omaha, NE and Fort Dodge, IA in Sub 1, para. 5; (c) butter, eggs and dressed poultry eastbound from Jefferson and Glidden, IA when such traffic is destined to New York, NY, Boston, MA or Philadelphia, PA in Sub 1, para. 1 through 10; (d) traffic between Red Oak, IA, on the one hand, and, on the other, Maryville, MO in Sub 24, para. 1, and (e) commodities in bulk in MC–F–13800F, para. 2 and 3; (4) replace facilities and points as follows: (a) Walnut, IA with Pottawattamie County, IA in Sub 1, para. 12 (irregular route); (b) facility in DuPage County, IL with DuPage County, IL in Sub 17, para. 1; (c) facility in Marion County, IA with Marion County, IA in Sub 23; (d) facility in Norfolk, NE with Madison County, NE in Sub 25; (e) facility in Underwood, IA with Pottawattamie County, IA in Sub 37, para. 6; (f) facility in Chicago, IL with Chicago, IL in Sub 52F; (g) facility in Kansas City, KS with Kansas City, KS in Sub 53F; (h) facility in Akron, IA with Plymouth County, IA in Sub 28; (i) facility at Palo, IA with Linn County, IA in MC–F–13606, para. 8; (j) facilities in Storm Lake, IA with Buena Vista County, IA in Subs 8 and 12; (k) facilities in Cherokee, IA with Cherokee County, IA in Sub 9; (1) facilities in Denison and Fort Dodge, IA and Dakota City and West Point, NE with Crawford and Webster Counties, IA and Dakota and Cuming Counties, NE in Sub 13; (m) facilities in Carroll, Iowa Falls and Denison, IA with Carroll, Crawford and Hardin Counties, IA in Sub 14; (n) facilities in Crete, NE with Saline County, NE in Sub 21; (o) Denison and Le Mars, IA with Crawford and Plymouth Counties, IA in Sub 32; (p) Spencer and Hartley, IA with Clay and O'Brien Counties, IA in Sub 35; (q) facilities in Crete and Lincoln, NE and Carroll, Denison, Fort Dodge and Iowa Falls, IA with Carroll Crawford, Webster and Hardin Counties, IA and Saline and Lancaster Counties, NE in Sub 43F and 50F; (r) facilities in Cherokee, IA with Cherokee County, IA in Sub 60; (s) facilities in Putnam County, IL with Putnam County, IL in MC–F–13800F; (t) facility in Phelp City, MO with Atchison County, MO in Sub 24, para. 1; Sidney, IA with Fremont County, IA in Sub 24, para. 18; Nebraska City, NE with Otoe County, NE in Sub 24, para. 20; and Shenandoah, IA with Fremont and Page Counties, IA in Sub 24, para. 22; (u) Carroll, IA with Carroll County, IA in Sub 30, para. 3; La Crosse, WI with La Crosse County, WI in Sub 30, para. 3; (v) Avenue City, Rochester, Union Star, King City, Carmack, Corners, Gentry, Worth, Grant City, Allendale, Sheridan, Ford City, Allonry and Denver, MO with Andrew, Dekalb, Gentry, Worth, and Nodaway Counties, MO in MC–F–11923, para. 9; (w) Akron, IA with Plymouth County, IA in MC–F–13800F, para. 1 (a) and (b); (5) remove originating at and or destined to restrictions in Subs 25, 30, para. 3; 28; MC–F–13800F; 8, 9, 12, 13, 14, 21, 32, 35, 43F, 50F, 60; 37, para. 2; (6) replace one-way with radial authority in Sub 24, para. 11, 12, 13, 14, 15, 18, 19, and 20; Subs 25, 30, Sub-No. 37 para. 3 and 4; Sub 44F, 48F, 53F; MC–F–13606, para. 4; MC–F–13800F, para. 2 and 3; subs 8, 9, 12, 13, 14, 21, 32, 35, 43F, 50F, and 60; (7) delete the following restrictions: (a) but with service to and from junction U.S. Hwy 169 and IA Hwy 222 limited to joinder only restriction in lead, para. 4; (b) except Oakland, IA and those points in Cass County, IA in Sub 24, para. 1; (c) except from named facilities near Phelps City, MO in Sub-No. 24, para. 2; (d) transportation of livestock only in Sub 24, para. 9; (e) delivery only in Sub 24, para. 13 and 14; (f) limitation of commercial zone service at Kansas City and St. Louis, MO to MO points only in MC–F–11923, para. 7.

MC 124069 (Sub-17)X, filed October 23, 1981. Applicant: CONCRETE DELIVERY CO., INC., 7 North Steelawanna Avenue, Lackawanna, NY 14218. Representative: William J. Hirsch, P.C., 1125 Convention Tower, 43 Court Street, Buffalo, NY 14202. Lead and Subs 2, 3, 7, 8, 10, 11, 13 and 16F. Broaden cement, in lead and all Subs but 16 to "clay, concrete, glass or stone products"; in Sub 16F, (1) fly ash to "metal products"; (2) ready-mix dry bonding and patching compounds and play sand to "clay, concrete, glass or stone products and ores and minerals"; Lead, Hamburg to Erie County, NY; Sub 2, Rome to Oneida County, NY; Sub 3, South Lansing to Tompkins County, NY; Sub 8, Buffalo to Erie and Niagara Counties, NY; Sub 10, Rochester to Monroe, Wayne and Ontario Counties, NY; and Rome to Oneida County, NY; Sub 16F, Marcellus to Onondaga County, NY; Sub 7, parts of entry at or near Alexandria Bay to ports of entry in NY; Sub 11, ports of entry on St. Lawrence River to ports of entry in NY; Sub 13, ports of entry at Niagara Falls and Lewiston to ports of entry in NY; Lead and all Subs but 13 to radial authority; Sub 13, remove destined to facilities restriction.

MC 135445 (Sub-2)X, filed October 26, 1981. Applicant: THOMAS E. ZABEL, Rt. 1, Box 118, Plainview, MN 55964. Representative: Stanley C. Olsen, Jr., 5200 Willson Road, Suite 307, Edina, MN 55424. Sub 1 permit, broaden (1) from canned foods to "food and related products," and (2) between points in the U.S. under continuing contract(s) with named shipper.

MC 136268 (Sub-32)X, filed October 22, 1981. Applicant: WHITEHEAD SPECIALTIES, INC., 1017 Third Avenue, Monroe, WI 53566. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Subs 2, 5, 7, 8F, 9F, 11F, 15F, 16F, 18F, 22F, 24F, 25, 26F, 27F, 28F, and 30, broaden (1) to (a) "food and related products" from spray dried proteins and protein-fat emulsions Sub 2, milk replacers and veal food, Sub 5, feed and feed ingredients, whey, whey by-products, and lactose, animal feed ingredients, in Subs 25 and 30, and cheese and cheese products, Sub 27F, (b) "rubber and plastic products" from molded polyurethane foam and molded polyurethane foam products, Sub 5, plastic articles in base commodity description, Sub 8F, and tires and tubes, Sub 11F; (c) "transportation equipment" from automobile, truck, and tractor parts, Sub 9F; (d) "chemicals and related products" from salt, Sub 18F; and (e) "metal products" from iron and steel articles, Sub 22F; (2) remove plantsite limitations in Subs 5, 22, 24 and broaden (a) Brodhead, WI to Rock and Green Counties, and Roscoe, IL to Winnebago County, Sub 7, (b) West Chester, PA to Chester County, Sub 16, and (c) Dundee, IL to Kane County and Browntown, WI to Green County, Subs 25 and 30, (3)(a) Sub 2, Belleville, WI to Dane County, (b) Sub 5, Brodhead, WI to Green and Rock Counties, (c) Sub 8, Warren, IL to Jo Daviess County and Mt Horeb, WI to Dane County, (d) Sub 9, Edgerton and Janesville, WI to Rock County and Ft. Wayne, IN to Allen County, and Morganton, NC to Burke County, (e) Subs 11 and 27 Monroe, WI to Green County; (f) Sub 16F, St. Joseph, MI to Berrien County; (g) Sub 18F, Hutchinson, KS to Reno County, Manistee and Marysville, MI to Manistee and St. Clair Counties and Rittman, OH to Wayne County, (h) Sub 22, Edgerton and Janesville, WI to Rock County; (i) Sub 24, Monticello, WI to Green County; (j) Subs 25 and 30 Browntown and Boscobel, WI to Green and Grant Counties; (k) Sub 27F, Hammond, IN to

Lake County, Versailles, KY to Woodford County, Tauton, MA to Bristol County, Ossining, NY to Westchester County; (4) remove restrictions to in bulk, in tank vehicles, originating at/destined to, in containers, in mixed loads and shipments moving on shipper-owned trailers in various subs and (5) to radial authority, Subs 2, 5, 7, 9F, 11F, 15F, 18F, 22F, 25, 27 and 30.

MC 140101 (Sub-11)X, originally published on June 10, 1981, republished this issue to correct an error. Applicant: I.T.A. TRUCKING, INC., P.O. Box 219, Amherst, WI 54406. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703. Lead and Subs 2F, 3F, 5F, 7F and 8F, in addition to restrictions previously removed, broaden Appleton, WI to Outagamie and Winnebago Counties, Subs 2F and 8F.

MC 142268 (Sub-49)X, filed July 23, 1981, and previously noticed in the **Federal Register** August 12, 1981, republished as corrected this issue. Applicant: GROSKI BULK TRANSPORT, INC., R.R. #4, Harrow, Ontario, Canada N0R 1G0. Representative: William H. Shawn, 1730 M Street, NW., Suite 501, Washington, D.C. 20036. Applicant seeks to (1) remove restrictions limiting service to the transportation of shipments originating at or destined to named facilities in No. MC–142268 (Sub-No. 44); (2) replace named points with counties or parishes: Baton Rouge, LA, with Baton Rouge, East Baton Rouge, Livingston, Iberville, and West Baton Rouge Parishes, LA, in Sub-No. 1; New Orleans with Orleans, St. John the Baptist, St. Charles, St. Bernard, and St. Tammany Parishes, LA, as well as Hancock County, MS, in Sub-Nos. 30 and 43; Cleveland, OH, with Cuyahoga, Lake, Loraine, Medina, Summit, and Geauga Counties, OH, in Sub-Nos. 11 and 12; Boston, MA, with Essex, Middlesex, Norfolk, Plymouth, Suffolk, and Bristol Counties, MA, in Sub-No. 9; Port Arthur, LA, with Orange and Jefferson Counties, TX, as well as Cameron Parish, LA, in Sub-No. 14. The purpose of this republication is to notice the expansion of the above cited city-wide points and to eliminate a facilities restriction.

MC 142368 (Sub-37)X, filed October 27, 1981. Applicant: DANNY HERMAN TRUCKING, INC., P.O. Box 55, Mountain City, TN 37683. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Sub 32F to broaden (1) from truck and trailer parts and accessories for truck and trailer parts to "transportation equipment" and (2) to radial authority.

MC 143276 (Sub-39)X, filed October 19, 1981. Applicant: WEAVER TRANSPORTATION COMPANY, 184 North Church Lane, Smyrna, GA 30080. Representative: Jack Weaver (same as applicant). Sub-Nos 4, 7F, 9, 14, 15, 17F, 20F, 22F, 23, 26, 27F, 29F, 30F, 32F, 33F, 34F, and 36F, broaden to (1) "building materials" from roofing asphalt, Sub 4; from roofing materials and products and materials used in their installation, Sub 7; roofing materials, Subs 14, and Sub 29 part 1, roofing and building materials, Sub 22F; asphalt saturated felt and packaged asphalt, Sub 26F; building paper, prepared roofing, prepared shingles, roofing asphalt, roofing cement and roofing paper, roofing, materials and dry felt, Sub 27; roofing and roofing materials, Sub 32 and from lumber and lumber products, Sub 34; to "clay, concrete, glass or stone products, and pulp, paper and related products" from mortar mixes, cement mixes, dry concrete mix, cement mortar mix, asphalt cold mix, sand, rock, stone, tile grout, concrete patcher, lime adhesives, liquid asphalt sealer and paper bags, Sub 9; to "clay, concrete, glass, or stone products and chemicals and related products" from limestone, limestone products and dolomitic limestone, Sub 30F and cement, masonry mortar mix and chemical hydrated lime, Sub 33F; to "metal products" from concrete reinforcing steel and materials, equipment and supplies used in the manufacture and distribution of concrete reinforcing steel, Sub 23, from pipe, fittings, valves, hydrants and accessories, Sub 17F; to "metal products and plastic and rubber products" from strand steel wire, in coils, fabricated steel wire, in bundles, plastic strips, in coils and grease, in bins, Sub 36; and to "clay, concrete, glass or stone products and paint products" from mortar and cement mixes, dry concrete mix, cement, fly ash, fly ash cement, and lime, sand, rock and stone and acrylic paint, Sub 15 to "construction materials" from paving joints, expansion asphalt base, paving joint compound, siding, asphalt composition and roofing cement, Sub 20F; (2) remove in bulk, in containers, in tank vehicle in various subs, (3) remove facilities limitation (a) in Subs 4, 7, 14, 15, 20, 23, 26, 33, 34 and 36 and broaden (b) Conley and Lithonia, GA with Clayton and Dekalb Counties, Sub 9; (c) Birmingham, AL with Jefferson County, Sub 17, (d) Hampton, GA with Henry County, Sub 22, (e) Tuscaloosa, AL with Tuscaloosa County, AL Subs 27 and 32, (f) Jacksonville, Ft. Lauderdale, and Miami, FL with Duval, Broward and Dade Counties, Sub 29F; (g) Bedford Heights and Cleveland, OH with Cuyahoga County, Sub 36, (4) Sub 30, from Luttrell, TN to Union County, and (5) to radial authority in Subs 4, 7, 9, 14, 15, 17, 20, 23, 26, 27, 30, 32 and 36.

MC 144406 (Sub-2)X, filed October 26, 1981. Applicant: PACKARD TRANSFER, INC. 125 Hovey Avenue, Trenton, NJ 08610. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Lead and Sub 1: broaden malt beverages to "food and related products"; and to radial authority; Sub 1, remove Trenton, NJ and Norfolk, VA facilities restrictions.

[FR Doc. 81–32795 Filed 11–12–81; 8:45 am]
BILLING CODE 7035–01–M

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b). (1) Parent Corporation and address of principal office: Bundy Corporation, 12345 East Nine Mile Rd., Warren, Michigan 48090. (2) Wholly-owned Subsidiary: Bundy of Canada, Limited, 316 Orenda Rd., Bramalea, Ontario L6T 1G3, Canada. (3) Division of Parent Corporation: Bundy Tubing Division, 12345 East Nine Mile Rd., Warren, MI 48090.

(1) Parent Corporation: Commercial Metals Company, 3000 Diamond Park Drive (75247), Post Office Box 1046 (75221), Dallas, Texas, State of incorporation: Delaware. (2) The following 100 percent wholly-owned subsidiaries will participate in the operation: Cometals, Inc., One Penn Plaza, Room 3401, New York, New York 10001, State of incorporation: New York; Commonwealth Metal Corporation, 560 Sylvan Avenue, Englewood Cliffs, New Jersey 07632, State of incorporation: New Jersey; Structural Metals, Inc., Mill Road, Seguin, Texas 78155, State of incorporation: Texas; Capitol City Steel Company, 6717 Circle S Road, Austin, Texas 78745, State of incorporation: Texas; CMC Dismantling and Process Equipment Company, 2317 Quitman Street, Houston, Texas 77210, State of incorporation: Texas; CMC Oil Company, 3000 Diamond Park Drive, Dallas, Texas 75247, State of incorporation: Texas; CMC Steel Company, Inc., 3000 Diamond Park Drive, Dallas, Texas 75247, State of incorporation: Texas. CMC Steel Fabricators, Inc. doing business under the following names: State of incorporation: Texas; Arkansas Steel Rolling Mills, Inc., Kerlin Road, Box 489,

Magnolia, Arkansas 71753, State of incorporation: Arkansas; Capitol Steel, Inc., 2655 North Foster Drive, Post Office Box 66636, Baton Rouge, Louisiana 70896, State of incorporation: Louisiana; CoMet Steel, Inc., 4846 Singleton Blvd., Dallas, Texas 75212, State of incorporation: Texas; Safty Railway Service Company, Aloe Field, Post Office Box 2298, Victoria, Texas 77901, State of incorporation: Texas; Safety Steel Service, Inc., Rodd Field, Post Office Box 6546, Corpus Christi, Texas 78411, State of incorporation: Texas; Safety Steel Warehouse, Inc., 201 East Crestwood Drive, Post Office Box 2298, Victoria, Texas 77901, State of incorporation: Texas; Southern States Steel Company, 9675 Walden Road, Beaumont, Texas 77706, State of incorporation: Texas; Southern Farm Supply Company, 1318 Buschong Road, Houston, Texas 77039, State of incorporation: Texas; Southern Fence Post Company, 1318 Buschong Road, Houston, Texas 77039, State of incorporation: Texas; Southern Post Company—Austin and Houston, 1318 Buschong Road, Houston, Texas 77039; 1960 Benchmark Drive, Roundrock, Texas 78664 (Austin), State of incorporation: Texas; Sterling Steel Company, 5600 Braxton, Suite 12, Houston, Texas 77036, State of incorporation: Texas; Houston Steel Service Company—Rebar Division, 5321 Westpark Drive, Houston, Texas 77056, State of incorporation: Texas;

Commercial Metals Railroad Salvage Company, 3000 Diamond Park Drive, Dallas, Texas 75247, State of incorporation: Texas; Greenbrier Leasing Corporation, Post Office Box 568, Oregon City, Oregon 97045, State of incorporation: Delaware; Karchmer Steel Supply Company, 4724 West Maple Street, Route 4, Springfield, Missouri 65802, State of incorporation: Missouri.

(1) The person who owns, directly or indirectly, or represents the subsidiary corporations and entities engaged in compensated intercorporate and interorganizational hauling is the Presiding Bishop Victor L. Brown of The Church of Jesus Christ of Latter-day Saints whose principal office is 50 East North Temple St., Salt Lake City, Utah 84150. (2) Wholly-owned corporations or entities which will participate in the operations, and the respective states of incorporation of the corporations are: Corporation or Entity and State of Incorporation: (i) Corporation of the President of The Church of Jesus Christ of Latter-day Saints, Utah; (ii) Corporation of the Presiding Bishop of The Church of Jesus Christ of Latter-day Saints d.b.a. Deseret Transportation, Utah; (iii) Beehive Cothing Mills [1]; (iv) Beneficial Development Company, Utah; (v) Bonneville International Corp., Utah; (vi) Bonneville Productions, Utah; (vii) Brigham Young University, Utah; (viii) Deseret Book Company, Utah; (ix) Deseret Farms, Inc., Utah; (x) Deseret Farms of California, California; (xi) Deseret Farms of Texas, Texas; (xii) Deseret Gymnasium [1]; (xiii) Deseret Industries [1]; (xiv) Deseret Management Corporation, Utah; (xv) Deseret Mutual Benefit Association, Utah; (xvi) Deseret News Publishing Company d.b.a. Deseret Press, Utah; (xvii) Deseret Ranches of Florida, Florida; (xviii) Deseret Trust Company, Utah; (xix) Elberta Farms [1]; (xx) KSL, Incorporated, Utah; (xxi) LDS Business College, Utah; (xxii) Liberty Soap Project [1]; (xxiii) Promised Valley Playhouse [1]; (xxiv) Stake Welfare Farms and Welfare Projects [1]; (xxv) Welfare Services Cheese Plants [1]; (xxvi) Welfare Services Grain Elevators [1]; (xxvii) Welfare Services Milk Plants [1]; (xxviii) Welfare Services Salt Lake Macaroni Plant [1]; (xxix) Welfare Square [1]; (xxx) Zions Securities, Utah; (xxxi) Corporation of The President of The Bakersfield California Stake, The Church of Jesus Christ of Latter-day Saints, California; (xxxii) Corporation of The President of The California Los Angeles Mission, The Church of Jesus Christ of Latter-day Saints, California; (xxxiii) Corporation of The President of The Carlsbad California Stake, The Church of Jesus Christ of Latter-day Saints, California; (xxxiv) Corporation of The President of The Fresno California Stake, The Church of Jesus Christ of Latter-day Saints, California; (xxxv) Corporation of The President of The Gridley California Stake, The Church of Jesus Christ of Latter-day Saints, California; (xxxvi) LDS Social Services, California; (xxxvii) Corporation of The President of The Los Angeles California East Stake, The Church of Jesus Christ of Latter-day Saints, California; (xxxviii) Corporation of The President of The Oakland Stake, The Church of Jesus Christ of Latter-day Saints, California; (xxxix) Corporation of The President of The Oakland California Stake, The Church of Jesus Christ of Latter-day Saints, California; (xl) Corporation of The President of The Sacamento California Stake, The Church of Jesus Christ of Latter-day Saints, California; (xli) Corporation of The President of The Sacramento California East Stake, Church of Jesus Christ of Latter-day Saints, California; (xlii) Corporation of The President of The San Diego California Stake, The Church of Jesus Christ of Latter-day Saints, California; (xliii) Corporation of The President of The San Francisco California Stake, The Church of Jesus Christ of Latter-day Saints, California; (xliv) Corporation of The President to The San Jose Stake, Church of Jesus Christ of Latter-day Saints; (xlv) Corporation of The President of The Santa Rosa Stake, Church of Jesus Christ of Latter-day Saints.

(1) Parent corporation and address of principal office: General Signal Corporation, High Ridge Park, Stamford, Connecticut 06904. (2) Wholly-owned subsidiaries which will participate in the operations, and States of incorporation: (a) Sola Basic Industries, Inc. (Wisconsin); (b) OZ/Gedney Company (Connecticut); (c) Edwards Company, Inc. (Connecticut); (d) General Signal Mfg. Corp. (Delaware); (e) General Signal Industries, Inc. (Delaware); (f) Electoglas, Inc. (California); (g) Tapco International, Inc. (Delaware); (h) Telecommunications Technology, Inc. (California); (i) Xynetics, Inc. (Delaware); (j) Blue M Electric Company (Delaware); (k) Micro Automation, Inc. (Delaware); (l) General Signal Appliance Corporation (Delaware); (m) Kinney Vacuum Company (Delaware); (n) Leeds & Northrop Company (Delaware); (o) Mixing Equipment Company, Inc. (Delaware).

(1) Parent corporation and address of principal office: Georgia-Pacific Corporation, 900 S.W. Fifth Avenue, Portland, Oregon 97204. (2) Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices: (1) Alpha Plastics Corporation; (2) Ashley, Drew & Northern Railway Company; (3) Aztec Trading Company, S.A.; (4) Beaver Wood Fibre Company Limited (The); (5) California Western Railroad; (6) Exchange Oil & Gas Corporation; (7) Federal Packaging and Partition Company Limited; (8) Fordyce and Princeton R.R. Co.; (9) Four Hundred Health Club, Inc.; (10) George LaMonte & Son, Limited; (11) Georgia-Pacific Building Materials, Ltd.; (12) Georgia-Pacific Export, Inc.; (13) Georgia-Pacific International Corporation; (14) Georgia-Pacific Investment Company; (15) Georgia-Pacific Leasing Corporation; (16) Georgia Steamship Company, Inc.; (17) Holly Hill Lumber Company; (18) Hudson American Corporation; (19) Hudson Pulp & Paper Corp.; (20) Inveresk Group Limited; (21) Montana Pacific International; (22) National Management, Inc.; (23) O.P.M. Co., Inc.; (24) Rex Timber Inc.; (25) St. Croix

[1] Unincorporated departments, divisions or agencies of The Church of Jesus Christ of Latter-day Saints.

Pulpwood Company; (26) St. Croix Pulpwood, Limited; (27) St. Croix Water Power Company.

Note.— Addresses for above named subsidiaries will be the same as the parent company.

(1) Parent corporation and address of principal office: Patten Industries, Inc., a Delaware corporation, 635 West Lake Street, Elmhurst, Illinois 60126. (2) Wholly-owned subsidiaries which will participate in the operations, and state(s) of incorporation: (i) TransLift, Inc., an Illinois corporation; (ii) Powertron, Inc., an Illinois corporation; (iii) Wisconsin TransLift Inc., a Wisconsin corporation; (iv) Patten Tractor & Equipment Company, an Illinois corporation; (v) Patten Energy Systems Inc., an Illinois corporation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-32918 Filed 11-12-81; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29727]

Green Mountain Railroad Corp. and Boston and Maine Corp. Lease Agreement; Exemption From Approval Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the approval requirements of 49 U.S.C. 11343 a lease agreement between the Green Mountain Railroad Corporation (GMRC) and the Trustees of the Boston and Maine Corporation (B&M). B&M will lease to GMRC its Fort Hill Branch (between Hinsdale, NH and Brattleboro, VT) and its Ashuelot Branch (between Hinsdale and Keene, NH).

DATES: This exemption is effective 30 days after this publication. Petitions for reconsideration must be filed within 20 days.

ADDRESSES: Send pleadings to: (1) Interstate Commerce Commission, Section of Finance, Room 5414, 12th and Constitution Ave., N.W., Washington, D.C. 20423, and (2) Petitioner's Representative: Sidney Weinberg, 150 Causeway Street, Boston, MA 02114.

FOR FURTHER INFORMATION CONTACT: Ellen D. Hanson, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Copies of the complete decision may be obtained from Room 2227 at the Commission's Headquarters at 12th and Constitution Avenue, NW., Washington, DC, 20423, or by calling the Commission's toll-free number for copies at 800-424-5403.

Dated: November 3, 1981.

By the Commission, Chairman Taylor, Vice Chairman Clapp, Commissioners Gresham and Gilliam. Commissioner Gresham concurred in the result.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-32790 Filed 11-12-81; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Attorney General

Proposed Consent Decree in Action Under Clean Water Act; Compliance by Saline Sewer Co.

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on October 30, 1981, a proposed consent decree and order in *United States of America* v. *Saline Sewer Company*, Civil Action No. 80-0948-C(C), was lodged in the United States District Court for the Eastern District of Missouri. The consent decree provides for abatement and control of discharges from six of defendant's sewage treatment works. Those facilities are: the Crystal Hills Plant, the Three Oaks Mobile Home Park Plant, the Hermitage Hills Subdivision Plant, the Saline Valley Gardens Subdivision Lagoon, the West Lark Treatment Plant, and the Sunswept Mobile Home Park Lagoons. In additioin defendant is to pay civil penalties totalling $25,000.00.

The Department of Justice will receive written comments related to the proposed judgment until December 14, 1981. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *Saline Sewer Company*, D.J. Ref. 90-5-1-1-1323.

The proposed consent decree may be examined at the office of the United States Attorney, 1114 Market Street, St. Louis, Missouri 63101, at the Region VII Office of the Environmental Protection Agency, Enforcement Division, 324 East 11th Street, Kansas City, Missouri 64106, and at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1254, 10th and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice.

Anthony C. Liotta,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 81-32711 Filed 11-12-81; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

United States v. Beven-Herron, Inc., et al.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b) through (h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement have been filed with the United States District Court for the Central District of California in *United States of America* v. *Beven-Herron, Inc., et al.*, Civil Action No. CV-81-0951-RJK(kx). The Complaint in this case alleged that two corporations conspired to submit rigged bids, allocate contracts, and fix the prices to be bid for construction of panelized roof structures for commercial and industrial buildings in Southern California, in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. The proposed Final Judgment enjoins the defendants from entering into or maintaining any agreement, understanding, combination or conspiracy with any other roof construction company to fix, maintain or stabilize prices, to submit any collusive, non-competitive or complementary bids, or to allocate among any roof construction companies any such bids for panelized roof construction projects. The proposed Judgment further enjoins the defendants from communicating with any roof construction company regarding past, present or future panelized roof construction bids, prices, markups or any other terms or conditions of panelized roof construction bids or sales.

Public comment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Leon W. Weidman, Acting Chief, Los Angeles Field Office, Antitrust Division, Department of Justice, 3101 Federal Building, 300 No. Los Angeles Street, Los Angeles,

California 90012 (telephone: (213) 688-2500).

Joseph H. Widmar,

Director of Operations.

United States District Court, Central District of California

United States of America, *Plaintiff,* v. Beven-Herron, Inc. and Simpson Manufacturing Co., Inc. *Defendants;* Civil No. CV-81-0951-RJK (kx), filed: October 28, 1981.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

For the Plaintiff:

William F. Baxter,

Assistant Attorney General;

Joseph H. Widmar,

Charles F. B. McAleer,

Leon W. Weidman,

Kendra S. McNally;

William L. Webber.

Attorneys, Department of Justice, Antitrust Division, 3101 Federal Building, 300 No. Los Angeles St., Los Angeles, California 90012. Telephone: (213) 688-2507;

For the Defendants:

H. Roy Jeppson,

Webster, Jeppson, Jones & Agran, Attorney for Defendant, Beven-Herron, Inc.;

Steven C. Tavsz,

Bronson, Bronson & McKinnon, Attorney for Defendant, Simpson Manufacturing Co., Inc.

United States District Court, Central District of California

United States of America, *Plaintiff,* v. Beven-Herron, Inc., and Simpson Manufacturing Co., Inc., *Defendants;* Civil No. CV-81-0951-RJK (kx), filed: October 28, 1981.

Final Judgment

Plaintiff, United States of America, having filed its complaint herein on February 25, 1981, and plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or an admission by any party with respect to any such issue;

Now, Therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein and upon consent of the parties hereto, it is hereby, Ordered, adjudged, and decreed as follows:

I

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against each defendant under Section 1 of the Sherman Act, 15 U.S.C. 1.

II

As used herein, the term:

(a) "Panelized roof construction" means a construction process utilizing structural glued laminated timber in the construction of roofs for commercial and industrial buildings;

(b) "Person" or "persons" means any natural person, firm, partnership, association, corporation or other business or legal entity; and

(c) "Roof construction company" means any person engaged in providing the engineering, labor and/or materials relating to panelized roof construction to general contractors and/or owners of commercial or industrial building construction projects.

III

This Final Judgment applies to the defendants and to their officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Each defendant shall require, as a condition of the sale or other disposition of all, or substantially all, of the assets used by it in the construction and sale of panelized roofs, that the acquiring party agree to be bound by the provisions of this Final Judgment, and that such agreement be filed with the Court.

V

Each defendant is enjoined and restrained from entering into, adhering to, maintaining or furthering any contract, agreement, understanding, plan, program, combination or conspiracy with any other roof construction company: (a) to fix, maintain or stabilize prices; (b) to submit any collusive, noncompetitive or complementary bids; or (c) to allocate among any roof construction companies any such bids for panelized roof construction projects.

VI

Each defendant is enjoined and restrained from communicating to or receiving from any roof construction company any information regarding past, present or future panelized roof construction bids, prices, markups or any other terms or conditions of panelized roof construction bids or sales.

VII

Nothing contained in this Final Judgment shall be applicable to:

(a) Any discussions between a defendant and any roof construction company where such discussions relate solely to the prices, terms or conditions of a bona fide contemplated or actual purchase or sale between said defendant and roof construction company of components or materials utilized in panelized roof construction; or

(b) Any transactions or communications solely between a defendant and a parent or subsidiary of, or the person under common control with, such defendant, or between officers, directors, agents or employees thereof.

VIII

Each defendant is ordered and directed:

(a) To furnish within thirty (30) days after entry of this Final Judgment a copy thereof to each of its officers and directors who has management responsibility for the sale of panelized roof construction, and to each of its managing agents and employees having responsibility for or authority over the establishment of the prices or preparation of bids for panelized roof construction;

(b) To furnish a copy of this Final Judgment to each person who becomes an officer, director, managing agent or employee described in Subparagraph (a) of this Paragraph, within thirty (30) days after such person is employed by or becomes associated with such defendant;

(c) To take additional affirmative steps to advise each of its officers, directors, managing agents and employees described in Subparagraph (a) or (b) of this paragraph of its and their obligations under the Final Judgment and of the criminal penalties for violation of this Final Judgment, including annual distribution of written directives setting forth corporate antitrust and Final Judgment compliance policies, annual distribution of copies of the Final Judgment, and annual meetings to review its terms and the obligations it imposes;

(d) To file with the Court and serve upon the plaintiff within sixty (60) days from the date of entry of this Final Judgment, an affidavit as to the fact and manner of its compliance with Subparagraph (a) of this Paragraph; and

(e) To require each person described in Subparagraph (a) or (b) of this Paragraph annually to sign and submit to his or employer, for retention in the employer's files, a certificate in substantially the following form:

"The undersigned hereby (1) acknowledges receipt of a copy of the 1981 Antitrust Final Judgment and a written directive setting forth the Company policy regarding compliance with the antitrust laws and with such Final Judgment, (2) represents that the undersigned has read and understands such Final Judgment and directive, (3) acknowledges that the undersigned has been advised and understands that non-compliance with such policy and Final Judgment will result in appropriate disciplinary measures determined by the Company and which may

include dismissal, and (4) acknowledges that the undersigned has been advised and understands that non-compliance with the Final Judgment may also result in conviction for contempt of court and imprisonment and/or fine."

IX

For the purpose of determining or securing compliance with the Final Judgment, and subject to any legally recognized privilege, from time to time:

(a) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the antitrust Division, and on reasonable notice to a defendant made to its principal office, be permitted:

(1) Access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, employees and agents of such defendant, who may have counsel present, regarding any such matters.

(b) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to a defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

If at the time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which that defendant is not a party.

X

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or direction as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violation hereof.

XI

This Final Judgment will expire on the tenth anniversary of its date of entry.

XII

Entry of this Final Judgment is in the public interest.

Dated: ———.

Robert J. Kelleher,

United States District Judge.

United States District Court, Central District of California

United States of America *Plaintiff,* v. Beven-Herron, Inc. and Simpson Manufacturing Co., Inc. *Defendants;* Civil No. CV-81-0951-RJK(kx), filed: October 28, 1981.

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b), the United States of America hereby files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I

Nature and Purpose of This Proceeding

On February 25, 1981 the United States filed a civil antitrust action under Section 4 of the Sherman Act, 15 U.S.C. 4, alleging that the defendants and unnamed co-conspirators conspired to submit rigged bids for industrial and commercial panelized roof structure construction contracts in Southern California, to allocate such contracts among themselves, and to fix the prices to be bid for such contracts. The complaint alleges that, as a result of this conspiracy, prices for industrial and commercial panelized roof structure construction projects in Southern California have been fixed at artificial and noncompetitive levels, competition for panelized roof structure construction projects has been restrained, and customers have been denied the benefits of free and open competition in contracting for panelized roof structure construction projects. The United States sought a judgment declaring the alleged conduct to be a conspiracy in restraint of trade in violation of Section 1 of the Sherman Act, 15 U.S.C. 1, and injunctive relief prohibiting the conduct alleged to have given rise to the violation.

Entry by the Court of the proposed Final Judgment will terminate the action, except that the Court will retain jurisdiction over the matter for possible further proceedings which might be required to interpret, modify, or enforce the Final Judgment or to punish violations of any of the provisions of the Final Judgment.

The defendants in this civil action were also named as defendants in a criminal indictment, filed by the United States in the United States District Court for the Central District of California on February 25, 1981, alleging a violation of Section 1 of the Sherman Act, 15 U.S.C. 1.

II

Description of Practices Giving Rise to the Alleged Violation

A. *The Defendants:* Beven-Herron, Inc. (hereinafter "Beven-Herron"), is a corporation organized and existing under the laws of the State of California and its principal place of business is in La Mirada, California. Simpson Manufacturing Co., Inc. (hereinafter "Simpson"), is a corporation organized and existing under the laws of the State of California with its headquarters in San Leandro, California, and branch offices in Brea, California and Phoenix, Arizona. Both Beven-Herron and Simpson are engaged in panelized roof structure construction in Southern California.

B. *Co-Conspirators:* The complaint alleges that various persons not made defendants in the complaint have participated as co-conspirators in the violation alleged and have performed acts and made statements in furtherance thereof.

C. *Trade and Commerce Involved:* The industry that the complaint alleges as the subject of defendants' conspiracy is the industrial and commercial building panelized roof structure construction business. Panelized roof structure companies contract with general contractors or building owners to construct the panelized roof structure portion of certain commercial and industrial buildings. Panelized roof structure companies frequently compete for contracts by submitting bids to general contractors or building owners.

Roof structures form a base upon which roofing materials, such as tar and shingles, are added to buildings. Panelized roof structures are composed primarily of plywood panels and structural glued laminated timbers.

D. *Alleged Violations:* During the period of time covered by the complaint, general contractors and owners of industrial and commercial building projects in Southern California invited the defendants to submit competitive bids for panelized roof structure construction. Each of the defendants secured contracts for panelized roof structure construction of industrial and commercial buildings as a result of having submitted the lowest bid to general contractors or owners of industrial and commercial building projects in Southern California. Between 1977 and 1979 the defendants had total sales in excess of $100 million from panelized roof structure construction for commercial and industrial buildings in Southern California.

In the course of performing panelized roof structure construction contracts, there was a substantial flow in interstate commerce of structural glued laminated timber and other essential materials transported by the defendants or their suppliers from states other than California for use by defendants in the construction of panelized roof structures in Southern California.

The complaint alleges that from at least 1976 and continuing thereafter until at least July 1980 the defendants and co-conspirators engaged in a continuing conspiracy to suppress competition in the market for industrial and commercial panelized roof

structure construction, resulting in an unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. The alleged conspiracy involved discussions and agreements among officials or employees of defendants and co-conspirators concerning the prices at which defendants would offer to construct panelized roof structures, such activity being commonly referred to as bid-rigging. The complaint alleged that these discussions and agreements had the purpose and effect of restraining competition.

The complaint alleges that the conspiracy had the following effects: (a) Prices for industrial and commercial building panelized roof structures in Southern California were fixed at artificial and noncompetitive levels; (b) competition for industrial and commerical building panelized roof structures in Southern California was restrained; and (c) customers were denied the benefits of free and open competition in contracting for industrial and commercial building panelized roof structures in Southern California.

III

Explanation of the Proposed Final Judgment

The United States and the defendants have agreed in a stipulation that a Final Judgment in the form negotiated by the parties may be entered by the Court any time after compliance with the Antitrust Procedures and Penalties Act, provided that the United States has not withdrawn its consent. The Final Judgment provides that there have been no admissions by any party with respect to any issue of fact or law. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of the Final Judgment is conditioned upon the Court's determination that it is in the public interest.

A. *Prohibited Conduct:* The proposed Final Judgment grants the fundamental relief the United States sought in the complaint. In Section V of the Final Judgment the defendants are enjoined from entering into, adhering to, maintaining or furthering any contract, agreement, understanding, plan, program, combination or conspiracy with any other roof construction company to fix, maintain or stabilize prices, to submit any collusive, noncompetitive or complementary bids, or to allocate among any roof construction companies any such bids for panelized roof construction projects.

The defendants are further prohibited by Section VI from communicating with any roof construction company regarding past, present or future panelized roof construction bids, prices, markups or any other terms or conditions of panelized roof construction bids or sales.

The scope of the Final Judgment is limited in two ways. First, nothing contained in the Final Judgment shall apply to any negotiation or necessary communication between a defendant and any other defendant, or between a defendant and any other person, when such parties are engaged in a contemplated or actual bona fide purchase or sale of materials used in panelized roof structure construction, to the extent such communications are necessary to such bona fide purchase or sale. Second, the Final Judgment does not apply to transactions or communications between a defendant and a parent or subsidiary of, or other person under common control with, such defendant, or between the officers, directors, agents or employees thereof.

B. *Scope of the Proposed Final Judgment:* The Final Judgment shall apply to each defendant and to each of its officers, directors, agents, employees, subsidiaries, successors, and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of the Final Judgment by personal service or otherwise. There is no geographical limitation in the Final Judgment.

The Final Judgment specifically requires that if a defendant sells the assets used by it in the construction and sale of panelized roof structures, the acquiring party must agree to be bound by the provisions of the Final Judgment.

Within 30 days after entry of the Final Judgment, each defendant will be required to furnish a copy of the Final Judgment to certain of its officers, directors, employees and agents and to take additional steps to advise them of their obligations under the Final Judgment and of the criminal penalties for violation thereof. Within 60 days of entry of Final Judgment an affidavit as to the fact and manner of each defendant's compliance must be filed with the Court. These provisions should help prevent future violations of the Final Judgment by making each responsible employee individually aware of the Final Judgment and its prohibitions.

In order to assure compliance, the Final Judgment authorizes the Department of Justice to inspect and copy records and documents in the possession or under the control of any defendant relating to any matters contained in the Final Judgment. In addition, the Department of Justice may require any defendant to submit reports from time to time.

The Final Judgment is for a term of 10 years from the date it is entered and the Court retains jurisdiction for that period.

C. *Effect of the Proposed Final Judgment on Competition:* The terms of the Final Judgment are designed to prevent any recurrence of the activities alleged in the complaint. The Final Judgment is designed to ensure that in the future defendants' prices will be independently determined and will be free from the restraining and artificial influences which result from communications and agreements among competitors.

The Department of Justice believes that the proposed Final Judgment provides fully adequate provisions to prevent continuance or recurrence of the violations of the antitrust laws charged in the complaint. In the Department's view, disposition of the lawsuit without further litigation is appropriate in that the proposed Final Judgment provides all the relief which the Government sought in its complaint and the additional expense of litigation would not result in additional public benefit.

IV

Alternative Remedies Considered by the Government

The Government did not consider seeking any remedies other than those that appear in the proposed Final Judgment.

V

Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered, as well as costs and reasonable attorney fees. Entry of the proposed Final Judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust actions. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), this Final Judgment has no prima facie effect in subsequent lawsuits which may be brought against these defendants.

VI

Procedures Available for Modification of the Proposed Final Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgment should be modified may submit written comments to Leon W. Weidman, Antitrust Division, U.S. Department of Justice, 3101 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012, within the 60-day period provided by the Act. These comments and the Department's responses to them will be filed with the Court and published in the **Federal Register**. All comments will be given due consideration by the Department of Justice, whicf remains free to withdraw its consent to the proposed Final Judgment at any time prior to its entry if it should determine that some modification is necessary. The proposed Final Judgment provides that the Court retains jurisdiction over this action and the parties may apply to the Court for such order as may be necessary or appropriate for iis modification, interpretation or enforcement.

VII

Alternatives to the Proposed Final Judgment

The alternative to the proposed Final Judgment considered by the Antitrust Division was a full trial of the issues on the merits and on relief. The Division considers the substantive language of the Final Judgment to be of sufficient scope and effectiveness to make litigation on the issues unnecessary, as the Final Judgment provides all or substantially all of the relief which could reasonably be expected to be obtained after a full trial.

VIII

Other Materials

No materials and documents of the type described in Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, were considered in formulating this proposed

Final Judgment. Consequently, none are submitted pursuant to such Section 2(b).

Dated:

Respectfully submitted,

Kendra S. McNally,

William L. Webber,

Attorneys, U.S. Department of Justice.

[FR Doc. 81-32719 Filed 11-12-81; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Labor Research Advisory Council Committees; Meetings and Agenda

The regular fall meetings of committees of the Labor Research Advisory Council will be held on December 8, 9 and 10 in Room S-4215, Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C.

The Labor Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of union research directors and staff members.

The schedule and agenda of the meetings are as follows:

Tuesday, December 8

1. Status of the Office of Occupational Safety and Health Statistics Budget
2. Results of the 1980 annual survey
3. The study on recordkeeping burden
4. Reduction in recordkeeping requirements
5. The new measure of occupational risk
6. Work injury reports scheduled for fiscal year 1982
7. State participation in BLS statistical programs and grant funds for fiscal year 1982

Tuesday, December 8

1:30 p.m.—Committee on Employment Structure and Analysis

1. Secretary's Response to Report of National Commission on Employment and Unemployment Statistics
2. Budget situation and employment statistics program
3. Adjusting historical labor force data to reflect 1980 census results
4. Report on employment related economic hardship

Wednesday, December 9

9:30 a.m.—Committee on Wages and Industrial Relations

1. Review of work in progress
2. Employment Cost Index—Recent trends
3. Collective bargaining outlook for 1982

Wednesday, December 9

1:30 p.m.—Committee on Prices and Living Conditions

1. Developments in the Consumer Price Program—(a) Housing, (b) Possible CPI Revision plans, (c) Rebasing and other problems related to use of the CPI in collective bargaining
2. Budget situation and price programs
3. Status report on Family Budgets
4. Status report on Producer Price Index
5. Status report on International Price Index Program

Thursday, December 10

9:30 a.m.—Committee on Productivity, Technology and Economic Growth

1. Construction industry studies
2. Industry productivity studies
3. Federal Government Productivity Measurement Program
4. Hours worked survey
5. Employment and growth projections

Thursday, December 10

11:00 a.m.—Committee on Foreign Labor and Trade

1. Status of foreign labor and trade programs
2. Trans-border data flows—Report on OECD meeting

The meetings are open. It is suggested that persons planning to attend as observers contact Joseph P. Goldberg, Executive Secretary, Labor Research Advisory Council on (Area Code 202) 272-5239.

Signed at Washington, D.C. this 5th day of November 1981.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 81-32816 Filed 11-12-81; 8:45 am]

BILLING CODE 4510-24-M

Mine Safety and Health Administration

[Docket No. M-81-209-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1405 (automatic couplers) to its Westland No. 2 Mine located in Washington County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that all haulage equipment be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment.

2. The petitioner uses safety chains as an additional safety and precautionary measure against the failure of coupling devices or accidental uncoupling. A bar is used to remove safety chains making it unnecessary for miners to go between the ends of haulage equipment.

3. Petitioner states that these safety chains provide an additional measure of safety for the miners affected and do not interfere with the designed operation of the automatic couplers and for this reason requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 14, 1981. Copies of the petition are available for inspection at that address.

Dated: November 4, 1981.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-32817 Filed 11-12-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-219-/c]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its McElroy Mine located in Marshall County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return air courses be examined in their entirety on a weekly basis.

2. Numerous roof falls have made these return air courses too hazardous to travel.

3. As an alternative method which will provide the same measure of safety for the miners affected as that afforded by the standard, petitioner proposes to establish and maintain four specified air measuring stations. Daily methane examinations will be made at each site and the results of such examinations will be recorded in a book at each location. Any increase of 0.5% of methane when compared to the last reading will result in an immediate investigation. Similarly, a decrease in air quantity of 15% when compared to the last reading will result in an immediate investigation.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 14, 1981. Copies of the petition are available for inspection at that address.

Dated: November 4, 1981.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-32822 Filed 11-12-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-188-C]

D.C. Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

D.C. Coal Company, Spring Glen, PA 17978 has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity and velocity) to its Four Vein Slope located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. Air sample analysis history reveals that harmful quantities of methane are nonexistent in the mine.

2. Ignition, explosion and mine fire history are nonexistent for the mine.

3. There is no history of harmful quantities of carbon dioxide and other noxious or poisonous gases.

4. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

5. Extremely high velocities in small cross sectional areas of airways and manways required in friable Anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners.

6. High velocities and large air quantities cause extremely uncomfortable damp and cold conditions in the already uncomfortable, wet mines.

7. As an alternative method, petitioner proposes that:

a. The minimum quantity of air reaching each working face be 1,500 cubic feet per minute;

b. The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries be 5,000 cubic feet per minute; and

c. The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

8. Petitioner states that the alternative method proposed will at all time provide the same measure of protection for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 14, 1981. Copies of the petition are available for inspection at that address.

Dated: November 4, 1981.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-32820 Filed 11-12-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-50-M]

Hecla Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Hecla Mining Company, P.O. Box 320, Wallace, Idaho 83873 has filed a petition to modify the application of 30 CFR 57.19-22 (rope requirements) to its Lucky Friday, Star and Consolidated Silver Mines located in Shoshone County, Idaho. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the end of the rope at the drum make at least one full turn on a drum shaft, or a spoke of the drum in the case of a free drum.

2. Petitioner operates several double drum hoists which were installed and wire rope attached in accordance with the manufacturer's specifications. The hoists are used primarily for transporting miners and supplies from the surface and subsurface locations to underground portions of the mines. All double drum hoists are installed so as to automatically control the speed of the hoist at any position in the shaft.

3. Petitioner states that to require one full turn around a spoke of the drum in the case of a free drum would result in a diminution of safety for the miners affected because:

a. Wire rope used in the hoisting operations is as large as 1¾ inches in diameter. Cutting holes through the drum end to accept a rope loop would affect the integrity and weaken the drum as designed for its specific loading or capacity.

b. Ropes in excess of 1½ inches diameter cannot be bent to the radius required around a spoke of a hoist drum.

4. As an alternative method, petitioner proposes to:

a. Connect the wire rope to the hoist drum around the clutch housing by a minimum of four two bolt clamps. The wire rope will be brought through each set of clamps secured to the drum by bolts threaded into the drum; or

b. Attach the wire rope to the hoist drum on the inside drum and plate by means of one grooved plate clamp secured by a minimum of eight bolts.

5. Petitioner states that both of the two methods outlined above will provide the same degree of safety to the miners affected as the afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 14, 1981. Copies of the petition are available for inspection at that address.

Dated: November 4, 1981.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-32823 Filed 11-12-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-34-M]

Noranda Lakeshore Mines, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Noranda Lakeshore Mines, Inc., P.O. Box C-6, Casa Grande, Arizona 85222 has filed a petition to modify the application of 30 CFR 57.19-24 (rope requirements) to its Lakeshore Mine located in Pinal County, Arizona. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petitioner is mining copper oxide ore, and transporting ore to the surface via a hoist mechanism installed in 1973. The mechanism is a Nordberg double drum hoist with 1¾" diameter ropes. The conveyance is a Lakeshore "Jeto" Skip of 210 cubic foot capacity.

2. The skip weight including all attachments is 16,000 pounds, with a payload of 20,800 pounds. The total load on the thimble is 36,800 pounds. Rope attachment stress calculations are based on the weight of the skip with payload, which is the heaviest load condition of the conveyance.

3. The rope thimble consists of an offset wedge thimble design which is widely used in the industry on past and present installations. The thimbles have been in use at this site since 1974.

4. The petitioner states that the thimble described above will provide the same measure of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 14, 1981. Copies of the petition are available for inspection at that address.

Dated: November 4, 1981.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-32818 Filed 11-12-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-206-C]

Sewell Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Sewell Coal Company, Route 3, Box 125, Nettie, West Virginia 26681 has filed a petition to modify the application of 30 CFR 75.1704 (escapeways) to its Sewell No. 1 Mine located in Nicholas County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that at least two separate and distinct travelable passsageways which are maintained to insure passage at all times of any person, including disabled persons, and which are to be designated as escapeways at least one of which is ventilated with intake air, be provided from each working section continuous to the surface escape drift opening, or continuous to the escape shaft or slope facilities to the surface.

2. Necessary ventilation changes were made at the mine to improve face and gob line quantities. In doing so, it was necessary to build an air lock door across the track entry to facilitate two separate and distinct escapeways to the surface escape facility approximately 1000 feet from this door.

3. The use of this door causes a low pressure inby along the track belt entries and allows a very small pressure differential between the belt and track entries and return entries.

4. Petitioner states that by opening this door, the pressure will increase in the belt track entries and allow for a greater pressure differential between the belt track entries and the return, which will provide a more positive ventilating current.

5. Petitioner further states that by this method a greater measure of safety will be provided and will guarantee at all times no less protection for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 14, 1981. Copies of the petition are available for inspection at that address.

Dated: November 4, 1981.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-32821 Filed 11-12-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-220-C]

Thacker Brothers Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Thacker Brothers Mining Company, Winn's Branch Road, Pikeville, Kentucky 41501 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 1 Mine located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The coal seam ranges from 40 to 48 inches in height with consistent ascending and descending dips in the coal bed.

3. Installation of cabs or canopies on the equipment causes the equipment to strike the roof and possibly dislodge roof support. In addition, the canopies cause a cramped operator compartment which increases operator fatigue and reduces operator visibility, resulting in a diminution of safety.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 14, 1981. Copies of the petition are available for inspection at that address.

Date: November 4, 1981.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-32819 Filed 11-12-81; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and Section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) will meet on December 2–3, 1981 in Room N5437, Frances Perkins Department of Labor Building, Washington, D.C. 20210. The Meeting is open to the public and will begin at 9:00 a.m.

The agenda for this meeting will include a review of OSHA activities, a review of activities of the National Institute for Occupational Safety and Health, a subgroup discussion of OSHA enforcement policies related to the construction industry, a subgroup discussion of targeting inspections, a discussion of proposed OSHA program directives that are relevant to the construction industry, and a general discussion of construction safety and health matters.

Written data, views or comments may be submitted preferably with 20 copies to the Division of Consumer Affairs. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation.

Oral presentations will be scheduled at the discretion of the Chairman depending on the extent to which time permits. Communications may be mailed to: Ken Hunt, Committee Managment Officer, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N3635, Washington, D.C. 20210; Telephone: (202) 523–8024.

Materials provided to members of the Committee are available for inspection and copying at the above address.

Signed at Washington, D.C., the 10th day of November 1981.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 81-32957 Filed 11-12-81; 8:45 am]

BILLING CODE 4510-26-M

Office of the Secretary

Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given of a meeting of Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: December 1, 1981, 10:00 a.m., N3437 B&C, Frances Perkins, Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

For further information, contact: Meyer Bernstein, Executive Secretary, Labor Advisory Committee, Phone: (202) 523–6565.

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

Robert W. Searby,

Deputy Under Secretary, International Affairs.

[FR Doc. 81-32813 Filed 11-12-81; 8:45 am]

BILLING CODE 4510-30-M

MERIT SYSTEMS PROTECTION BOARD

Review of Significant Actions of the Office of Personnel Management During 1981

AGENCY: Merit Systems Protection Board.

ACTION: Notice of review of the significant actions of the Office of Personnel Management during 1981.

SUMMARY: 5 U.S.C. 1209(b) requires the Board to annually review the "significant actions" of the Office of Personnel Management (OPM) and report to the Congress and the President on whether those actions are in accord with merit system principles and free from prohibited personnel practices. The Board is now commencing its review of OPM significant actions during 1981. This Notice explains the Board's study and invites public comment on OPM programs during calendar year 1981.

DATES: Comments must be received on or before December 31, 1981.

ADDRESS: Comments should be made in writing, and sent to the office of Merit Systems Review and Studies, Merit Systems Protection Board; Rm. 836, 1120 Vermont Ave. N.W.; Washington, D.C. 20419, Attention: FAL.

FOR FURTHER INFORMATION CONTACT: Frank A. Lancione, Office of Merit Systems Review and Studies, Rm. 836, Merit Systems Protection Board, 1120 Vermont Avenue, N.W., Washington, DC. 20419, 202–653–8877.

SUPPLEMENTARY INFORMATION: (a) *Background.* The Civil Service Reform Act of 1978 established a series of positive merit principles and prohibited personnel practices to govern the conduct of personnel management in the Federal Government (5 U.S.C. 2301 and 2302). The Merit Systems Protection Board is responsible for protecting the public interest in a civil service administered in accord with these merit objectives and free from improper practices. The Board does this by adjudicating employee appeals, acting on actions brought by the Special Counsel, conducting special studies of the civil service and other merit systems, and reviewing the regulations and significant actions of OPM. The Office of Merit Systems Review and Studies (MSRS) has principal responsibility within the Board for merit systems studies and OPM oversight, including the annual report on OPM's significant actions.

(b) *What is a "significant action" report?* 5 U.S.C. 1209(b) requires the Board, as a part of its continuing merit systems studies responsibility, to review and report annually to Congress and the President on the "significant actions" of the OPM.

(1) The law allows the Board substantial discretion to determine which actions of OPM are "significant" to the merit system in any given year. The Board's first full report of this type covered the significant actions of OPM during calendar year 1980, and was published in June, 1981. Interested persons may obtain a copy by writing to the address shown above.

(2) The Board's significant action report is unique. It is the only report generated within the Executive branch which is:

(i) Specifically concerned with the relation between the programs of the Office of Personnel Management and the health of the merit system; and

(ii) Produced by an agency which has no direct responsibility for implementing the programs and issues upon which it comments.

(3) In exercising its discretion as to which actions of OPM it will report on, the Board's first priorities are:

(i) To examine any OPM policy or program which might conflict with one of the statutory merit principles or cause the commission of a prohibited personnel practice; and,

(ii) To evaluate the extent to which other major decisions made or actions taken by OPM are in accord with and promote the merit principles.

(4) However, the Board also has an obligation as an oversight agency to bring to the attention of the Congress and the President problems in the operation of the merit system to which they might not otherwise be alerted. Because the Board does not have operating responsibilities for most of the programs it reviews in the course of its oversight, the Board can address problems in sensitive programs and issues with more candor than an agency with operating responsibility might reasonably be expected to do.

(5) The Board considers technical questions of personnel management, budget questions, or questions relating to internal OPM administration only to the extent that they are relevant to making judgments on the broader merit system issues described above.

(c) *Public Comment on 1981 OPM Actions.* The Board invites any interested person or organization to comment on:

(1) Which actions of the OPM during calendar year 1981 were "significant" for the merit system; and,

(2) Whether those actions were in accord with the merit systems principles and free from prohibited personnel practices.

(d) Although comments are invited on any action taken by OPM during 1981, comments should be germane to the Board's mandate as described in (b) above. In addition, the Board invites comment on the following specific items which it has already decided to address in the 1981 significant action report:

(1) *Merit pay.* The Civil Service Reform Act of 1978 established October 1, 1981 as the deadline for Government-wide implementation of merit pay for most managers and supervisors. In an opinion dated September 8, 1981, the Acting Comptroller General of the United States determined that certain aspects of OPM's plan for the implementation of merit pay were contrary to law. On September 9th, OPM announced that, because of the Comptroller General's decision, it would adopt a "transitional" merit pay system for FY 1982. The Board invites comment on the effect of this late change, including its implications for the merit principle that "appropriate incentives and recognition should be provided for excellence in performance."

(2) *Federal "Brain Drain."* The merit principles require that the Federal work force be efficiently and effectively managed. The presumption that better performers will be attracted and retrained and lesser performers separated from the civil service is implicit in that goal. However, there are increasing allegations that superior performers can neither be attracted to nor retained in the career service. The Board invites comment on this problem. Is it real? Who is leaving? Why? What effect, if any, have the programs and policies of OPM had on the situation?

(3) *Senior Executive Service (SES).* The 1980 election and resulting transition of political administrations was the first real opportunity to test the balance between flexibility and procedural safeguards which the Civil Service Reform Act intended to establish in the SES. Last spring, the Board studied OPM's leadership to agencies during the transition, and the early experience with the 120-day moratoria on performance appraisals and involuntary reassignments. The Board plans to follow-up in this year's study to see whether the balance of flexibility and safeguards is still generally perceived as working well.

(4) *Federal Equal Opportunity Recruitment Program (FEORP).* The Board discussed the FEORP program and made several recommendations for changes to that program in its report on the significant actions of OPM during 1980. The Board intends to follow up on developments in the program this year, and invites comments on the program and OPM's actions with respect to it during 1981.

Dated: November 5, 1981.

Merit Systems Protection Board.

Ersa H. Poston,

Vice Chair.

[FR Doc. 81-32793 Filed 11-12-81; 8:45 am]

BILLING CODE 7400-01-M

NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES

National Council on the Arts; Music Panel (Orchestra Section); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Panel (Orchestra Section) to the National Council on the Arts will be held November 30–December 4, 1981, from 9:00 a.m.–5:30 p.m. in room 1022 of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of title 5, U.S.C.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

Dated: November 9, 1981.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 81-32754 Filed 11-12-81; 8:45 am]

BILLING CODE 7537-01-M

National Council on the Arts; Media Arts Panel (Radio); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Media Arts Panel (Radio) to the National Council on the Arts will be held on November 30—December 1, 1981, from 9:00 a.m.–5:30 p.m. in the 12th floor screening room of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections, (c) (4), (6) and 9(b) of section 552b of title 5, U.S.C.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

Dated: November 9, 1981.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 81-32753 Filed 11-12-81; 8:45 am]

BILLING CODE 7537-01-M

National Council on the Arts; Inter-Arts Panel (Interdisciplinary Arts Projects); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Inter-Arts Panel (Interdisciplinary Arts Projects) to the National Council on the Arts will be held on November 30-December 2, 1981, from 9:00 a.m.-6:00 p.m. in room 1426 of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

A portion of this meeting will be open to the public on December 2, 1981, from 4:30 p.m.-6:00 p.m. to discuss guidelines.

The remaining sessions of this meeting on November 30-December 1, 1981, from 9:00 a.m.-6:00 p.m. and December 2, from 9:00 a.m.-4:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of title 5, U.S.C.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

Dated: November 9, 1981.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 81-32752 Filed 11-12-81; 8:45 am]

BILLING CODE 7537-01-M

National Council on the Arts; Music Panel (Opera-Musical Theatre Section); Meeting

Pursuant to section 10 (a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Panel (Opera-Musical Theatre Section) to the National Council on the Arts will be held on November 30-December 2, 1981, from 9:00 a.m.-6:00 p.m., in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of title 5, U.S.C.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

Dated: November 9, 1981.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 81-32751 Filed 11-12-81; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-355]

Florida Power & Light Co.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 45 to Facility Operating License No. DPR-67, issued to Florida Power & Light Company (the licensee), which revised the Technical Specifications for operation of the St. Lucie Plant, Unit No. 1 (the facility), located in St. Lucie County, Florida. The amendment is effective as of the date of issuance.

This amendment changes the Technical Specifications by increasing shutdown margin requirements and steam generator pressure-low trip setpoints as a result of a main steamline break reanalysis.

The application for the amendment 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 July 23, 1981, (2) Amendment No. 45 to License No. DPR-67, 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, N.W., Washington, D.C. and at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida. 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 3rd day of November, 1981.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 81-32846 Filed 11-12-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-335]

Florida Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 46 to Facility Operating License No. DPR-67, issued to Florida Power & Light Company (the licensee), which revised the license for operation of the St. Lucie Plant, Unit No. 1 (the facility), located in St. Lucie County, Florida. The amendment is effective as of the date of issuance and is fully implemented within 60 days of Commission approval in accordance with the provisions of 10 CFR 73.55(b)(4).

This amendment adds license conditions to include the Commission-approved Guard Training and Qualification Plan as part of the license. It also rearranges the form, but not the substance, of the provisions relating to the plant Security Plan and the Safeguards Contingency Plan.

The licensee's filing, which has been handled by the Commission as an application, 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.

The licensee's filings dated April 29, 1981, and its revision submitted by letter dated June 23, 1981, are being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to disclosure in accordance with the provisions of 10 CFR 9.12.

For further details with respect to this action, see (1) Amendment No. 46 to License No. DPR-67 and (2) the Commission's related letter to the licensee dated November 3, 1981. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida. A copy of items (1) and (2) 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 3rd day of November, 1981.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 81-32847 Filed 11-12-81; 8:45 am]

BILLING CODE 7590-01-M

[DD 81-21; Docket No. 50-251]

Florida Power and Light Co., Turkey Point Plant, Unit 4; Director's Decision

By a letter dated September 11, 1981, signed by Joette Lorion, the Center for Nuclear Responsibility (Center), which is located in South Miami, Florida, petitioned the Nuclear Regulatory Commission to take the following actions in relation to Turkey Point Plant, Unit 4 (Unit 4):

(1) Immediately order a shutdown to inspect the steam generator tubes; and

(2) Consider the suspension of the plant's operating license because of concerns over the safety of the reactor pressure vessel.

The petition was referred by the Commission to the Director, Office of Nuclear Reactor Regulation, for action in accordance with 10 CFR 2.206 of the Commission's regulations.

I. Requested Shutdown for Steam Generator Inspection

In summary, the background of the steam generator problem is as follows:

In the mid-1970's, a number of nuclear power plants, including Turkey Point Plant Unit Nos. 3 and 4, began to have problems with leaking steam generator tubes due to a corrosive process called "denting." On October 29, 1976, the NRC staff set forth minimum requirements to ensure that Units 3 and 4 would not, as a result of this denting phenomenon, operate with reduced integrity of the primary system pressure boundary. Since that time the plants have operated under strict requirements imposed by the NRC staff.[1]

Under the terms of these requirements, Florida Power and Light Company (FPL) has received permission for short-term extensions of operation for Unit Nos. 3 and 4 in the form of license amendments. Following shutdown, inspection and plugging of tubes that were judged by the licensee to be in danger of leaking in the ensuing 10 months, and NRC staff analysis of the inspection and plugging, license amendments were granted to allow six months of full power equivalent operation. Subject to operating experience which indicated that further operation before shutdown and inspection would not endanger public health and safety, additional extensions have also been granted, for totals of up to 10 months of full power equivalent operation between inspections.

FPL reported on the last previous inspection of Unit 4, which they performed in November, 1980, in a letter to the Commission dated December 18, 1980. The letter also contained a request for continued operation of Unit 4. After reviewing the inspection results, NRC issued Amendment 54 to License No. DPR-41 on January 15, 1981. Amendment 54 allowed continued operation for six equivalent full power months, commencing January 13, 1981. Operation beyond the six-month period without further inspection was also anticipated and permitted in Amendment 54, but subject to the requirement that "an acceptable analysis of the susceptibility for stress corrosion cracking of tubing is submitted to explicitly justify continued operation of Unit No. 4 beyond the authorized period of operation." [2]

In response to a FPL request dated May 27, 1981 for a four-month extension of operating permission, the NRC staff again reviewed the status of the steam generators in Unit 4. Based upon this re-review, an extension for two equivalent full power months was granted in Amendment 62, dated July 6, 1981.

On July 30, 1981, FPL requested an additional two months operation for Unit 4. Again the NRC staff reviewed the status of the steam generators and based upon this re-review, an additional extension of two equivalent full power months was granted in Amendment 66, dated September 10, 1981. Amendment 66 allowed operation for ten equivalent full power months from January 13, 1981.

An important factor underlying the decision to grant the extensions authorized by Amendment 62 and 66 has been the continued essentially leak-free operation of the steam generators throughout the period in question.

Most recently, on October 19, 1981, FPL has shut down Unit 4 and commenced an inspection of the steam generators. Thus, the requests in the petition for a shutdown to inspect the steam generators is now moot.

II. Petitioner's Allegations Concerning Steam Generator Safety

The Center in its petition makes a number of allegations concerning the safety of the steam generators in Unit No. 4.

The first is that Unit 4 is operating with "nearly 25 percent of its steam generator tubes plugged and removed from service. This reduction in heat transfer area could cause this unit to be more susceptible to overheating, necessitating emergency cooling." The Center also states that the steam generator tubes will continue to deteriorate.

FPL sought by application dated April 29, 1980, to operate Unit 4 with 25 percent of steam generator tubes plugged. The staff concluded that operation of Turkey Point Unit No. 4 with up to 25 percent of the tubes plugged is acceptable [3] and issued Amendment 50 to the license, dated May 15, 1980, which permitted operation with 25 percent of the tubes plugged. A

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[1] Florida Power and Light Company (Turkey Point Plant, Unit 3), DD-80-28 12 NRC 386, 388 (1980).

[2] Facility Operating License No. DPR-41, as amended by Amendment 54, paragraph D(1).

[3] Safety Evaluation by the Office of Nuclear Reactor Regulation Related to Amendments 57 and 50 to Facility Operating Licenses Nos. DPR-31 and DPR-41 (May 15, 1980).

total of 23.8 percent of the tubes were plugged prior to Amendment 54 and the recently concluded period of operation.[4]

Subsequent safety analysis by the staff of FPL's application for Amendment dated March 5, 1981, showed that operation with 28 percent of the tubes plugged is acceptable. Operation with this level of tube plugging was permitted in Amendment 60, dated June 23, 1981.

The safety analysis supporting Amendment 60 does not imply that plugging of more than 28 percent of the tubes would be unsafe; the analysis was performed at the 28 percent level because it is expected that the 28 percent limit will be fully sufficient to allow plugging of all tubes which the current inspection of Unit 4 will show might be susceptible to leaking in the foreseeable future.[5] The plugging is, and has been, carried out by the licensee as a prophylactic program, and it has been successful in preventing leakage since mid-1978.[6]

The Center in its letter quotes the NRC to the effect that, "We do not have an adequate technical basis to predict steam generator performance for periods longer than six months." While the author of the letter does not identify the source of the quotation, a virtually identical statement was made in N.R.C., *Safety Evaluation by the Office of Nuclear Reactor Regulation Related to Amendment No. 52 to Facility Operating License No. DPR–31.*[7] The latter statement, however, continues, "* * * and that our consideration of extended operation beyond six (6) months would depend upon the operating experience at this and similarly degraded units." This last quotation reflects the consistent policy of the Commission in relation to Turkey Point Units Nos. 3 and 4. Thus statements concerning six-month maximum prediction period, such as the one quoted by the Center, must be taken in context. In context, it is clear the six-month initial period of operation after an inspection of steam generators may be followed by extensions, provided the technical basis supplied by the licensee, and the relevant operating experience, justify the extensions. This course of action has been followed in relation to Turkey Point Units No. 3 and 4 since 1977[8] and satisfactorily protects the public health and safety.

The Center further asserts that the "steam generator tubes [of Unit 4] may be on the verge of leaking"; and that, according to a 1975 study by the Union of Concerned Scientists (study not further identified in the Center's letter), rupture of "a handful of tubes" would result in a core melt, with very serious public safety results.

The Staff, based on its studies, does not anticipate that a "handful of tubes" will rupture ("handful" is undefined in the petition), or that such an event, if it should occur, would cause a core melt. Neither does the petitioner advance any factual basis for anticipating such events. Isolated breaks of single tubes which could be described by the word "rupture" have occurred in steam generators similar to those of Unit 4. In these instances, however, the reactors have been shut down in an orderly fashion.

As indicated above, the steam generator tubes of Unit 4 are being regularly monitored. Moreover, the license for Unit 4 requires a cold shutdown if leakage exceeds the prescribed limit of 0.3 gpm per steam generator.[9] Staff is of the view that the 0.3 gpm leakage limit, and actions required should this rate be exceeded (along with the monitoring previously described), are fully adequate to protect the health and safety of the public.[10]

Finally, the Center asserts in its letter that steam generator tube integrity is an unresolved safety issue. While it is true that the problem of steam generator tube integrity is not fully resolved, the problem has received careful ongoing review and analysis, as described above. Accordingly, and in view of the history of the steam generators of Unit 4, further action by NRC regarding Unit 4's steam generators is unncessary at this time. The procedures and safeguards instituted in relation to that problem are sufficient to safeguard the public health and safety.[11]

III. Requested Action With Reference to Reactor Pressure Vessel

The Center asserts that Turkey Point Unit No. 4 is one of a number of nuclear power plants "whose steel pressure vessel may be vulnerable to cracking or shattering caused by thermal shock in the event of an accident that requires high pressure injection emergency cooling." The petition further cites pressure vessel safety as an unresolved safety issue.

During the past few months the subject of reactor pressure vessel thermal shock has received increased attention by the NRC staff and industry representatives. The NRC staff has recently evaluated (1) the types of transients or accidents that could lead to overcooling of the reactor system; (2) experience to date with transients that have occurred in U.S. pressurized water reactors; (3) the probability that such overcooling events will occur; and (4) the capability of reactor vessels to withstand these transients.

As a result of its evaluations to date, the staff has concluded that the probability of a severe overcooling transient is relatively low. For Babcock & Wilcox designed reactors this probability is estimated to be about 10^{-3} per reactor per year, and for Westinghouse and Combustion Engineering designed reactors, it is lower, perhaps by an order of magnitude. The staff has also concluded that, based on present irradiation levels at operating reactors, reactor vessel failure from such an event in the near term is unlikely. Therefore, no immediate licensing action is required for operating reactors including Unit 4.[12]

However, the staff believes that additional action should be taken to resolve the long-term problem. Toward this end, the staff, the Pressurized Water Reactor (PWR) owners' group, and PWR vendors are working together to determine the scope of the generic pressure problem. In addition, plants with the most limiting condition (in terms of assured period of continued safe operation) in each vendor's group have been selected for individual study. Unit 4 having been selected as one of the plants for plant-specific study, a letter dated August 21, 1981, was sent to require the licensee in accordance with 10 CFR 50.54(f) of the Commission's regulations to submit information for review. Based upon the generic and

[4] Safety Evaluation by the Office of Nuclear Reactor Regulation Related to Amendment No. 54 to Facility Operating License No. DPR–41, page 4 (January 15, 1981).

[5] Safety Evaluation by the Office of Nuclear Reactor Regulation Relating to Amendment No. 68 to Facility Operating License No. DPR–31 and Amendment No. 60 to Facility Operating License No. DPR–41 (June 23, 1981). It is expected that approximately 2 pecent additional plugging will be required in Unit 4 beyond the current 23.8 percent.

[6] Safety Evaluation by the Office of Nuclear Reactor Regulation Relating to Amendment No. 66 to Facility Operating License No. DPR–41 (September 10, 1981).

[7] Unit 3 has the same design steam generator as Unit 4 with substantially similar degradation experience.

[8] Florida Power and Light Company (Turkey Point Plant, Unit 3), DD–80–28, 12 NRC 386 (1980).

[9] Facility Operating License No. DPR–41, as amended, paragraph D(2).

[10] Safety Evaluations, footnotes 3 and 5, *supra.*

[11] NRC Regulatory Guide 1.83 contains the standard procedures for inspecting steam generators, which standards are considered adequate by NRC for protecting the public health and safety. The procedures which have been developed for Turkey Point and inserted in Unit 4's operating license as mandatory requirements are significantly more rigorous than the procedures in Regulatory Guide 1.83, and therefore provide an additional margin of safety.

[12] *Preliminary Assessment of Thermal Shock to PWR Reactor Pressure Vessels*, SECY 81–286 (May 4, 1981).

plant-specific studies and reviews, NRC will take timely action in relation to the reactor vessel problem.

IV. Request for "License Review"

The letter from the Center also asked:

> that the Nuclear Regulatory Commission take steps to immediately initiate a license review of this nuclear reactor unit [Unit 4]. It is the responsibility of the Nuclear Regulatory Commission to protect the public health and safety, and this can only be accomplished if adequate safety systems exist to protect the public in case of an accident * * *. We hope at this point the NRC will derate the unit, so that it doesn't operate in an unsafe manner.

Requests for a "license review" and to "derate the unit" appear to be synonymous with the request that the NRC consider the suspension of the license of Unit 4. Other than the assertions which have been discussed above concerning the steam generators and reactor vessel, the petitioner advances no facts that relate to possible safety inadequacies.

V. Conclusion

Based on the foregoing discussion, I have determined that the petitioner's request for an order to shut down the Turkey Point Plant Unit 4 to inspect steam generator tubes should be and is hereby denied. Further, based upon the staff analyses of the Reactor Vessel question, I have also concluded that the petitioner's request for consideration of suspension of the license of Turkey Point Unit No. 4 should also be denied.

A copy of this decision will be placed in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and the local public document room for the Turkey Point Plant located at the Environmental Urban Affairs Library, Florida International University, Miami, Florida 33199. A copy of this decision will also be filed with the Office of the Secretary of the Commission for its review in accordance with 10 CFR 2.206(c) of the Commission's regulations.

Dated at Bethesda, Maryland this 5th day of November, 1981.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 81-32848 Filed 11-12-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-263]

Northern States Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 8 to Facility Operating License No. DPR-22, issued to Northern States Power Company, which revised Technical Specifications for operation of the Monticello Nuclear Generating Plant (the facility) located in Wright County, Minnesota. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to reflect plant modifications being made as part of the Mark I Containment Long-Term Program.

The application for the amendment 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 June 4, 1981 and (2) Amendment No. 8 to License No. DPR-22. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota. A copy of item (2) 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 5th day of November 1981.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 81-32850 Filed 11-12-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-201; Provisional Operating License No. CSF-1; CLI-81-29]

Nuclear Fuel Services, Inc. and New York State Energy Research and Development Authority; Western New York Nuclear Service Center; Order and Hearing

Nuclear Fuel Services, Inc. (NFS), co-holder with the New York State Energy and Research Development Authority (NYSERDA) of License No. CSF-1, has moved the Nuclear Regulatory Commission (NRC or Commission) to "postpone the effectiveness" of the license amendment (Change No. 31) issued by the NRC Staff on September 30, 1981 and has also requested a hearing regarding that license amendment.[1]

I

The Commission hereby denies NFS's motion for a stay of the license amendment (Change No. 31) and instructs the Chairman of the Atomic Safety and Licensing Board Panel to initiate a proceeding on the requests for a hearing. The Commission finds that the NFS showing falls far short of the showing necessary to entitle NFS to a stay or postponement of effectiveness of the amendment. See *Virginia Petroleum Jobbers Assn.* v. *Federal Power Commission*, 259 F.2d 921 (D.C. Cir. 1958). In particular, NFS had made no substantial showing of irreparable injury beyond the bare claim that it has an "absolute right" to a prior hearing. Furthermore, the Commission is not convinced at this point that the procedures followed by the Staff for the amendment were illegal and that the amendment must be declared a nullity.

With regard to the argument of NFS that it is entitled to a *prior* hearing under 10 CFR 2.204, the Commission has concluded that, even if one assumes the applicability of 10 CFR 2.204, the public health, safety or interest requires the amendment be made immediately effective.[2] Congress made plain in the West Valley Demonstration Project Act (WVDPA) that the start of the project

[1] A request for a hearing has also been filed by Dr. Irwin Bross.

[2] Contrary to NFS's view, the Commission sees no inherent contradiction between a finding that an amendment involves "no significant hazards consideration" and a finding that the public health, safety or interest requires that the amendment be made effective immediately. In the present case, for example, there is no hazard consideration involved in letting DOE come on the site to begin preliminary assessments needed to prepare for DOE's work under the Demonstration Project Act, but unnecessary postponement of this work would clearly go against the public interest in promptly developing methods for preparing high-level wastes for safe disposal.

should not be delayed past October 1, 1981. Section 2(b) directed the Secretary of Energy to carry out preparatory steps for the project during the fiscal year ending September 30, 1981. Moreover, the WVDPA required that by October 1, 1981, the Secretary and Commission shall have entered into an agreement for the Commission's informal review and consultation of DOE's proposed activities at the Center. This agreement has been implemented. The legislative history of the WVDPA also shows that Congress considered that prompt initiation of the waste solidification program was important for the protection of health and safety. The reports accompanying the bills that preceded the WVDPA and Congressional debate on those bills are replete with observations that techniques for solidifying the high-level liquid radioactive waste need to be developed before the storage tanks develop leaks and present a potential danger to public health and safety.[3] See for example, S. Rep. No. 96–787, 96th Cong., 2d Sess. 5 (1980). There can be no question that the public interest is served by acting so as to forestall the potential for danger to public health and safety. Latent conditions which may potential cause harm in the future are a sufficient basis for taking immediately effective action where the consequences may not be subject to correction in the future. *Nuclear Engineering Company, Inc.* (Sheffield, Illinois Low-Level Radioactive Waste Disposal Site), CLI–79–6, 9 NRC 673 (1979); *Consumers Power Company* (Midland Plant, Units 1 and 2), CLI–74–3, 7 AEC 10–12 (1973).

Congress also recognized that the solidification program at West Valley would provide a significant step in the nation's overall waste management program and, thus, should not be delayed. West Valley would be the first full-scale demonstration facility for solidifying high-level waste and could be expected to provide significant technical knowledge. S. Rep. No. 96–787, 96th Cong., 2d Sess. 5 (1980). Accordingly, the project was perceived as the next logical step in the national effort to demonstrate technology capability in the nuclear waste area, H.R. Rep. No. 96–1100, Part I, 96th Cong., 2d Sess. 7 (1980), and described as a necessary step in the Government's program for disposing of high-level radioactive waste. 126 Cong. Rec. H. 8765 c.3 (daily ed. September 1980); 126 Cong. Rec. S. 12762 c.3 (daily ed. September 17, 1980.) Thus, delay in initiating the West Valley program could be expected to also delay the long awaited resolution of the nation's nuclear waste problem. Such delay would be inconsistent with Congress' continuing concern, as evidenced by continuing legislative activity, that the waste problem be expeditiously resolved. This circumstance also supports the Commission's finding that it is in the public interest to make this license amendment immediately effective.

Finally, NFS has made no showing that its private intersts outweigh the public's interest.

II

Pursuant to the Atomic Energy Act of 1954, as amended, the Commission directs the Chairman of the Atomic Safety and Licensing Board Panel to establish a Licensing Board to conduct an adjudicatory hearing in accordance with 10 CFR Part 2, Subpart G pursuant to the request of NFS, and to review Dr. Bross' request for a hearing.

Any person whose interest may be affected by this proceeding may file a petition for leave to intervene within 20 days from the date of this notice. The petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domsetic Licensing Proceedings" in 10 CFR Part 2. If a petition for leave to intervene is filed, this Atomic Safety and Licensing Board will rule on the request.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend his petition, but such an amended petition must satisy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, the petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Petitions for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by (date). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, to O.S. Hiestand, Esq., Morgan, Lewis and Bockius, 1800 M Street, N.W., Washington, D.C. 20036, and to Carmine J. Clemente, General Counsel, New York State Energy Research and Development Authority, Two Rockefeller Plaza, Albany, New York 12223, attorneys for the Licensees. Any questions or requests for additional information regarding the content of this notice should be addressed to the Chief Hearing Counsel, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Nontimely filings of petitions for leave to intervene, amended petitions, or supplemental petitions will not be entertained absent a determination by the Atomic Safety and Licensing Board that the petitioner has made a substantial showing of good cause for the granting of a late petition. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(i)–(v) and § 2.714(d).

Commissioner Ahearne dissents from this Order for the reasons stated below.

It is so ordered.

Dated at Washington, D.C., this 6th day of November, 1981.

[3] There are also sound technical reasons to initiate the solidification program as quickly as possible. During the period of storage of waste approximately 30,000 gallons of sludge have accumulated in the bottom of the tank. This sludge is believed to contain all the dangerous long-lived radioactive fission products, such as strontium-90, and almost all the transuranic elements, such as plutonium. Removal of this sludge is one of the most difficult problems of this program not only because of its physical characteristics, but also because of tank supports and other obstructions at the bottom of the tank. Moreover, the longer the sludge sits at the bottom of the tank, the greater the probability that it will harden and become even more difficult to remove. H.R. Rep. 96–1100, Part II, 96th Cong., 2d Sess. 12–13 (1980).

For the Commission.

Samuel J. Chilk,

Secretary of the Commission.

Dissenting Views of Commissioner Ahearne

The Commissison should have stayed the license amendment because the NRC should not have issued the amendment over the objections of NFS without providing it a prior hearing.

The staff treated this as a licensee initiated amendment.[1] I disagree—more because of sound regulatory policy than because of legal requirements of the Atomic Energy Act. There should be a correlation between responsibility and control. A third party, co-licensee or not, should not be allowed to affect the ability of a licensee to fulfill its responsibility over its objections.[2]

The argument that paragraph 4.A. of the license provides otherwise is unpersuasive. By its terms it applies only to changes in the relationship *between* NFS and New York. In addition, it only provides that either may *apply* for an amendment, not that an amendment can be granted at the request of one over the objections of the other. Finally, circumstances have changed radically since the license was issued. It is highly unlikely that the provision was included to cover situations such as this.

Consequently, I believe this should have been an NRC ordered amendment and that NFS properly invoked § 2.204.[3] Under § 2.204 the NRC can still make the license effective immediately if it finds the public health, safety, or interest so requires.

I do not question the public interest in proceeding to clean up West Valley.[4] However, I question whether this is the appropriate amendment to implement that objective and whether the public interest required making this amendment immediately effective. Leaving aside the issue of whether the Commission's arguments support a permissive rather than a mandatory amendment, it is not obvious to me that this amendment reflects the appropriate distribution of responsibility among New York, DOE, and NFS. In particular, I have concerns about our decision to a gree to an ill-defined residual responsibility for NFS.

It is argued that the West Valley Demonstration Project Act (WVDPA)[5] supports finding there is a public interest in making this amendment effective without a prior hearing. Although the WVDPA may provide a basis for an immediate tranfer to DOE so it may begin the cleanup process, it does little to justify the role we have imposed on NFS.

The Act does not address the role of NFS and I can find virtually no discussion relating to this issue in the legislative history. There is a provision that the State and Federal Governments will enter a cooperative agreement concerning cleanup activities including "submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration."[6] According to Senator Jackson, the purpose of this provision was to protect the interest of the Federal Government:

"The Senate-passed version of S. 2443 contained, under the provision for a cooperative agreement with the State of New York, a requirement that the Department of Energy be party to the licensing amendment which will be required in order to conduct the project. I believe that reinserting this provision will insure that the interests of the Federal Government, which will bear 90 percent of the cost of the project, will be protected."[7]

There was no indication of any role for NFS. One reasonable explanation is that Congress did not expect NFS to be involved.

There is some indication this have may been the case. The General Accounting Office (GAO) prepared a series of reports on West Valley for Congress. In June 1980, about the time Congress was beginning to seriously consider the WVDPA, GAO described the situation as follows:

"NFS believes that it is not contractually responsible for permanent storage of radioactive waste or for long-term waste-related issues at West Valley. A company spokesman told us that under its contract, New York is responsible for these matters. Subject to the terms of its lease and NRC approval, NFS wishes to transfer responsibility for operating and maintaining West Valley to the State by December 31, 1980. However, an official of the State Energy Authority stated flatly that the agreements do not require New York to take possession of the facilities at West Valley on December 31, 1980, given the present levels of contamination and the maintenance and operation requirements that exist at the facilities today.

"DOE similarly believes that the State, acting through one or more of its instrumentalities, has residual responsibility for care of the waste storage facilities, subject to NRC approval, at the conclusion of NFS's lease. Our 1977 report also viewed the matter as one in which New York, under the terms of the lease, has residual responsibility for waste storage. We did not, however, suggest that all responsibilities arising out of the West Valley situation were beyond doubt."[8]

GAO concluded:

"The best solution for the issues at West Valley can be achieved through a joint Federal/State partnership to deal with the entire site."[9]

"It is important to mention how we arrived at our conclusion that the best way to deal with West Valley is through a joint Federal/State partnership. We viewed the West Valley solution from the perspective of established legal views and responsibility, the status of high-level waste programs, the expected technical benefits of a West Valley demonstration project, the recognized storage problems involving low-level waste and spent fuel and, lastly, a sense of fairness as seen by an uninvolved part."[10]

In response to further Congressional questions, GAO provided the following comments:

The report's objective was to propose an overall solution for West Valley to which the State and Federal Governments could agree. The State's agreement is important because it has residual responsibility for the wastes and because it controls decisions on the future of West Valley. The Federal Government's agreement is important, because the State has asked it to take primary responsibility for West Valley. We believe that once the State and Federal Governments reach an agreement on West Valley, progress toward a solution could begin. They could then work out the financial liability of NFS in the courts in what would likely be a protracted litigation.[11]

Congress did not adopt GAO's entire approach. (In particular, it declined to tie Federal assistance to a State commitment to provide spent fuel and low-level waste facilities.) However, Congress seemed to adopt the concept that this was a Federal/State venture. For example, the following comment was made just prior to final Senate action:

We have sent to the House for final passage a bill which makes the State of New York a partner with the Federal Government in a 10-year, $200 million project to solidify and dispose of the nuclear wastes which have threatened the health and wellbeing of New Yorkers in this rich farmland area on the outskirts of Buffalo.[12]

Certainly this does not conclusively establish that NFS should not be held responsible for any part of the cleanup.

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[1] Response of NRC Staff in Opposition to NSF For Motion Order Postponing the Effectiveness of License Amendment at 1–3 (October 26, 1981).

[2] Some of the arguments against this position have focused on the specific language found in § 2.204 and other portions of the Commission's regulations. However, I would note the matter is not solely one of Commission intent or completely within the Commission's discretion because that section stems from section 558 of the Administrative Procedure Act. *See* 5 U.S.C. 558(c).

[3] Although NFS's formal request for hearing was not submitted until October 13, it put the staff on notice prior to issuance of the amendment that it considered § 2.204 to be applicable in its letter of September 11, 1981. Consistent with that interpretation, the staff should have either made the public health, safety, or interest finding or allowed NFS 20 days to request the hearing.

[4] I do not believe the public health and safety requires an immediately effective amendment. In addition, I would note that the Commission's amendment permits but does not require transfer to DOE so that clean up may progress.

[5] West Valley Demonstration Project Act, Pub. L. No. 96-368 (enacted October 1, 1980).

[6] *Id.* 2(b)(4)(D).

[7] Cong. Rec. S12762 (daily ed. September 17, 1980).

[8] General Accounting Office, "Status of Efforts to Clean Up the Shut-Down Western New York Nuclear Service Center" 14 (June 6, 1980) (EMD-80-69).

[9] *Id.* at 23.

[10] *Id.* at 26.

[11] General Accounting Office, "Further Analysis of Issues at Western New York Nuclear Service Center" 26 (October 23, 1980) (EMD-81-5).

[12] 126 Cong. Rec. S12763 (daily ed. September 17, 1980) (Statement by Senator Javits).

However, it is sufficient to raise the question of whether the structure dictated by this amendment is required by or even consistent with Congressional intent. I have significant reservations about accepting it without question. Consequently I would not have imposed license conditions on an immediately effective basis. I would have allowed NFS to have a prior hearing.

It is unfortunate there was not more of an effort to accommodate all interests. As the GAO stated:

> The question of legal responsibility, particularly outside the terms of the contract, can only be conclusively determined by the courts in what would likely be a protracted litigation. Therefore, a timely solution to the issues at West Valley depends on the parties voluntarily reaching an agreement on responsibility among themselves rather than waiting for court action.[13]

[FR Doc. 81-32851 Filed 11-12-81; 8:45 am]
BILLING CODE 7590-01-M

[13] GAO Status Report, *supra* at 15.

[Docket No. 50-313]

Arkansas Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 61 to Facility Operating License No. DPR-51, issued to Arkansas Power and Light Company (the licensee), which revised the Technical Specifications for operation of Arkansas Nuclear One, Unit No. 1 (ANO-1) located in Pope County, Arkansas. The amendment is effective as of the date of issuance.

The amendment modifies the ANO-1 Appendix A Technical Specifications by adding operability requirements, limiting conditions for operation, and surveillance and test requirements for the Anticipatory Reactor Trip System on loss of main feedwater and/or turbine trip.

The application for the amendment 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 licensee's application dated June 6, 1979, as supplemented February 12, 1980, January 29, 1981, and May 29, 1981, (2) Amendment No. 61 to License No. DPR-51, 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, N.W., Washington, D.C. and at the Arkansas Tech University, Russellville, Arkansas. 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 3d day of November 1981.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 81-32840 Filed 11-12-81; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-317 and 318]

Baltimore Gas & Electric Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 59 and 41 to Facility Operating Licenses Nos. DPR-53 and DPR-69, issued to Baltimore Gas and Electric Company, which revise Technical Specifications and add license conditions for operation of the Calvert Cliffs Nuclear Power Plant, Units Nos. 1 and 2 located in Calvert County, Maryland. The amendments are effective as of the date of issuance.

These amendments add conditions to the licenses requiring implementation of a secondary water chemistry monitoring program to inhibit steam generator tube degradation; delete secondary water chemistry from the Technical Specifications; delete two snubbers from the list of safety related snubbers; add measures to prevent inadvertent reactor coolant system boron dilution; clarify identification of valves associated with the control room ventilation system; and a change to the basis for auxiliary feedwater flow requirements.

The applications for the amendments comply 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 amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments 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 the amendments.

For further details with respect to this section, see (1) the applications for amendments dated January 29 and July 30, 1981, (2) Amendment Nos. 59 and 41 to License Nos. DPR-53 and DPR-69, 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. and at the Calvert County Library, Prince Frederick, Maryland. 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 4th day of November, 1981.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 81-32841 Filed 11-12-81; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-293]

Boston Edison Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 50 to Facility Operating License No. DPR-35 issued to Boston Edison Company (the Licensee) which revised the Technical Specifications for operation of the Pilgrim Nuclear Power Station Unit No. 1 (the facility) located near Plymouth,

Massachusetts. The amendment was authorize by telephone on October 2, 1981 and was confirmed by letter dated October 6, 1981; therefore, the amendment became effective October 2, 1981.

The amendment grants relief from the requirements of the Technical Specifications (3.7.B.1.c, 3.7.B.1.e, 3.7.B.2.a, and 3.7.B.2.c) regarding the operability requirements for the Standby Gas Treatment System and the Control Room High Efficiency Air Filtration System for the initiation of fuel movement and during fuel handling operations for the period October 3, 1981 through October 19, 1981.

The application for amendment 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 it 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 the issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated September 30, 1981, as supplemented October 2, 1981, (2) Amendment No. 50 to License No. DPR-35, 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., and at the Plymouth Public Library on North Street in Plymouth, Massachusetts 02360. A single 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 5th day of November 1981.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 81-32842 Filed 11-12-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-400, 50-401, 50-402, and 50-403]

Carolina Power & Light Co. and North Carolina Municipal Power Agency No. 3 Shearon Harris Nuclear Power Plant, Unit Nos. 1, 2, 3 and 4 Issuance of Amendments to Construction Permits

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments No. 2 to Construction Permit Nos. CPPR-158, CPPR-159, CPPR-160, and CPPR-161. The amendments add North Carolina Municipal Power Agency Number 3 as a co-owner and reflect a transfer of a 16.5% undivided ownership interest from Carolina Power and Light Company to North Carolina Muncipal Power Agency Number 3 for the Shearon Harris Nuclear Power Plant, Units 1, 2, 3 and 4 (the facilities), located in Wake and Chatham Counties, North Carolina. The amendments are effective as of their date of issuance.

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 amendments. The Commission has also concluded that the amendments involve actions which are insignificant from the standpoint of environmental impact and that, pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and an environmental impact appraisal need not be prepared in connection with the issuance of the amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendments, dated September 3, 1981; and a supplemental letter also dated September 3, 1981, (2) Amendments No. 2 to Construction Permit Nos. CPPR-158, CPPR-159, CPPR-160 and CPPR-161 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Wake County Library, 104 Fayetteville Street, Raleigh, North Carolina 27601. Items 2 and 3 may be requested by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Director, Technical Information and Document Control.

Dated at Bethesda, Maryland, this 3rd day of November, 1981.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 81-32843 Filed 11-12-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-409]

Dairyland Power Cooperative; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 26 to Provisional Operating License No. DPR-45, issued to Dairyland Power Cooperative (the licensee), which revised the Technical Specifications for operation of the La Crosse Boiling Water Reactor (LACBWR) located in Vernon County, Wisconsin. The amendment is effective as of its date of issuance.

The amendment allows an increase in the maximum fuel exposure limit for fuel assemblies not on the periphery of the core from 15,600 MWD/MTU to 16,800 MWD/MTU.

The application for the amendment 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 June 1, 1981, (2) Amendment No. 26 to License No. DPR-45, 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, N.W., Washington, D.C. 20555 and at the La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601. 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 6th day of November, 1981.

For the Nuclear Regulatory Commission.

Thomas V. Wambach,

Acting Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 81-32844 Filed 11-12-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-201]

Nuclear Fuel Services, Inc. and New York State Energy Research and Development Authority (Western New York Nuclear Service Center); Receipt and Availability of Application for Amendment of License No. CSF-1

Nuclear Fuel Services, Inc. (NFS) and New York State Energy Research and Development Authority (as successor to the New York State Atomic and Space Development Authority) hold Provisional Operating License No. CSF-1. The license, issued under section 104b. of the Atomic Energy Act, had authorized the operation of a spent nuclear fuel reprocessing and radioactive waste disposal facility at the Western New York Nuclear Service Center in West Valley, New York (the Center).

Under the West Valley Demonstration Project Act, Pub. L. 96-368, (the West Valley Act), the Department of Energy has been authorized to carry out a high level radioactive waste management demonstration project at the Center for the purpose of demonstrating solidification techniques which can be used for preparing high level liquid radioactive waste for disposal.

On September 30, 1981 the U.S. Nuclear Regulatory Commission (the NRC) issued an amendment to the license which would permit transfer of the facility to the Department of Energy for purposes of the project.

(46 FR 49237)

On October 6, 1981, the Commission received from NFS an application for amendment of license No. CSF-1 to relieve NFS of all operational responsibility under the license. The application is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at local Public Documents Rooms maintained at the Buffalo and Erie County Public Library, Lafayette Square, Buffalo, New York; and the Town of Concord Public Library, 23 North Buffalo Street, Springville, New York.

Dated at Silver Spring, Maryland, this 5th day of November, 1981.

For the Nuclear Regulatory Commission.

Leland C. Rouse,

Chief, Advanced Fuel and Spent Fuel Licensing Branch, Division of Fuel Cycle and Material Safety.

[FR Doc. 81-32852 Filed 11-12-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-206]

Southern California Edison Co. and San Diego Gas & Electric Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 57 to Provisional Operating License No. DPR-13, issued to Southern California Edison Company and San Diego Gas and Electric Company (the licensees), which revised the license for operation of the San Onofre Nuclear Generating Station, Unit No. 1 (the facility), located in San Diego County, California. This amendment is effective as of its date of issuance.

The amendment incorporates revised Technical Specifications which impose a requirement for periodic surveillance of the Safety Injection System.

The application for amendment 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 had 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 October 21, 1981, letter dated October 29, 1981, and a report transmitted by letter dated October 16, 1981 from Southern California Edison Company, (2) Amendment No. 57 to License No. DPR-13, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, California. A single copy of items (2) and (3) may be obtained by request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of November 1981.

For the Nuclear Regulatory Commission.

Thomas V. Wambach,

Acting Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 81-32854 Filed 11-12-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-259 OL, 50-260 OL, and 50-296 OL]

Tennessee Valley Authority (Browns Ferry Nuclear Plant, Units 1, 2, and 3); Assignment of Atomic Safety and Licensing Appeal Board.

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this operating license amendment proceeding:

Stephen F. Eilperin, Chairman
Dr. John H. Buck
Gary J. Edles

Dated: November 6, 1981.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 81-32855 Filed 11-12-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-413 and 50-414]

Duke Power Co., et al. (Catawba Nuclear Station, Units 1 and 2); Order, Scheduling Prehearing Conference

November 5, 1981.

A special prehearing conference pursuant to 10 CFR 2.751a will be held on January 6, 1982, at the York County Agricultural Building, 184 Congress Street, York, South Carolina 29745, beginning at 10:00 a.m. The primary purposes of the conference will be to rule on petitions to intervene and on the contentions being advanced by the petitioners. Petitions to intervene including contentions therein, may be amended and served without leave of the Board at any time up to December 9, 1981. Any responses to such amendments shall be served by December 30, 1981. The time for amendments otherwise allowed by 10 CFR 2.714(a)(3) is being shortened to

provide more time for development of a stipulated set of contentions between the deadline for amendments and the prehearing conference.

The Board will also establish a schedule for further actions in this case and take such other actions as may expedite the proceeding. Participants in the conference are invited to submit proposed agendas to the Board by December 30, 1981.

Dated at Bethesda, Md., this 5th day of November 1981.

For the Atomic Safety and Licensing Board.

James L. Kelley,

Chairman, Administrative Judge.

[FR Doc. 81-32845 Filed 11-12-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. STN 50-437-MP]

Offshore Power Systems; Manufacturing License for Floating Nuclear Power Plants; Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721 (1980), the Atomic Safety and Licensing Board for *Offshore Power Systems* (Manufacturing License for Floating Nuclear Power Plants), Docket No. STN 50-347-MP, is hereby reconstituted by appointing the following Administrative Judge to the Board: Dr. George A. Ferguson. Mr. Glenn O. Bright was a member of this Board, but, because of a schedule conflict, is unable to continue to serve.

As reconstituted, the Board is comprised of the following Administrative Judges:

Sheldon J. Wolfe, Chairman
Dr. David R. Schink
Dr. George A. Ferguson

All correspondence, documents and other materials shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new Board member is: Administrative Judge George A. Ferguson, School of Engineering, Howard University, 2300 5th Street, N.W., Washington, D.C. 20059.

Issued at Bethesda, Maryland, this 5th day of November, 1981.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 81-32849 Filed 11-12-81; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Palo Verde Nuclear Generating Station; Meeting; Location Change

The location of the ACRS Subcommittee on Palo Verde Nuclear Generating Station scheduled to meet November 23 and 24, 1981 at the Holiday Inn-Metro Center, Phoenix, AZ has been changed to the ALOHA INN, 3901 E. Van Buren Street, Phoeniz, AZ. All other items remain the same as indicated in the **Federal Register** published November 6, 1981 (46 FR 55170).

Dated: November 6, 1981.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 81-32856 Filed 11-12-81; 8:45 am]

BILLING CODE 7590-01-M

Availability of Staff Report for Comment on Evaluation Criteria for Detailed Control Room Design Review

Notice is given that the Commission's Office of Nuclear Reactor Regulation has published NUREG-0801, Evaluation Criteria for Detailed Control Room Design Review, a draft report for comment. Single copies of this report are available free to the extent of supply and may be obtained by written request to the Director, Division of Technical Information and Document Control, Washington, DC.

This draft report contains guidance to the user (licensee/applicant and NRC staff) in determining the acceptability of the Detailed Control Room Design Review and resulting control room design improvements. These criteria were developed in response to Item I.D.1, "Control Room Design Review" of NUREG-0660, "NRC Action Plan Developed as a Result of the TMI Accident."

The evaluation criteria defined in this draft report does not impose any new functional design requirements. The evaluation criteria defines a bases for the staff's review of the Detailed Control Room Design Review.

As stated in NUREG-0660 the NRC plans to evaluate the impact on licensees of the implementation of these evaluation criteria. Comments are specifically requested from knowledgeable members of the public, licensees, human factors specialists, and other interested parties to assist the NRC in determining the impact of implementing these criteria.

NUREG-0801 has been submitted to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act of 1980.

This draft report is issued for public and industry comment. The staff will evaluate all comments it receives and modify the report as needed in preparing the final report. Comments received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. All comments on this draft report are welcome but must be provided by December 28, 1981. All comments should be forwarded to: Mr. Mark Greenberg, Human Factors Engineering Branch, Division of Human Factors Safety, U.S. NUclear Regulatory Commission, Washington, D.C. 20555.

For further information, contact Mark Greenberg, Division of Human Factors Safety, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone (301) 492-8344.

Dated at Bethesda, Maryland, this 10th day of November, 1981.

Voss A. Moore,

Chief, Human Factors Engineering Branch, Division of Human Factors Safety.

[FR Doc. 81-32853 Filed 11-12-81; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22-11334]

ACF Industries, Inc.; Application and Opportunity for Hearing

November 9, 1981.

Notice is hereby given that ACF Industries, Incorporated (the "Applicant") has filed an application pursuant to Section 310(b)(1)(ii) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeship of Citibank, N.A. ("Citibank") under an existing indenture and a new indenture to be qualified under the Act is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Citibank from acting as trustee under the existing indenture and the indenture to be qualified.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, with certain exceptions that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have

sustained the burden of providing, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Applicant alleges that:

1. The Applicant has issued equipment trust certificates from time to time under a number of separate equipment trust agreements. Three of these equipment trust agreements were qualified under the Act. The remainder of those now outstanding (13 in number) involved private placements of equipment trust certificates and were exempt from qualification under the Act. None of Applicant's existing equipment trusts are in default.

2. Applicant intends to file with the Commission a registration statement under the 1933 Act on Form S–16 covering proposed equipment trust certificates to be designated as ACF Industries, Incorporated Equipment Trust Certificates, Series L, in connection with the public offering and sale through underwriters of a maximum aggregate of $60,000,000 principal amount of such equipment trust certificates, to be issued pursuant to an equipment trust agreement to be qualified under the Act.

3. Applicant seeks to appoint Citibank to act as trustee under the Series L Equipment Trust Agreement and Citibank will file a statement on Form T–1 as to its eligibility and qualification under the Act.

4. Citibank presently is acting as trustee in connection with one of the private placements of the Applicant's trust certificates namely, the Equipment Trust agreement dated as of February 15, 1975 for ACF industries, Incorporated Equipment Trust Certificates, Series D. Of the original aggregate of $35,000,000 principal amount issued thereunder, a total of $21,002,000 remained issued and outstanding at October 15, 1981.

5. The Series D equipment trust certificates are, and the Series L certificates will be, secured by separate lots of specifically identified railroad cars. In the event that Citibank should have occasion to proceed against the security under either of these trusts, such action would not affect the security, the use of the security or its ability to proceed against the security of the other trust. Accordingly, the existence of the two trusteeships should in no way inhibit or discourage the actions of Citibank as trustee under either of the trusts.

6. The Applicant understands that the Commission has granted similar applications with respect to trusteeships under equipment trust agreements for other railroad car lessors where the situations were factually similar to the matter which is the subject of this application.

Applicant has waived notice of hearing, hearing on the issues raised by the application and all rights to specify procedures under Rule 8(b) of the Commission's Rule of Practices.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to such application, which is a public document on file in the office of the Commission's Public Reference Section, 1100 L Street, NW., Washington, D.C.

Notice is further given that any interested person may, not later than December 4, 1981 request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact on law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon.

Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-32836 Filed 11-12-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12026; 812–4983]

Investors Syndicate of America and Investors Diversified Services, Inc.; Filing of an Application for an Order Exempting Certain Proposed Transactions

November 6, 1981.

Notice is hereby given that Investors Syndicate of America, Inc. ("ISA"), IDS Tower, Minneapolis, Minnesota 55402, registered under the Investment Company Act of 1940 ("Act") as a face-amount certificate company, and Investors Diversified Service, Inc. ("IDS"), the sole shareholder of, and distributor and investment manager for ISA (ISA and IDS are hereinafter referred to collectively as "Applicants"), filed an application on September 30, 1981, and an amendment thereto on October 2, 1981, requesting an order of the Commission pursuant to Section 6(c) and 17(b) of the Act exempting the proposed purchase of certain securities by IDS from ISA and as part of the purchase transaction the issuance by IDS of a note to ISA representing the difference between the book value of the securities purchased and the amount IDS pays for them in cash from the provisions of Sections 12(d)(3) and 17(a) of the Act, and pursuant to Section 17(d) and Rule 17d–1 thereunder permitting certain transactions between ISA and IDS incidental to the proposed purchase of securities. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below.

ISA, as a face-amount certificate company, is in the business of issuing face amount certificates, and invests in a portfolio of securities to provide the financial resources to meet its obligations to the holders of its outstanding certificates. Normallily ISA holds its fixed income securities until their maturity or retirement, valuing them on its books at amortized cost. As a result of interest rate movements and resultant bond market conditions during the past two years, many of the fixed income securities in ISA's portfolio according to applicants now trade at a market value substantially below the amortized cost basis at which they are carried on ISA's books.

IDS, a wholly-owned subsidiary of Alleghany Corporation, is registered as a broker-dealer under the Securities Exchange Act of 1934 and as an investment adviser under the Investment Advisers Act of 1940. In addition to its ownership and operating relationships with ISA, IDS is engaged, through subsidiaries, in the life insurance business, and is investment adviser to, and distributor of shares of, a number of registered open-end, diversified, management investment companies. IDS recently completed the sale of a major office and commercial building complex on terms expected to produce a 1982 taxable gain of about $100 million.

Applicants state that they have agreed, conditional on the granting of the order requested in the application, to the purchase by IDS from ISA of securities in ISA's portfolio which, as of August 31, 1981, had an ISA book value of approximately $265 million, and a

market value of approximately $165 million. Under the terms of the agreement, IDS has agreed to pay ISA a price equal to the greater of ISA's book value or fair market value on the date of actual transfer of the securities, or any portion thereof. Applicants state that IDS intends to sell the securities it would purchase from ISA on public markets in order to realize for federal income tax purposes the unrealized losses which such securities have suffered.

The agreeement provides that IDS may purchase the specific securities it covers, or any portion thereof, at any time in IDS's discretion from the date when an order pursuant to the application is granted until December 31, 1982. By that date, IDS is obligated to purchase either all the securities covered by the agreement, or securities with an aggregate unrealized depreciation at the date or dates of purchase of $100 million. At the time of purchase, IDS will pay ISA an amount in cash equal to the larger of the fair market value of the securities on September 30, 1981, or their current market value on the date of purchase. The excess, if any, of the purchase price (book value) over the amount to be paid in cash for them by IDS (current market value) will be paid by adding that amount to the principal of a note issued by IDS to ISA for that purpose, as described below. ISA has agreed that the securities subject to this agreement will not be sold to anyone else. Except for this undertaking, ISA will retain and exercise all rights of ownership of the securities up to the time of sale without consultation with IDS.

The "master subordinated note" that IDS will issue to ISA under the agreement will be due on December 31, 1988, with interest on the unpaid balance payable quarterly at an annual rate of 15 percent, and will be subject to the terms contained in the IDS–ISA agreement. The note is subordinated to other IDS indebtedness, and IDS has an unrestricted right to prepay part or all of the principal without penalty, while ISA has a limited right to require principal payments before maturity if necessary, to maintain its qualified assets at the level required by the Act.

Applicants state that ISA and IDS are "affiliated persons" of each other as that term is defined in Section 2(a)(3) of the Act. Section 17(a) of the Act, in pertinent part, provides that it shall be unlawful for any affiliated person of a registered investment company or affiliated person of such person, acting as principal, knowingly to sell to or to purchase from such registered company any security or other property, subject to certain exceptions not relevant here. Section 17(b) of the Act provides that the Commission, upon application, shall exempt a proposed transaction from the provisions of Section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Section 17(d) of the Act and Rule 17d–1 taken together provide, among other things, that it shall be unlawful for any affiliated person of or principal underwriter for a registered investment company or any affiliated person or such a person of principal underwriter, acting as principal, to participate in, or effect any transaction in connection with a joint enterprise or other joint arrangement or profit sharing plan in which any such registered company, or a company controlled by such registered company, is a participant unless an application relating thereto has been granted by an order of the Commission. In passing upon such an application, the Commission will consider whether the participation of such registered or controlled company in such joint enterprise, joint arrangement or profit sharing plan on the basis proposed is consistent with the provisions, policies and purposes of the Act, and the extent to which such participation is on a basis different from, or less advantageous than, that of other participants. Applicants note that either the sale-purchase agreement, or the loan agreement may constitute a joint enterprise or joint arrangement that would be subject to these provisions of the Act.

Section 12(d)(3) of the Act in pertinent part, prohibits a registered investment company or a company controlled by such registered company from acquiring a security issued by a broker-dealer, underwriter, or investment adviser unless, after such acquisition, all outstanding securities of such person are owned by one or more registered investment companies. Applicants note that the master subordinated note to be acquired by ISA under the proposed purchase transaction could be deemed to be a security issued by IDS, which is an underwriter, an investment adviser, and a broker-dealer, and whose outstanding securities are not owned exclusively by registered investment companies.

Applicants state that they believe the proposed purchase transaction would be beneficial to both IDS and ISA. The price to be paid, they submit, is sufficiently in excess of fair market value as to be patently fair to ISA. Although ISA may be considered "locked in" (since it cannot sell the securities to another person until December 31, 1982) the purchase price is not subject to reduction due to market conditions. Applicants note that the purchase price of the securities is established by reference to ISA's book value, and the cash payment to ISA is the greater of current market value on the date of the agreement or current market value on the date of purchase. If the latter should be greater than ISA's book value on the date of purchase, IDS will pay the higher value. ISA represents that these terms are sufficiently favorable to it to make it reasonable to accept a restriction on its freedom to dispose of the securities, and that, considered along with the purchase price that IDS will pay, ISA regards the terms of the note to be fair and reasonable to ISA.

ISA policy does not normally contemplate the acquisition of a note issued by IDS. However, since ISA will immediately receive cash equal to the fair market value of the securities sold to IDS, ISA does not believe that accepting the IDS note for the amount of unrealized depreciation would be inconsistent with any of its stated investment policies. Applicants represent that, in effect, the unrealized book depreciation on such securities would be converted by ISA into a subordinated 15% earning asset which will convert to cash by 1988; or earlier if needed to meet ISA's qualified asset requirements under the Act. Applicants state that although ISA regards the note as a good asset which it expects to carry on its books at par until maturity, it has assumed that the note may not be regarded, at least in its entirety, as a "qualified investment" within the meaning of Section 28(b) of the Act. Applicants state that they will not rely on the note for purposes of satisfying the minimum reserves which ISA is required to maintain under Section 28(b) of the Act. Applicants state that in evaluating the proposed transactions, ISA viewed the IDS note as an integral part of the whole transaction. In analyzing the note as a part of the entire transaction, Applicants state that ISA considered, in addition to the factors stated above, the fact that the market rate for similar notes may fluctuate between now and the time IDS purchases any securities from ISA, and that the principal

payment of the note may be accelerated by ISA under certain conditions.

ISA represents that the proposed purchase transaction is consistent with its own policies as recited in its registration statements and reports. While ISA normally purchases fixed income securities with a view to holding such securities until their maturity, ISA asserts that this transaction offers it a unique opportunity to improve its portfolio liquidity on favorable terms at a time when ISA believes it is very desirable to do so. Applicants state that ISA is aware that IDS intends to achieve a tax benefit for itself by means of the proposed purchase transaction, but that ISA does not believe that the advantage to IDS detracts from the advantages which ISA will receive from such transaction.

Applicants submit that the policies behind the prohibitions of Section 12(d)(3) of the Act were to preclude investment control of a broker-dealer, underwriter or investment advises without complete ownership, limit the use of investment company assets to pyramid control, and to prevent the exposure of investment company assets to the entrepreneurial risks of the investment banking business. Applicants submit that none of these policies has any applicability to the proposed issuance of a note from IDS to ISA as part of the purchase transaction, since ISA is already a wholly-owned susidiary of IDS.

Finally, Applicants assert that the proposed purchase transaction taken as a whole, including every relevant part thereof taken in the context of the transaction, adequately protects the certificate holders of ISA, and in all respects is consistent with the purposes intended by the Act.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities, or transactions from any provision of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant submits that for the reasons stated above granting its requested exemptive order is appropriate in the public interest and consistent with the protection of investors and the purposes intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 27, 1981, at 12 noon, submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or my mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81–32837 Filed 11–12–81; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 22263; 70–6667]

National Fuel Gas Co.; Proposed Issuance and Sale of Common Stock Pursuant to a Dividend Reinvestment and Stock Purchase Plan

November 6, 1981.

National Fuel Gas Company ("NFG"), 30 Rockefeller PLaza, New York, New York 10112, a registered holding company, has filed a declaration with this Commission pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) promulgated thereunder.

NFG proposes to issue and sell, from time to time through December 31, 1985, up to 500,000 shares of its authorized but unissued common stock, par value $10 per share ("Additional Common Stock"), pursuant to a Dividend Reinvestment and Stock Purchase Plan. The Additional Common Stock will be offered to all holders of record of shares of common stock or preferred stock of NFG pursuant to the voluntary plan whereby such shareholders may elect to invest their regular cash dividends and/or optional cash payments in the Additional Common Stock. The purchase price of the Additional Common Stock will be the average of the daily high and low sale prices of the common stock of NFG, as reflected in consolidated trading reports for New York Stock Exchange issues, for the period of the last 5 days on which the common stock of NFG was traded immediately preceding the dividend payment date, but not less than the par value of $10 per share. NFG intends to use the proceeds from the sale of the Additional Common Stock for the repayment of short-term debt, for the acquisition of additional securities of, or capital contributions to, subsidiaries, or for other proper corporate purposes.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 2, 1981, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81–32834 Filed 11–12–81; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 22264; 70–6649]

Northeast Utilities and Holyoke Water Power Co.; Proposal To Enter Agreement Relating To Financing of Pollution Control Facilities; Capital Contributions by Parent to Subsidiary

November 6, 1981.

Northeast Utilities ("NU"), 174 Bush Hill Avenue, West Springfield, Massachusetts 01089, a registered holding company, and Holyoke Water Power Company, ("HWP"), One Canal Street, Holyoke, Massachusetts 01040, a wholy-owned subsidiary of NU have

filed an application-declaration pursuant to Sections 6(a), 7, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45 and 50(a)(5)(B) thereunder.

It is proposed that the City of Holyoke, Massachusetts, acting by and through its Industrial Development Financing Authority ("Issuer") issue pollution control revenue bonds in the principal amount of not more than $12,000,000, to finance of a portion of the cost of acquiring, constructing and installing air and water pollution control facilities ("Facilities") necessary in connection with the reconversion of HWP's Mt. Tom station from oil to coal ("Mt. Tom Conversion"). Pursuant to a Loan Agreement ("Loan Agreement"), the Issuer would loan to HWP the proceeds of the bonds, and HWP would agree to make payments corresponding to the amounts needed to pay the principal, interest and premium, if any, on the bonds as they become due. The principal, interest and premium, if any, on the bonds would be payable only from the revenues pledged for their payment under the Loan Ageement and a trust agreement ("Trust Agreement"). Interest on the bonds would be payable semi-annually in arrears, at a rate per annum to be determined shortly before the public issue of the bonds by negotiation between the Issuer and the managing underwriter of the public offering of the bonds. The Loan Agreement would also obligate HWP to pay the fees and charges of the Issuer and the trustee. HWP is advised that in recent months tax-exempt bonds such as these have carried annual interest rates approximately seven to eight percent lower than comparable corporate bonds, and hence HWP expects to realize significant savings over the interest cost it would incur if it were to finance the Facilities otherwise than through the issuance of pollution control bonds.

The bonds would mature in series, from three to seven years from the first day of the month in which they are initially issued. Assuming an issuance in December, 1981, the bonds would have the following maturities:

December 1	Principal amount
1984	$1,000,000
1985	1,000,000
1986	1,000,000
1987	1,000,000
1988	8,000,000

The Loan Agreement would provide that HWP may prepay all or any part of the loan payments, without premium or penalty, and that it may at any time deliver to the trustee moneys to be used for the purpose of purchasing all or any bonds or of calling all or any bonds for optional redemption as provided in the Trust Agreement. The Trust Agreement would provide that the bonds, of series maturing at the end of the sixth and seventh years after the first day of the month in which they are issued, would be redeemable at the option of HWP, in whole or in part, on any interest payment date on or after a date not later than five years from the date of issuance, initially with a premium of 1 percent of the principal amount, and after six years with a premium of ½ of 1 percent.

The bonds must be redeemed, in whole and not in part, at HWP's option, with accrued interest but without premium, if certain extraordinary events shall have occurred. In addition, the bonds must be redeemed, in whole (or in part in certain circumstances), with accrued interest but without premium, if a determination is made that the interest on the bonds is taxable for federal income tax purposes. If a default were declared under the Trust Agreement, the principal of all outstanding bonds would be declared due and payable as provided in the Trust Agreement, plus accrued interest, but without premium.

In order to obtain the benefit of high quality bond ratings, HWP's obligations under the Loan Agreement would be secured by an irrevocable standby letter of credit ("Letter of Credit") to be issued by Citibank, N.A. ("Bank") in favor of the trustee in the principal amount of the bonds, plus seven months' interest on the bonds, plus an amount that approximates the expenses of the Issuer and the trustee that might be incurred if it were necessary to enforce their rights under the Loan Agreement and Trust Agreement. Pursuant to a separate agreement with the Bank ("Remibursement Agreement"), HWP would agree to pay to the Bank on demand all amounts that are drawn under the Letter of Credit as well as certain fees and expenses. Delivery of the Letter of Credit to the trustee would obtain for the bonds a rating equivalent to the credit rating of the Bank.

In consideration of the Bank's commitment to issue the Letter of Credit, and subject to the approval of this Commission, HWP is to pay the Bank a commitment fee, at the rate of ½ of 1 percent per annum, on the amount of the commitment from September 1, 1981 until the earlier of the date of the issuance of the Letter of Credit and a date—yet to be negotiated—when the commitment expires. So long as the Letter of Credit remains outstanding, HWP would be obligated to pay to the Bank any amounts drawn under the Letter of Credit, plus (i) interest on any such drawing under the Letter of Credit at a rate 2 percentage points above the higher of (A) the Bank's base rate or (B) ½ of 1 percent above the latest three-week moving average of rates for three-month certificates of deposit of major money market banks, plus (ii) a letter of credit commission at the rate of ¾ of 1 percent per annum of the amount available to be drawn under the Letter of Credit.

HWP anticipates that its payments to the Bank will be limited to the amount of the letter of credit commission plus a nominal amount of interest because either (i) HWP will make the semi-annual interest payments and the payments due at maturity directly to the Trustee and no drawings will be made under the letter of Credit or (ii) as is presently contemplated, the Bank will make such payments to the Trustee but will be concurrently reimbursed for such payments by HWP, so that drawings under the Letter of Credit will be outstanding for a very brief period of time.

The Bank's obligation to issue the Letter of Credit would be subject to its receipt from NU of an undertaking to contribute to HWP's cash equity $3,000,000 prior to December 31, 1981 and an additional $3,000,000 prior to December 31, 1982. The Bank would also require NU to undertake to have available, with its subsidiaries, for the refunding of the bonds, unused credit in an amount at least equal to the amount of the Bank's obligations under the Letter of Credit on the date the last series of the bonds is due and payable, or on any earlier date when the bonds are required to be redeemed because of the happening of certain extraordinary events.

The Mt. Tom Conversion is expected to cost approximately $35,000,000 of which approximately $28,000,000 is expected to be expended for Facilities that are eligible for financing on a tax exempt basis through issuance of pollution control bonds. HWP expects to finance approximately $32,000,000 of the Mt. Tom Conversion through the use of an Oil Conservation Adjustment by HWP and other subsidiaries of NU, under which two-thirds of the fuel cost savings per kWh resulting from the conversion would be collected through rates and retained by the utility

company until the whole cost of conversion is paid. The Oil Conservation Adjustment has been approved by the Federal Energy Regulatory Commission and the Connecticut Department of Public Utility Control, and HWP and other subsidiaries of NU are entitled to impose the Oil Conservation Adjustment under the laws of Massachusetts. The proceeds of the bonds are intended to assist HWP to pay the cost of the Facilities incurred before HWP receives revenue collections under the Oil Conservation Adjustment, and to assist in financing the difference between the total construction cost of the Mt. Tom Conversion and the amount of such collections. The proposed revolving credit and term loan agreement which is the subject of the application-declaration in File No. 70-6638 is also expected to provide funds for similar purposes.

HWP requests an exception from the competitive bidding requirements of Rule 50 because the interest rate on such borrowings will be determined by reference to the issuance of pollution control bonds by the Issuer, a transaction which is not subject to the provisions of the Act.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by November 30, 1981, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service [by affidavit or, in case of an attorney at law, by certificate] should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-32832 Filed 11-12-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12027, 812-4971]

Northwestern Capital Corp. and Northwestern Bank; Filing of Application for an Order of the Commission

November 6, 1981.

Notice is hereby given that Northwestern Capital Corporation (the "Fund"), registered under the Investment Company Act of 1940 (the "Act") as a closed-end, non-diversified management investment company, and The Northwestern Bank (the "Bank"), P.O. Box 310, North Wilkesboro, North Carolina 28674, a North Carolina corporation and majority shareholder of the Fund (collectively the "Applicants"), filed an application on September 16, 1981, and an amendment thereto on October 13, 1981, for an order of the Commission pursuant to section 17(d) of the Act and Rule 17d-1, thereunder permitting the participation of the Fund in the proposed merger of the Fund into a wholly-owned subsidiary of the Bank. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that the Fund is licensed as a small business investment company under the Small Business Investment Act of 1958. Applicants further state that the Bank currently owns 59.8 percent of the outstanding capital stock of the Fund. According to the application, 17.7 percent of the Fund's outstanding capital stock is held by Brad Ragan, Inc., a publicly traded corporation, and the remaining 22.5 percent of its shares are held by approximately 360 persons.

Applicants state that the Fund proposes to enter into a Plan and Agreement of Merger ("Plan") with NWFC Corporation, a yet to be organized North Carolina corporation which will be a wholly-owned subsidiary of the Bank. According to the Plan, NWFC Corporation will merge into the Fund with the Fund being the surviving corporation. Also, each shareholder of the outstanding capital stock of the Fund, except the Bank, will be entitled to receive $7.97 per share which represents the net asset value per share of the Fund as of July 31, 1981. Applicants state that on the effective date of the merger, the cash for which the outstanding capital stock of the Fund will be exchanged will be deposited with the Fund by the Bank. Applicants further state that the Fund shareholders will receive the amount due them upon their surrender to the Fund of their stock certificates. Applicants represent that all expenses connected with the Plan will be borne by the Bank or the Fund but not until it becomes a wholly-owned subsidiary of the Bank.

Applicants state that the Plan was approved by an executive committee of the Fund's board of directors at a meeting held May 19, 1981. Applicants further state that upon the issuance of an order by the Commission permitting the proposed merger, a special meeting of the Fund's shareholders will be held to approve the Plan. Applicants represent that shareholders of the Fund will be mailed a proxy statement of the Plan and that the affirmative vote of a majority of the Fund's shareholders is necessary to approve the proposed merger. Applicants state that any shareholder objecting to the proposed merger can avail himself of the right of appraisal as provided by North Carolina law.

Rule 17d-1, adopted by the Commission pursuant to Section 17(d) of the Act, provides, in part, that no affiliated person of any registered investment company and no affiliated person of such a person, acting as principal, shall participate in, or effect any transaction in connection with any joint enterprise or other joint arrangement in which such registered company is a participant unless an application regarding such joint enterprise or arrangement has been filed with the Commission and has been granted by an order. A joint enterprise or other joint arrangement as used in this Rule is any written or oral plan, contract, authorization or arrangement, or any practice or understanding concerning an enterprise or undertaking whereby a registered investment company and any affiliated person of such registered investment company, or affiliated person of such a person, have a joint or a joint and several participation, or share in the profits of such enterprise or undertaking. In passing upon such application, the Commission will consider whether the participation of such registered investment company in such joint enterprise or joint arrangement on the basis proposed is consistent with the provisions, policies and purposes of the Act, and the extent to which such participation is on a basis different from or less advantageous than that of other participants. Under Section 2(a)(3) of the Act any person owning 5% or more of any person's outstanding voting securities is an affiliated person of such person. Accordingly, since the Bank owns 100% of the common stock of NWFC Corporation and 59.8% of the Fund, NWFC Corporation is an affiliated

person of an affiliated person of the Fund within the meaning of Section 2(a)(3) of the Act. As such, the Plan might be deemed to constitute a joint enterprise or arrangement prohibited by Section 17(d) of the Act and Rule 17d–1 thereunder without Commission approval.

Applicants state that the Fund's board of directors has considered the Plan and unanimously recommends that the Fund's shareholders approve it. In addition, the board of directors of the Fund has determined that the merger with NWFC Corporation is in the best interests of the Fund and its shareholders. As stated above, the merger will be effected at the Fund's net asset value per share of $7.97. As noted earlier, the Fund's assets will not be depleted since all the cash for which the Fund shares will be exchanged will be contributed by the Bank. In addition, all expenses of the merger will be borne by the Bank or the Fund but only after the Fund becomes a wholly-owned subsidiary of the Bank. Applicants believe that this price per share is a fair price since it is above the fair market value of the shares. Applicants represent that on August 13, 1981, thirty shares of the Fund were traded for $5.00 per share. In addition, Applicants state that there is no market maker in the Fund's shares and little or no market. Applicants further state that presently the Fund is too small to operate effectively as a public company and that the small number of individual shareholders necessitates a high cost per shareholder for annual reports and maintenance of stock transfer records. Applicants believe the Fund can operate more effectively as a non-public corporation.

Thus, Applicants represent that the terms of the proposed sale transaction are reasonable and fair to all partics, do not involve overreaching and are consistent with the investment objectives of the Fund and with the policies of the Act. Applicants contend that the merger with NWFC Corporation will benefit the shareholder of the Fund by enabling them to sell their shares in the Fund for an above market price.

Accordingly, the Applicants request an order of the Commission, pursuant to Section 17(d) of the Act and Rule 17d–1 thereunder, permitting the participation of the Fund in the proposed merger transaction under the provisions of the Plan.

Notice is hereby given that any interested person may, not later than December 1, 1981, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commisison's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, (including the date if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-32832 Filed 11-12-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12023; 812-4918]

Gulledge Realty Investors I, et al.; Filing of Application

November 6, 1981.

In the matter of Gulledge Realty Investors I, Gull-Age Properties, Inc., and Eugene A. Gulledge, 5203 Leesburg Pike, Suite 701 (812–4918).

Notice is hereby given that Gulledge Realty Investors I ("Partnership"), a Virginia limited partnership, and its general partners, GULL-AGE Properties, Inc. ("GULL-AGE"), and Eugene A. Gulledge ("General Partners", and, together with the Partnership, collectively referred to hereinafter as "Applicants"), filed an application on July 14, 1981, and amendments thereto on October 14, 1981, and October 16, 1981, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), for an order exempting the Partnership from all provisions of the Act and rules thereunder. All interested persons are referred to the application on file with the Commisison for a statement of the representations contained therein, which are summarized below.

Applicants state that the Partnership was formed under the Virginia Limited Partnership Act on July 1, 1981, and is designed to provide private investors with a means of acquiring equity interests in government-assisted rental housing in accordance with the policies and objectives of Title IX of the Housing and Urban Development Act of 1968 ("Title IX"). Applicants state that the Partnership will operate as a "two-tier" entity, i.e., the Partnership, as a limited partner, will invest in two other limited partnerships ("Project Partnerships") which, in turn, are engaged in the development, rehabilitation, ownership, and operation of government-assisted rental housing projects for elderly and handicapped persons ("Projects"). Applicants further state that the Partnership is organized as a limited partnership because that form of organization is the only one which provides the investor both with liability limited to his capital investment, and with the ability to claim on his individual tax return the deductions, losses, credits, and other tax items that originate from the housing projects in which the limited partnership invests.

It is stated further that the partnership form affords the advantages of centralized management necessary for a publicly-held issuer, and that the two-tier structure has been selected in order to facilitate a public offering which will involve numerous investors and reinvestment by the Partnership in two different projects in different states. Applicants represent that the Partnership is requesting a private ruling from the Internal Revenue Service ("IRS") that the Partnership will be classified as a partnership and not as an association taxable as a corporation, but that it is not anticipated that such ruling will be obtained before investors ("Limited Partners") sometimes referred to hereinafter together with the General Partners, as "Partners" are admitted to the Partnership. In addition, Applicants state that it does not intend to apply for an IRS ruling that the Project Partnerships are partnerships (and not associations taxable as corporations), but that it will obtain an opinion of its legal counsel with respect to the status of the Project Partnerships, as well as with respect to the Partnership itself.

Applicants state that on October 14, 1981, the Partnership filed an amended registration statement under the Securities Act of 1933 ("Securities Act"), pursuant to which the Partnership intends to offer publicly 3,900 units of limited partnership interest ("Units") at $1,000 per Unit, with a minimum investment of $5,000 per investor.

Applicants represent that the Partnership expects to have $3,388,000 available for investment from the proceeds of the public offering net of payment of sales commissions of as much as $312,000 (8 percent of gross offering proceeds) and other expenses of the public offering estimated to aggregate $200,000 (5.13 percent of gross offering proceeds). Applicants represent that from the amount available for investment, the Partnership will pay acquisition expenses and fees to the General Partners and their affiliates in an amount estimated to be $486,000 (12.46 percent of gross proceeds), and will establish a reserve for contingencies in the presently anticipated amount of $117,000 (3 percent of gross proceeds). It is further stated that the anticipated $2,785,000 (71.41 percent of gross proceeds) balance of the amount available for investment will be invested in the Project Partnerships and paid directly to the general partners of the Project Partnerships ("Project General Partner") for services relating to the Projects.

Applicants state that subscriptions for Units will have to be approved by GULL-AGE ("Managing General Partner") and that such approval will be made conditional upon representations as to suitability of the investment for each subscriber. Applicants further state that Units will be sold in certain states only to persons who meet more restrictive criteria as set forth in the subscription agreement, and that the transfer or sale of Units will only be permitted if the transferee meets comparable suitability standards.

Applicants state that offers and sales of the Units will be effected on a "best efforts, all or none" basis through A. G. Edwards & Sons, Inc. ("Placement Agent"), an affiliate of the General Partners, who will engage other broker-dealers who are members of the National Association of Securities Dealers, Inc. ("NASD") to join in effectuating the underwriting. Applicants state that if fewer than 3,900 Units have been sold by December 15, 1981, or by March 31, 1982 if the public offering is kept open until that date, the offering will be withdrawn and all subscription proceeds will be returned to investors with interest, net of certain expenses. Applicants further represent that at the discretion of the Partnership, such subscription proceeds may be temporarily invested in savings bank and commercial bank time deposits or certificates of deposit, government securities issued or fully insured by the United States Government, and in commercial paper rated P-1 by Moody's Investors Services, Inc. It is stated that upon the sale of all 3,900 Units, and admission of investors to the Partnership as Limited Partners, all of the net proceeds of the offering together with income earned thereon, will be deposited and held in trust for the benefit of Limited Partners in a separate account or accounts with depositories selected by the Managing General Partner, to be utilized only for the specific purposes described in the Partnership's prospectus. Pending utilization in the operations of the Project Partnerships, Applicants state, funds released to the Partnership will be invested in tax-exempt investments so that cash flow derived from such investments should not be taxable to Partners. Applicants represent that all such tax-exempt investments will be rated MIG-2 or better by Moody's and will have maturities which do not exceed one year.

Applicants state that the Partnership will be controlled by the Managing General Partner, and that the Limited Partners, consistent with their limited liability status, will not be entitled to participate in the control of the business of the Partnership. However, it is further stated that a majority in interest of the Limited Partners will have the right to amend the Partnership Agreement, dissolve the Partnership, remove the General Partners and elect a replacement, and to continue the Partnership upon the death, insanity, retirement, or bankruptcy of a General Partner that is the sole General Partner, provided that counsel opines, or a court of competent jurisdiction determines, that such rights will not adversely affect the tax or limited liability status of the Limited Partners. Applicants also state that under the Partnership Agreement, each Limited Partner is entitled to review all books and records of the Partnership during reasonable business hours. Applicants state that as a limited partner of the Project Partnerships, the Partnership will share the profits and losses of the Project Partnerships for tax and accounting purposes in proportion to the 98.9 percent interest it has acquired in each Project Partnership. It is further stated that the Partnership normally will also share in the cash flow from the day-to-day operations of the Project Partnerships in proportion to the 98.9 percent interest it holds in each Project Partnership, after the payment of expenses and fees. Applicants further state that the Partnership will also share in the net proceeds realized by the Project Partnerships from any sale, refinancing, or disposition of the Projects.

Applicants state that in general, the Project General Partners will have full, exclusive and complete control in managing the respective Project Partnerships. It is stated that as a limited partner of the Project Partnerships, the Partnership generally will have no right to participate in the management of Project operations. Applicants further state that in both Project Partnerships, GULL-AGE Realty Advisers, Inc., has been admitted a general partner ("Special General Partner"), with authority to review all tax matters, select attorneys and accountants for tax and securities law matters, remove the Project General Partners with or without cause, and to consent to any refinancing or modification of the permanent mortgages for the Project. As to the power to remove a Project General Partner, Applicants state that, with respect to one of the Project Partnerships, the Special General Partner has exclusive authority to effect such removal, both for cause and without cause.

Applicants represent that all compensation that will be payable to the General Partners and their affiliates will be fair and reasonable and on terms not less favorable to the Partnership than would be the case if such compensation had been negotiated with independent third parties. Applicants represent further that no fees will be payable to the Managing General Partners or to its affiliates, if all Units being offered to investors are not sold. It is further represented that in the case of a Project Partnership in which the Partnership has made an initial capital contribution but does not make further capital contributions because the Project Partnership is unable to comply with the provisions of the Project Partnership Agreement or otherwise, no portion of the fees paid to the Managing General Partner of its affiliates will be returned to the Partnership. However, Applicants state, funds not invested in that Project Partnership will be returned to the Limited Partners.

Applicants expressly recognize that under the Virginia Uniform Limited Partnership Act and under the terms of the Partnership Agreement, the General Partners are accountable to the Partnership as fiduciaries and, consequently, must exercise good faith and integrity in handling Partnership matters. Applicants further state, however, that the General Partners will not be liable to the Partnership or to Limited Partners when acting within the scope of their authority, for errors in judgment or other acts or omissions not

amounting to negligence or misconduct. It is also stated that the Partnership Agreement provides for indemnification of the General Partners and their affiliates for liabilities incurred in transactions with third parties in the exercise of good faith performed on behalf of the Partnership and in a manner reasonably believed by them to be within the scope of authority conferred upon them by the Partnership Agreement, with exception of acts of negligence or misconduct. Applicants also state that the Partnership has agreed to indemnify the Placement Agent for certain liabilities arising under the Securities Act, but that if a claim is made by the Placement Agent, or by the General Partners or their affiliates for liabilities under the Securities Act (other than a claim for expenses incurred in a successful defense), the Partnership will make such payments only upon approval by a court of competent jurisdiction, the court having been advised in writing that indemnification for liabilities arising under the Securities Act are, in the opinion of the Securities and Exchange Commission, contrary to public policy and therefore unenforceable.

Applicants state that the Partnership will file with the Commission pursuant to section 15(d) of the Securities and Exchange Act of 1934 all required annual reports, quarterly reports, and current reports on Forms 10–K, 10–Q, and 8–K, as well as any other reports required by such Act. In addition, Applicants state that by April 30 of each year, the Managing General Partner will furnish each Limited Partner an audited annual report.

Applicants submit that the Partnership is not an investment company as defined in the Act, but further request that, in any event, the Partnership be exempted from all provisions of the Act pursuant to section 6(c). Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction from any provision of the Act and rule thereunder if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants contend that the exemption of the Partnership from the provisions of the Act is both necessary and appropriate in the public interest. It is asserted that the limited partnership form of organization, which is necessary to limit the liability of private investors in government-assisted housing programs, is incompatible with the regulatory framework of the Act. Thus, Applicants submit that to discourage the use of the two-tier partnership vehicle would eliminate the primary means of attracting equity capital into government-assisted housing and would frustrate the national policy declared by Congress in Title IX, which is "to encourage the widest possible participation by private enterprise in the provisions of housing for low and moderate income persons."

Applicants further state that the requested exemption would be consistent with the protection of investors and the purposes and policies of the Act. Applicants note that sales of the Units will be restricted to sophisticated investors, who will be apprised on a continuing basis of the Partnership's business and operations through the detailed reports which the Partnership will distribute to Limited Partners, and file with the Commission. It is further stated that with the exceptions of funds which the Partnership may hold in money market instruments and other interim investments, all of the proceeds of the sale of the Units will be invested in the Project Partnerships, which are specifically indentified and described in the Partnership's prospectus. Thus, Applicants assert, the General Partners' discretion to invest Partnership funds is circumscribed by the investment objectives set forth in the Partnership's prospectus. Finally, Applicants represent that all potential conflicts of interest relating to the Partnership have been disclosed to investors in the Partnership's prospectus, and that the Partnership Agreement contains numerous provisions designed to prevent overreaching by the General Partners and to ensure fair dealing by them with Limited Partners.

Notice is further given that any interested person may, not later than December 1, 1981, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81–32760 Filed 11–12–81; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 18245; File No. S7–433]

Receipt of Amendment to CTA Plan

November 6, 1981.

On November 2, 1981, the participants in the Consolidated Tape Association ("CTA") submitted to the Commission, pursuant to Rule 11Aa3–2 under the Securities Exchange Act of 1934, an amendment to the Restated and Amended Plan ("CTA Plan").[1]

I. Description of Amendment

The CTA Plan participants have proposed amending Schedules A–1 and A–3, attached to the Restated CTA Plan as Exhibit D. The amendment increases both Network A and Network B interrogation unit rates by eight percent and reflects the increased costs of making available last sale information. The new rates will be effective January 1, 1982.

II. Request for Comment

Pursuant to Rule 11Aa3–2(c)(3) under the Act, the amendment became effective upon filing with the Commission. However, the Commission may summarily abrogate the amendment within 60 days of filing and require filing and Commission approval by order pursuant to Rule 11Aa3–2(c)(2), if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or the maintenance of fair and orderly markets, to remove impediments to, and perfect mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act. Accordingly, in

[1] *See* Securities Exchange Act Release No. 16983, (July 16, 1980) 45 FR 49414.

order to assist the Commission in determining whether to abrogate the amendment and to require filing and further review, interested persons are invited to submit their views to George A. Fitzsimmins, Secretary, Securities Exchange Commission, Washington, D.C. 20549, on or before December 4, 1981. The amendment to the CTA Plan will be available for public inspection in the Commission's public reference room. All communications should refer to File No. S7–433.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-32759 Filed 11-12-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18185; File No. SR-MCC-81-8]

Self-Regulatory Organizations; Proposed Rule Change; Midwest Clearing Corp.; Contributions to Participants Fund

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 14, 1981, the Midwest clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement on the Terms of Substance of the Proposed Rule Change

Sections 6 and 7 of Rule 14 of the Midwest Clearing Corporation Rules are hereby amended as follows:

Additions Italicized—[Deletions Bracketed]

Contributions of Participants to Participants Fund

Sec. 6. Delete in its entirety.

The contribution of each participant to the Participants Fund shall be fixed by the Corporation in accordance with a formula, based upon the participant's usage of the Corporation's facilities, at the time such participant's application for membership is approved. The contribution of a participant to the Participants Fund may thereafter from time to time be increased or reduced by the Corporation. All participants must at all times maintain a fixed minimum cash contribution of $5,000 or such greater amount as may be established by the Board of Directors. Notice of any change to the fixed minimum amount shall be given to each participant at least 10 business days prior to the effective date of the change. Contributions made by a participant, in excess of the minimum cash contribution, may be made either in cash or in unmatured negotiable debt securities which are direct obligations guaranteed as to principal and interest by the United States Government, and which mature one year or less from the date of issue. Securities contributed to the Participants Fund shall be valued at the lesser of the par value or 100 percent of the current market value thereof. Cash contributions to the Participants Fund shall be paid to the Corporation. Contributions in the form of securities shall be made by depositing the securities with a bank or trust company approved by the Corporation, and delivering to the Corporation a depository receipt, therefore, in such form as the Corporation may prescribe. Any interest or gain on securities deposited by a participant with an approved bank or trust company pursuant to this Section shall accrue to the participant.

Investing of Participants Fund

Sec. 7. Cash contained in the Participants Fund may from time to time be partially or wholly invested by the Corporation for its account in securities issued or guaranteed by the United States, certificates of deposit, and commercial paper in the first, second or third ratings of any nationally known statistcal service, and to the extent not so invested shall be deposited by the Corporation in its name in a special bank account or accounts in such depository or depositories as may be selected by the Corporation. Any interest received from such investments or deposits *of the required minimum cash contribution* shall accrue to the Corporation. *Interest received from investments or deposits of cash contributions which are in excess of the minimum cash contributions shall accrue to the Participant.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed changes in the participants fund rules are necessary to establish a more equitable allocation of clearing corporation liability among the participants. The minimum contribution must now be made entirely in cash and is required of all participants. In section 7 of rule 14, the benefit of investment of the excess of the minimum cash contribution will now accure to the participant rather than to the corporation. This will offset the increased cost to the participant of having to deposit a larger minimum contribution in cash. The increase in the amount of the minimum cash contribution from $1,000 to $5,000 is necessitated because of greater potential exposure to the clearing corporation due to increased activity, especially with the addition of clearance and settlement services in CNS for over-the-counter issues.

The proposed rule change is consistent with section 17A of the Exchange Act in that it provides for increased safeguarding of securities and funds necessary to the protection of investors and provides for the equitable allocation of charges among participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Clearing Corporation does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Participants, Members or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before December 18, 1981 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before December 4, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 19, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-32757 Filed 11-12-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18243; File No. SR-NYSE-81-24]

Self-Regulatory Organizations; Proposed Rule Change; New York Stock Exchange, Inc.; Rate Increases Affecting Equity Listing Fees

Pursuant to section 19 (b) (1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 3, 1981, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is instituting rate increases affecting listing fees.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements. (A) The purpose of this change is to offset in part the increased costs of supplying services provided by the Exchange. These costs include manpower, systems, and utilities associated with providing market place services. The Basis under the Act for the proposed rule change is Section 6(b)(4) permitting the rules of an Exchange to provide for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its services.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The fee changes are not expected to create a burden on competition.

(C) Self-Regulatory Organizaation's Statement of Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has not received any comments on this proposed change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

By December 18, 1981 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before December 4, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 5, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-32756 Filed 11-12-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18247; File No. SR-MSE-81-10]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Stock Exchange, Inc.

Pursuant ot section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 28, 1981, the Midwest Stock Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Midwest Stock Exchange, Incorporated has proposed an amendment to Article VIII, Rule 23. The proposed rule change makes the rules and procedural requirements of Rule 24 inapplicable to those matters that are decided by the Committee on Floor Procedure, thereby creating a method of expedited dispute resolution for

members. The proposed rule change clarifies the fact that Rule 24 is applicable to those matters which are to be decided by an Arbitration Panel.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) *Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*—The purpose of the proposed rule change of Rule 23 is to provide Exchange members a means of expedited dispute resolution when the parties agree to sue such means. Furthermore, the rule change adds clarity to the rules in that it addresses those matters which Exchange rules already require to be brought before the Committee on Floor Procedure. The proposed rule makes more explicit what was previously only implicit.

The statutory basis for the adoption of the proposed rule change is found in section 6(b)(5). It will facilitate transactions in securities; foster cooperation and coordination with persons engaged in settling and it prevents unfair discrimination between brokers or dealers.

(B) *Self-Regulatory Organization's Statement on Burden on Competition*—The Midwest Stock Exchange, Incorporated does not believe the proposed rule change will affect competition in any way.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*—Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before December 18, 1981, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20439. Copies of the submission, all subsequent statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by December 4, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 6, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-32833 Filed 11-12-81; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/461]

Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State will hold a meeting on December 1, 1981, of the Advisory Committee on International Investment, Technology, and Development. The Committee will meet from 9:15 a.m. to 1:00 p.m. The meeting will be held in the Loy Henderson Conference Room of the State Department, 2201 C Street, N.W., Washington, D.C. 20520. The meeting will be open to the public.

The purpose of the meeting will be to discuss current investment issues and review the activities of the Committee's various working groups. The Committee will continue its discussion of foreign treatment of investment and the impact of performance requirements on investment and trade flows.

Requests for further information on the meeting should be directed to Philip T. Lincoln, Jr., Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632-2728.

Members of the public wishing to attend the meeting must contact Mr. Lincoln's office in order to arrange entrance to the State Department building.

The Chairman of the Committee will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: November 3, 1981.

Philip T. Lincoln, Jr.,

Executive Secretary.

[FR Doc. 81-32709 Filed 11-12-81; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/462]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea; Meeting

The Working Group on Radiocommunications of the Subcommittee on Safety of Life at Sea will conduct an open meeting on December 3, 1981, at 9:30 A.M., in Room 9230 of the Department of Transportation Building, 400 Seventh Street, S.W., Washington, D.C. 20590. The meeting scheduled for November 18, 1981 has been cancelled.

The purpose of this meeting is to prepare position documents for the Twenty Fourth Session of the Subcommittee on Radio-communications of the Intergovernmental Maritime Consultative Organization (IMCO) to be held in London on March 15, 1982. In particular, the working group will discuss the following topics:

—Maritime distress system
—Performance standards for shipboard radio equipment

—Promulgation of navigational warnings
—Life-saving radio equipment
—Digital selective calling
—Matters related to ITU for Mobile Telecommunications
—Matters related to CCIR Study Group 8

For further information cotact Mr. R. L. Swanson, U.S. Coast Guard (G–TTM–S/32), Washington, D.C. 20593. Telephone (202) 426–0517.

Dated: October 28, 1981.

James A. Treichel,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 81-32710 Filed 11-12-81; 8:45 am]

BILLING CODE 4710-07-M

OFFICE OF UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Import Relief on Porcelain-on-Steel Cookware; Request for Public Comment on Possible Reduction or Termination

By Presidential Proclamation 4713 of January 16, 1981, the President provided for increase for four years in the duty on imports of non-electric, steel cookingware, enameled or glazed with vitreous glasses and valued not over $2.25 per pound, provided for in item 654.02 of the Tariff Schedules of the United States (TSUS). That proclamation implemented the President's determination, under section 202(a) of the Trade Act of 1974 (the Act) (19 U.S.C. 2252(a)), which was contained in a Memorandum from the President dated January 2, 1980 (45 FR 759). In the Memorandum, the President directed the United States Trade Representative to request advice from the United States International Trade Commission (the Commission) concerning the probable economic effect on the domestic procelain-on-steel cookware industry of termination of import relief at the end of two years.

The Commission, at the request of the Trade Representative instituted an investigation on June 26, 1981. In the report of their findings, dated October 28, 1981 (Report to the President, Investigation No. TA–203–10), the Commission advises that termination or reduction of relief in this case would have an adverse economic effect on the domestic industry.

The Trade Policy Staff Committee (TPSC), must prepare a recommendation to the United States Trade Representative concerning what action, if any, he should advise the President to take. To assist the TPSC in developing that recommendation, interested persons are invited to submit written briefs on the probable effects of termination of the temporary duty increase on porcelain-on-steel cookware.

Comments on the following factors are invited:

(1) The probable effectiveness of continued import relief as a means to promote adjustment, the progress being made or the specific efforts to be implemented by the porcelain-on-steel cookware industry to adjust to import competition, and other considerations, relevant to the position of the industry in the nation's economy;

(2) The effect of continuation or termination of the import relief on consumers and on competition in the domestic market for the product;

(3) The effect of continuation or termination of the import relief on the international economic interests of the United States;

(4) The extent to which the United States market is a focal point for exports of porcelain-on-steel cookware by reason of restraints on exports of those articles to, or on imports of them into, third country markets; and

(5) The economic and social costs which would be incurred by taxpayers, communities and workers.

Comments should be submitted in twenty (20) copies to the Secretary, Trade Policy Staff Committee, Room 500, 600 17th Street N.W., Washington, D.C. 20506. Submissions must be received no later than the close of business November 30, 1981. For further information call March Schweitzer on (202) 395–7203. Legal questions should be directed to Alice Zalik (202) 395–3432.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 81-32668 Filed 11-12-81; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 81–5]

Avialability of Michigan State University Study on Beverage Alcohol Advertising

AGENCY: The Bureau of Alcohol, Tobacco and Firearms (ATF).

ACTION: Notice of availability of a study about beverage alcohol advertising and consumer attitudes and perceptions.

FOR FURTHER INFORMATION CONTACT:

Bruce Weininger, Bureau of Alcohol, Tobacco and Firearms, Washington, DC, (202) 566–7581
Judith R. Schneider, Federal Trade Commission, New York, NY, (212) 264–1929
Steven Benson at (202) 426–0078 or John Maulden at (202) 426–2180, National Highway Traffic Safety Administration, Washington, DC
Fritz Witti, National Institute on Alcohol Abuse and Alcoholism, Rockville, MD, (301) 443–4883

SUPPLEMENTARY INFORMATION: The final report of a study conducted by the Michigan State University, East Lansing, Michigan, concerning the content and effects of beverage alcohol advertising on consumer attitudes and perceptions is now available to the public. The study was jointly commissioned by the Federal Trade Commission, the National Institute on Alcohol Abuse and Alcoholism of the Department of Health and Human Services, the National Highway Traffic Safety Administration of the Department of Transportation, and the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury.

Copies of the final report, "Content and Effects of Alcohol Advertising," (Document No. PB–82123142), may be obtained from National Technical Information Service, U.S. Department of Commerce, 5285 Fort Royal Road, Springfield, VA 22161, (703) 487–4600.

Anyone desiring additional information may contact any of the persons listed above.

Signed: November 5, 1981.

G. R. Dickerson,

Director.

[FR Doc. 81-32889 Filed 11-12-81; 8:45 am]

BILLING CODE 4810-31-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 219
Friday, November 13, 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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	Items
Commodity Futures Trading Commission	1
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National Credit Union Administration	5, 6
Nuclear Regulatory Commission	7
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1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, November 20, 1981.

PLACE: 2033 K Street N.W., Washington, D.C., Eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:
Surveillance briefing.

AGENCY HOLDING THE MEETING:
Commodity Futures Trading Commission.

TIME AND DATE: 10 a.m., Tuesday, November 17, 1981.

PLACE: 2033 K Street NW., Washington, D.C., Fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Amendment to Rule 180.3 (Binding Arbitration)
Bankruptcy Rules
Rule Disapproval (Chicago Board of Trade (Arbitration))

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1699-81 Filed 11-10-81; 11:05 am]

BILLING CODE 6351-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, November 9, 1981, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director Charles E. Lord (Acting Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of Southeast Bank, Fort Lauderdale, Florida, for consent to merge, under its charter and title, with Bank of Coral Springs, Coral Springs, Florida, and to establish the main office, two branches, and one facility of Bank of Coral Springs as three branches and one facility of the resultant bank.

Appointment of a liquidator for the assets acquired by the Corporation from The Greenwich Savings Bank, New York (Manhattan), New York.

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

By the same majority vote, the Board also voted to withdraw from the agenda for consideration in open session and to add to the agenda for consideration at the Board's closed meeting held at 2:30 p.m. the same day the following matters:

Applications for consent to add subordinated capital notes to the bank's capital structure and for advance consent to the retirement thereof at maturity:

ComBank/Apopka, Apopka, Florida
ComBank/Fairvilla, Fairvilla, Florida
ComBank/Pine Castle, Pine Castle, Florida
ComBank/Seminole County, Casselberry, Florida
ComBank/Union Park, Union Park, Florida
ComBank/Winter Park, Winter Park, Florida

In voting to move these matters from open session to closed session, the Board further determined, by the same majority vote, that the public interest did not require consideration of the matters in a meeting open to public observation; that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)); and that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: November 9, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1700-81 Filed 11-10-81; 11:44 am]

BILLING CODE 6714-01-M

3

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, November 17, 1981 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Wednesday, November 18, 1981 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Any matters continued from the Executive Session on November 17, 1981.

* * * * *

DATE AND TIME: Thursday, November 19, 1981 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Advisory opinions
  Draft AO 1981-47: Sam Church, Jr., Coal Miners Political Action Committee
  Draft AO 1981-48: John C. Ruck, Executive Committee of the Muskegon County Republican Party
  Draft AO 1981-51: William C. Oldaker, Metzenbaum for Senate
Routine Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; Telephone: 202-523-4065.

Lena L. Stafford,

Acting Secretary of the Commission.

[S-1704-81 Filed 11-10-81; 3:53 pm]

BILLING CODE 6715-01-M

4

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., November 18, 1981.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agreement No. 150–70: Modification of the Trans-Pacific Freight Conference of Japan/Korea to provide for rate initiatives.
2. U.S. Atlantic & Gulf/Australia-New Zealand Conference—Petition for stay and reconsideration of conditional disapproval of Agreement No. 6200–20 (Intermodel authority).
3. Italy, South France, South Spain, Portugal/U.S. Gulf and Puerto Rico Conference and Mediterranean/North Pacific Coast Freight Conference—Petitions for reconsideration of conditional disapproval of Agreements Nos. 9522–44 and 8090–18 (Intermodel authority).
4. Italy, South France, South Spain and Portugal/U.S. Gulf and Puerto Rico Conference—Petition for reconsideration of conditional approval of Agreement No. 9522 DR–10 (Intermodal authority).
5. Petition of the Traffic Board, North Atlantic Ports Association Regarding Terminal Handling Charges Published by the Scandinavia Baltic/U.S. North Atlantic Westbound Freight Conference and the Continental North Atlantic Westbound Conference—Consideration of the record.
6. Puget Sound Tug and Barge Company proposed extension of exemption from the provisions of the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933, for carriage of general cargo between ports in the contiguous United States and Prudhoe Bay, Alaska.

Portions closed to the public:

1. Fact Finding Investigation No. 12—Motions to quash subpoenas.
2. Roco Worldwide, Inc. v. Constellation Navigation, Inc., No. 80–1781, CA 4—Discussion of impact of decision.
3. Docket No. 80–45: Agreement Nos. 10386, As Amended, 10388, 10382, As Amended, and 10389—Cargo Revenue Pooling/Equal Access Agreements in the United States/Argentine Trades—Consideration of request for oral argument and possible consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523–5725.

[S–1701–81 Filed 11–10–81; 11:44 am]

BILLING CODE 6730–01–M

5

NATIONAL CREDIT UNION ADMINISTRATION

Change in Subject of Meeting

The National Credit Union Administration Board has determined that its business required that the previously announced closed meeting on Thursday, November 5, 1981 include the following additional item which was closed to public observation:

Personnel Action. Closed pursuant to exemptions (2) and (6).

Earlier announcement of this change was not possible.

The previously announced items were:

1. Administrative Adjudication. Closed pursuant to exemptions (8), (9)(A)(ii) and (10).
2. Requests from Federally insured credit unions for special assistance under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9) (A) (ii).
3. Requests for mergers with special assistance under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9) (A) (ii).

The meeting was held at 10:30 a.m., in the 7th Floor Board Room, 1776 G Street N.W., Washington, D.C.

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357–1100.

[S–1705 81–Filed 11–10–81; 4:08 pm]

BILLING CODE 7535–01–M

6

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 3 p.m., Wednesday, November 18, 1981.

PLACE: Seventh floor board room, 1776 G Street N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility Lending rate.
2. Proposed delegation of authority regarding charter cancellation.
3. Interpretive Ruling and Policy Statement: Section 701.35(e) of the NCUA Rules and Regulations regarding calculation of minimum penalty for variable rate certificate.
4. Proposed rule to amend Section 701.32 of the NCUA Rules and Regulations regarding shares by Public Units.
5. Proposed rule regarding Section 701.26 of the NCUA Rules and Regulations regarding Credit Union Service Contracts.
6. Reports of action taken under delegations of authority.
7. Applications for charters, amendments to charters, bylaw amendments, mergers that may be pending at that time.

RECESS: 4 p.m.

* * * * *

TIME AND DATE: 4:15 p.m., Wednesday, November 18, 1981.

PLACE: Seventh floor board room, 1776 G Street N.W., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed charter application. Closed pursuant to exemptions (8) and (9)(A).
2. Proposed charter amendment. Closed pursuant to exemptions (8) and (9)(A)(ii).
3. Proposed Merger. Closed pursuant to exemptions (8) and (9)(A)(ii).
4. Proposed chartering policies for Corporate Central Federal Credit Unions. Closed pursuant to exemptions (8) and (9)(A)(ii).
5. Proposed policy on special assistance under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
6. Requests from Federally insured credit unions for special assistance under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
7. Requests for merger with special assistance under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
8. Budget Authorizations for FY 1982. Closed pursuant to exemptions (2) and (9)(B).

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357–1100.

[S–1706–81 Filed 11–10–81; 4:08 pm]

BILLING CODE 7535–01–M

7

NUCLEAR REGULATORY COMMISSION

DATE: Week of November 16, 1981.

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

Monday, November 16
- 10:30 a.m.: Discussion of Congressional Testimony (closed meeting)
- 2:00 p.m.: Briefing on Pressurized Thermal Shock (public meeting)

Tuesday, November 17
- 10:30 a.m.: Discussion of Management-Organization and Internal Personnel Matters (closed meeting)

Wednesday, November 18
- 3:00 p.m.: Discussion of Policy and Planning Guidance (public meeting)

Thursday, November 19
- 3:00 p.m.: Affirmation/Discussion Session (public meeting). Items to be affirmed and/or discussed:
  - a. Interim Amendments to 10 CFR Part 50 Related to Hydrogen Control
  - b. Publication of "Guidelines for the Management of Agreement State Radiation Control Programs"
  - c. Proposed Amendments: (A) to 10 CFR 50.54, Implementing the Immediate Notification Requirements Mandated in Section 201 of NRC's FY 1980 Authorization Act, and (B) to 10 CFR 50.72, Revising the Immediate Reporting of Significant Events at Operating Nuclear Power Reactors
  - d. Amendments to 10 CFR Chapter I Parts 19, 30, 40, 50, 60, 70, 72 and 150 With Respect to Employees Who Provide Information (postponed from November 12)

ADDITIONAL INFORMATION: By a vote of 5–0 on November 6, the Commission determined pursuant to 5 U.S.C. 552b(e) and § 9.107a of the Commission's Rules that Commission business required that Discussion of Uranium Mill Tailings (Closed Meeting), held that day, be held on less than one week's notice to the public.

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.

Dated: November 9, 1981.

Walter Magee,

Office of the Secretary.

[S-1703-81 Filed 11-10-81; 3:36 pm]

BILLING CODE 7590-01-M

8

POSTAL SERVICE

On November 6, 1981, the Board of Governors of the United States Postal Service voted to close to public observation its meeting scheduled for December 3, 1981, at 7:00 A.M. Each of the members of the Board voted in favor of closing this meeting, which is expected to be attended by the following persons: Governors Hardesty, Babcock, Camp, Ching, Hughes, Hyde, Jenkins, and Sullivan; Postmaster General Bolger; Deputy Postmaster General Benson; Secretary of the Board Cox; and Counsel to the Governors Califano.

The meeting to be closed will consist of a discussion among the members of compensation for certain postal executives.

The Board is of the opinion that public access to this discussion would be likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(6) of title 5, United States Code, and section 7.3(f) of title 39, Code of Federal Regulations, the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b(b)), in that it is likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. The Board has also determined that the public interest does not require that the Board's discussion be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that, in his opinion, the meeting to be closed may properly be closed to public observation, pursuant to section 552b(c)(6) of title 5, United States Code and section 7.3(f) of title 39, Code of Federal Regulations.

Louis A. Cox,

Secretary.

[S-1702-81 Filed 11-10-81; 3:23 pm]

BILLING CODE 7710-12-M

federal register

Friday
November 13, 1981

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

None.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Arkansas:	
AR81-4039	June 19, 1981.
AR81-4040	Do.
AR81-4041	Do.
AR81-4042	Do.
AR81-4043	Do.
Colorado: CO81-5145	Sept. 4, 1981.
District of Columbia: DC81-3040	June 5, 1981.
Maryland: DC81-3040	Do.
Michigan: MI81-2034	July 6, 1981.
Missouri: MO81-4057	July 24, 1981.
North Dakota: ND81-5130	July 6, 1981.
Pennsylvania:	
PA80-3075	Dec. 5, 1980.
PA81-3077	Oct. 9, 1981.
PA81-3068	Sept. 25, 1981.
PA81-3072	Oct. 2, 1981.
PA81-3066	Oct. 23, 1981.
Texas:	
TX81-4008	Jan. 6, 1981.
TX81-4052	July 10, 1981.
TX81-4064	Aug. 7, 1981.
Virginia: DC81-3040	June 5, 1981.
Washington: WA81-5126	July 6, 1981.
Wyoming: WY81-5108	Apr. 3, 1981.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Iowa:	
IA80-4041 (IA81-4088)	Aug. 1, 1980.
IA80-4043 (IA81-4089)	Aug. 8, 1980.
IA80-4045 (IA81-4091)	Do.
Kentucky: KY80-1111 (KY81-1312)	Oct. 3, 1980.
North Carolina: NC80-1061 (NC81-1311)	May 2, 1980.
New Hampshire: NH81-3009 (NH81-3088)	Jan. 23, 1981.

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C. this 6th day of November 1981.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

Modification Page 1

DECISION #AR81-4039-Mod. #4 46FR32177-June 19, 1981 Sebastian, Crawford and Washington Counties, Arkansas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
SEBASTIAN & CRAWFORD COS.					
Bricklayers-Stonemasons	$12.10	.85	.55		.14
Cement masons	12.00	.35			.03
Ironworkers	13.35	.80	1.15		.12
Sheet metal workers	13.26	.65	3%+.96		.04
Roofers	11.81		.30		
DECISION #AR81-4040-Mod. #5 46FR32179-June 19, 1981 Union & Ouachita Counties, Arkansas					
CHANGE:					
Cement masons	12.00	.35			.03
Roofers	11.81		.30		
DECISION #AR81-4041-Mod. #4 46FR32137-June 19, 1981 Garland, Clark and Hot Springs Counties, Arkansas					
CHANGE:					
Cement masons	12.00	.35			
Ironworkers	12.80	.80	1.05		.06
Roofers	11.81		.30		
Sheet metal workers	13.26	.65	3%+.72		.04
DECISION #AR81-4042-Mod. #5 46FR32k87-June 19, 1981 Pulaski County, Arkansas					
CHANGE:					
Bricklayers	12.00	.85	.55		.04
Cement masons	12.00	.35			.03
Ironworkers	12.80	.80	1.05		.06
Sheet metal workers	13.26	.65	3%+.96		.04
Roofers	11.81		.30		

Modification Page 2

DECISION #AR81-4043-Mod. #5 46FR32175-June 19, 1981 Jefferson County, Arkansas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Cement masons	$12.00	.35			.03
Ironworkers	12.80	.80	1.05		.06
Roofers	11.81		.30		
Sheet metal workers	13.26	.65	3%+.96		.04
DECISION NO. CO81-5145 - Mod. #3 (46 FR 44602-September 4, 1981) Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Elbert, Gilpin, Grand, Jefferson, Lake, Larimer, Morgan, Park, Summit and Weld Counties, Colorado					
Change:					
Carpenters:					
Area 1:					
Zone 1	$13.105	$1.10	$1.00	$1.00	.10
Zone 2	14.74	1.10	1.00	1.00	.10
Zone 3	16.38	1.10	1.00	1.00	.10
Area 2:					
Zone 1	13.105	1.10	1.00	1.00	.10
Zone 2	14.74	1.10	1.00	1.00	.10
Zone 3	16.38	1.10	1.00	1.00	.10
Area 3	13.105	1.10	1.00	1.00	.10

Modification Page 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. DC81-3040 - MOD. #5 (46 FR 30290 - June 5, 1981) DISTRICT OF COLUMBIA: MARYLAND-MONTGOMERY AND PRINCE GEORGES; AND D.C., TRAINING SCHOOL; VIRGINIA-INDEPENDENT CITY OF ALEXANDRIA; ARLINGTON AND FAIRFAX COUNTIES					
CHANGE:					
LABORERS - COMPRESSED AIR RATES (EXCLUDING SEWER AND WATER LINES)					
Gauge Pressure Pounds					
1-14	16.27	.65	.78		.08
14-18	19.68	.65	.78		.08
18-22	22.21	.65	.78		.08
22-26	25.29	.65	.78		.08
26-32	32.66	.65	.78		.08
32-38	44.92	.65	.78		.08
38-44	55.58	.65	.78		.08
PAINTERS (EXCLUDING FAIRFAX CO.)					
Brush, spray, paperhangers, tapers	13.82	1.01	1.25		.07
Steel, sandblasting, swing stage, power brushing	14.32	1.01	1.25		.07
DECISION #MD81-2034 - Mod. #1 (46 FR 34983 - July 6, 1981) Alger, Baraga, Chippewa, Dickinson, Gogebic, Houghton, Keweenaw, Mackinac, Marquette, & Ontonagon Counties, Michigan					
CHANGE:					
Electricians:					
Dickinson County:					
Contracts $50,000.00 or more and all industrial work	$13.93	.85	3% + 1.00		1%
Contracts under $50,000.00	12.56	.85	3% + 1.00		1%
Alger & Marquette Counties:					
Contracts over $50,000.00	14.24	.85	3% + 1.00		3/4 of 1%
Contracts under $50,000.00	12.37	.85	3% + 1.00		3/4 of 1%
Chippewa & Mackinac Counties	12.79	.85	3% + 1.00		
Remainder of Counties:					
Contracts $45,000.00 & Over	13.69	.85	3% + 1.00		½ of 1%
Contracts Under $45,000.00	10.90	.85	3% + 1.00		½ of 1%

Modification Page 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MO81-4057 - Mod. #1 (46 FR 38264 - July 24, 1981 Franklin, Jefferson, Lincoln, St. Charles, Warren Counties & City & County of St. Louis, Missouri					
Change:					
Bricklayers, stonemasons	$13.35	.72	.95	1.00	.09
Elevator constructors	14.19	1.345	1.085	3%+a	.035
Elevator constructuros helpers	70%JR	1.345	1.085	3%+a	.035
Glaziers	13.68	1.43	2.10	13.2%	.05
Ironworkers	14.725	.80	1.05		.09
Laborers:					
Zone II	11.375	.60	.90		
Zone V	11.875	.60	.90		
Marble setters	12.86	1.60	1.305		
Marble finishers	13.65				
Painters:					
Zone I:					
Brush & roller	14.18	.68	.37	.80	.15
Spray & sandblasting	16.18	.68	.37	.80	.15
Pipefitters & Plumbers (Lincoln County)	15.45	2.435	1.64		
Tile setters	12.73	1.60	1.305		
Omit:					
Carpenters:					
Zone 1	14.46	.90	.95		.18
Zone II	11.35	.65	.70		
Zone III	10.65	.65	.70		
Zone IV	14.46	.90	.95		.15
Zone V	10.35	.70	.80		
Lathers	11.955	.57	.55		½ of 1%
Add:					
Carpenters:					
Zone 1 - St. Louis City and County:					
Carpenters (Including insulation)	$13.76	1.00	1.05		.18
Carpenters-reinsulator (not including pipe and duct insulation)	10.05	1.00	1.05		.18
Zone II - Remainder of Counties:					
Carpenters	13.76	1.00	1.05		.18
Elevator constructors helpers (probationary)	50%JR				

Modification Page 5

DECISION NO. ND81-5130 - Mod. #1 (46 FR 35005 - July 6, 1981) Statewide, North Dakota	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Truck Drivers:					
Single Axle	$8.57	.65	.35		
Tandem	8.69	.65	.35		
Agitator Dumpcrete; Lowboy; Off road heavy duty end dumps, 20 yards and under; Tandem, Semi	9.00	.65	.35		
Euclid, over 20 yards	9.77	.65	.35		
DECISION NO. PA80-3075					
MOD. NO. 7					
(45 FR 80638 - December 5, 1980) Northampton County, Pennsylvania					
CHANGE:					
Asbestos Workers	$14.01	1.12	.90		.02
Bricklayers	13.20	1.10	.75		.01
Carpenters	13.17	1.07	1.07		.05
Electricians:					
Allen, Hanover, Lehigh, Bath, Freemansburg, Hallertown and Bethlehem	14.05	.70	3%+.80		.04
Millwrights	13.57	1.07	1.07		.05
Plumbers	16.33	.85	1.40		.14
Sheet metal workers	13.01	1.63	1.18		.23
Stonemasons	13.20	1.10	.75		.01
Plasterers	12.99	1.10	.75		.01
Terrazzo workers	12.10	1.10	.75		.01
Soft floor layers	11.30	.99	.99	.65	
Cement Masons	13.10	1.10	.75		.01

Modification Page 6

DECISION NO. PA81-3077 MOD. NO. 1 ((46 FR 50265 - October 9, 1981) Lancaster County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Electricians					
Remainder of County	$12.55	.60	3%		.03
Laborers:					
General Laborers	8.65	.55	.77		
Operators of Jackhammer	8.85	.55	.77		
Wagon Drill	8.95	.55	.77		
Handling of all materials	8.90	.55	.77		
Laborers assisting tile	8.70	.55	.77		
Handling & using dynamite	8.98	.55	.77		
Caisson Work (Top Men)	8.90	.55	.77		
Caisson Work (Bottom Men)	9.10	.55	.77		
Mixer man	9.05	.55	.77		
Marble setters	10.40	.65	.55		
Painters:					
Elizabeth & Dowetal Townships					
Brush	10.92	.55	.43		.02
Steel	11.37	.55	.43		.02
Spray	11.67	.55	.43		.02
Plumbers	13.80	1.02	1.00		.11
Steamfitters	13.80	1.02	1.00		.11
Sheet metal workers	13.01	1.63	1.18		.23
Terrazzo workers	10.40	.65	.55		
Tile setters	10.40	.65	.55		
DECISION NO. PA81-3068					
MOD. NO. 1					
(46 FR - 47403 - September 25, 1981) Lebanon County, Pennsylvania					
CHANGE:					
Bricklayers & Stonemasons	$11.87	.95	.72		.01
Painters:					
West of Route 72					
Brush	10.92	.55	.43		.02
Structural Steel	11.37	.55	.43		.02
Spray	11.67	.55	.43		.02
Plumbers & Steamfitters	13.80	1.02	1.00		.11
Sheet metal workers	13.01	1.63	1.18		.23

DECISION NO. PA81-3072 MOD. NO. 1 (46 FR 48851 - October 2, 1981) Adams & York Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Bricklayers & Stonemasons	$11.70	.65	.55		
Carpenters:					
York County	11.99	.85	.80		.03
Laborers:					
General Laborers	8.65	.55	.77		
Operator of jackhammer (etc.)	8.85	.55	.77		
Wagon drill operator	9.95	.55	.77		
Handling of all materials (etc.)	8.90	.55	.77		
Laborers assisting tile etc.)	8.70	.55	.77		
Handling & using dynamite	8.98	.55	.77		
Caisson work (top men)	8.90	.55	.77		
Caisson work (bottom men)	9.10	.55	.77		
Mixer man	9.05	.55	.77		
Marble, tile & terrazzo workers	10.40	.65	.55		
Millwrights	12.49	.85	.80		.03
Painters:					
Brush	10.00	.45	.15		
Structural steel	10.75	.45	.15		
Spray	10.85	.45	.15		
Plumbers	13.80	1.02	1.00		.11
Soft floor layers:					
York County	11.99	.85	.80		.03
Sheet metal workers	13.01	1.63	1.18		.23
Steamfitters	13.80	1.02	1.00		.11
DECISION NO. PA81-3066 MOD. NO. 1 (46 FR 52082 - October 23, 1981) Dauphin, Cumberland, Perry, Juniata, New Cumberland Depot, in York County, Pennsylvania					
CHANGE:					
Bricklayers & Block Layers	$11.87	.95	.72		.01
Painters:					
Brush	10.92	.55	.43		.02
Steel	11.37	.55	.43		.02
Tank, Bridge & Stack	12.17	.55	.43		.02
Plumbers	13.80	1.02	1.00		.11
Stonemasons	11.87	.95	.72		.01
Steamfitters	13.80	1.02	1.00		.11

DECISION NO. TX81-4008 - MOD. #4 (46 FR 1550 - January 6, 1981) Smith County, Texas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Electricians:					
Electricians	$12.89	.60	3%		3/8%
Cable splicers	13.29	.60	3%		3/8%
DECISION NO. TX81-4052 - MOD. #2 (46 FR 35903 - July 10, 1981) Cameron, Hidalgo, Starr & Willacy Cos., Texas					
CHANGE:					
Plumbers & pipefitters	10.87	.67	.30		.07
DECISION NO. TX81-4064 - MOD. #1 (46 FR 40487 - August 7, 1981) El Paso County, Texas					
CHANGE:					
Ironworkers	11.25	.80	1.90		.15

DECISION NO. WA81-5126 - Mod. #9
(46 FR 35029 - July 6, 1981)
Statewide Washington

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ASBESTOS WORKERS:					
Area 2	$19.58	.82	1.49		.14
CARPENTERS:					
Area 2:					
Carpenters and Drywall Applicators	16.22	.90	1.28		.06
Carpenters on Creosoted Material	16.32	.90	1.28		.06
Sawfilers; Stationary Power Saw; Floor Finisher; Floor Layer; Shingler; Floor Sander and other Stationary Power Woodworking Tools	16.35	.90	1.28		.06
Millwrights and Machine Erectors	16.72	.90	1.28		.06
Piledrivers; Bridge, Dock and Wharf Builders	16.42	.90	1.28		.06
Acoustical Workers	16.38	.90	1.28		.06
Boommen	16.47	.90	1.28		.06
GLAZIERS:					
Area 1	13.70	.64	.70	b	
Area 4	12.74	.84	1.00	b	
Area 5	15.12	.40	1.15	b	.10
Area 6	12.86	.80	.80		
MASON TENDERS:					
Area 1:					
Mason Tenders including tenders of plasterers, bricklayers, tile setters, marble setters, terrazzo workers, topping for cement finishers and mortar mixers	14.22	1.10	1.40		.10
PAINTERS:					
Area 2:					
Brush	13.73	1.05	1.25	.60	.09
Spray	14.28	1.05	1.25	.60	.09
Bridges, High Work over 50' (Brush)	14.63	1.05	1.25	.60	.09
Bridges, High Work over 50' (Spray)	15.18	1.05	1.25	.60	.09
Drywall Finishers	13.48	1.05	1.00		.06

DECISION NO. WA81-5126 (Cont'd) Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Area 3:					
Roofers; Waterproofers	$16.94	.95	1.00		.07
Slate and Tile Roofers	17.19	.95	1.00		.07
SHEET METAL WORKERS:					
Area 3	17.95	3%+1.08	1.93	1.00	.12
Area 4	18.14	3%+ .83	1.16		.06
SOFT FLOOR LAYERS:					
Area 1	13.34	.84	.60		
Area 4	11.75	.69	1.10		
Area 8	14.60	.84	.75		
TILE, MARBLE, and TERRAZZO FINISHERS:					
Area 2	14.80	1.00	.55		
ADD:					
TILE, MARBLE, and TERRAZZO FINISHERS:					
Area 3:					
Adams County (Except the portion which includes the City of Othello), Asotin, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, Stevens, Whitman, and Grand Coulee Dam area in Okanogan County	11.10	1.05	2.00		

DECISION NO. WY81-5108 - Mod. #6
(46 FR 20477 - April 3, 1981)
Converse, Goshen, Laramie, Natrona, Niobrara, and Platte Counties, Wyoming

Change:					
Laborers:					
Building Construction:					
Group 1	$8.79	$1.00	.50	$1.00	.05
Group 2	9.03	1.00	.50	1.00	.05
Group 3	9.28	1.00	.50	1.00	.05
Group 4	9.28	1.00	.50	1.00	.05
Group 5	9.33	1.00	.50	1.00	.05
Group 6	9.18	1.00	.50	1.00	.05
Group 7	9.08	1.00	.50	1.00	.05
Group 8	8.93	1.00	.50	1.00	.05
Group 9	9.68	1.00	.50	1.00	.05

SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Black Hawk
DECISION NO.: IA81-4088 DATE: Date of Publication
Supersedes Decision No.: IA80-4041, dated August 1, 1980 in 45 FR 51408
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories)

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$16.21	.60	1.35		.20
BOILERMAKERS	14.97	1.375	1.15		.05
BRICKLAYERS AND STONEMASONS	12.93	.90	1.60		.02
CARPENTERS:					
Carpenters; Piledrivermen	11.89	.90	1.75		.03
Millwrights	12.49	.90	1.75		.03
CEMENT MASONS	12.85	.90			
ELECTRICIANS					
Electricians	15.04	.65	3%		3/4%
Cable Splicers	15.49	.65	3%		3/4%
ELEVATOR CONSTRUCTORS	14.33	1.345	1.085	a	.035
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	1.345	1.085	a	.035
ELEVATOR CONSTRUCTORS' HELPERS (Prob.)	50%JR				
IRONWORKERS	14.11	.90	1.00		.06
LABORERS:					
GROUP 1- Common laborers; Carpenters' helpers; moving, wrecking & demolition	10.17	.90	.55		.05
GROUP 2 - Masons tenders; hod carriers; machine and air tool operators	10.32	.90	.55		.05
GROUP 3- Powderman	10.42	.90	.55		.05
LATHERS	10.24	.45			
LINE CONSTRUCTION:					
GROUP 1- Lineman; all rigs setting assembled "H" fixtures & steel transmission structures	13.26	.45	7%	b	.3
GROUP 2- Blaster; special equipment operations (hole digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	10.61	.45	7%	b	½%
GROUP 3- Groundman	8.62	.45	7%	b	½%
GROUP 4- Groundman-truck driver	8.75	.45	7%	b	½%
GROUP 5 - Pole treating truck driver	8.49	.45	7%	b	½%
GROUP 6 - Pole treating specialist	10.21	.45	7%	b	½%

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush, roller	$ 9.51		.30		.03
Tapers	9.62		.30		.03
Spray	10.01		.30		.03
PLASTERERS	11.75	.45			
PLUMBERS AND STEAMFITTERS	14.96	.95	1.86		.14
ROOFERS	12.15				
SHEET METAL WORKERS	13.89	.90	.48		.06
SOFT FLOOR LAYERS	11.89	.90	1.75		.03
SPRINKLER FITTERS	15.10	.95	1.40		.08
TILE SETTERS	10.63	.45		.25	
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTE:
a - Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 mos. to 5 years service as Vacation Pay Credit. Seven Paid Holidays A thru G
b - Seven paid holidays A thru G

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

DECISION NO. IA81-4088

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	12.32	.90	.90		.10
GROUP 2	12.085	.90	.90		.10
GROUP 3	10.78	.90	.90		.10
GROUP 4	10.015	.90	.90		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; tower cranes; truck cranes and cherry pickers 12½ ton & over rated capacity; derricks; piledrivers and extractors; caisson rigs; side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; welders; mechanics; locomotive; dredge (levermen)

GROUP 2 - 1 and 2 drum hoists; air and electric tuggers (on power plants or setting and grating); economobiles; plant mixers; farm type tractors (with loaders, backhoes, attachments, etc.); scrapers (tournapull, etc.); endloaders; dredge (engineer); side boom and winch truck other than Group No. 1; motor patrol; bulldozers; push cat; truck cranes and cherry pickers (under 12½ tons); concrete mixers (1 yard and over); ditching machine (8" and over); fork lifts (on steel erection and machinery moving or hoisting above one complete story); concrete pump; dewatering pumps; temporary hoist cage operated; second man on locomotive; vibrating concrete spreader (Gomaco, C-450 or equal)

GROUP 3 - Tractors (under 35 HP) with or without attachments; endloaders (under 35 HP) with or without attachments; air compressors (one or a combination of 250 cfm or more); pumps 3" or over; welding machine 600 amps or combination thereof; conveyors; firemen (boiler); generator (75 KW & over); fork lifts (other than above Group No. 2); gunnite machine; self-propelled rollers; stump chippers; self-propelled tampers; air and electric taggers (other than above); ditching machine under 8"

GROUP 4 - Oilers; mechanical heaters; truck crane drivers; permanent elevators

STATE: IOWA COUNTY: Clinton
DECISION No. IA81-4089 DATE: Date of Publication
Supersedes Decision No. IA80-4043, dated August 8, 1980 in 45 FR 53042
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories).

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$16.21	.60	1.35		.20
BOILERMAKERS	14.97	1.375	1.15		.05
BRICKLAYERS & STONEMASONS	15.29		.55		.02
CARPENTERS:					
Carpenters	12.73	.75	1.25		.06
Piledrivermen	13.23	.75	1.25		.06
Millwrights	15.00	.65	1.30		.25
ELECTRICIANS:					
Electricians	16.34	.70	8%		.06
Cable splicers	17.34	.70	8%		.06
GLAZIERS	14.31	.75	1.00		.02
IRONWORKERS	16.60	.75	1.125		.30
LABORERS:					
GROUP 1 - Common laborers	10.83	.40	.60		.05
GROUP 2 - Operator on air or power tools; mortar mixer man; any work 35 ft. high or over; cement dumper, puddlers or vibrator man and men working with concrete pump hose; ditch work 8 ft. below ground level; any man working with creosote materials	11.08	.40	.60		.05
GROUP 3 - Cutting torch burner; caisson & cofferdam workers	11.13	.40	.60		.05
MARBLE SETTERS	11.50	.50	1.30		
PAINTERS:					
Brush	13.77	.70	1.50		.22
Spray; Structural steel	14.27	.70	1.50		.22
PLUMBERS & STEAMFITTERS	13.55	.71	1.14		.15
ROOFERS	14.30	.70	.80		
SHEET METAL WORKERS	14.05	.75	1.72		.14
SOFT FLOOR LAYERS	12.73	.75	1.25		.06
SPRINKLER FITTERS	15.10	.95	1.40		.08
TERRAZZO WORKERS	11.50	.50	1.30		
TILE SETTERS	11.50	.50	1.30		
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANT CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP 1	$14.80	1.00	.90		.08
GROUP 2	13.40	1.00	.90		.08
GROUP 3	12.35	1.00	.90		.08

GROUP 1 - All hoists or steel erecting equipment: Crane, Shovel, Clamshell, Dragline, Backhoe, Derricks, Tower Crane, Cableway, Concrete Spreader (servicing 2 pavers), Asphalt Spreader, Asphalt Mixer Plant Engineer, Dipper Dredge Operator; Dipper Dredge Craneman, Dual Purpose Truck (boom or winch); Leverman or Engineman (hydraulic dredge), Mechanic, Paving Mixer with tower attached (2 operators required); Piledriver, Boom Tractor, Stationary, Portable or Floating Mixing Plant, Trenching Machine (over 40 HP), Building Hoist (2 drums), Hot Paint Wrapping Machine, Cleaning & Priming Machine, Backfiller (throw bucket), Locomotive Engineer, Qualified Welder, Tow or Push Boat, Concrete Paver, Seaman-Trav-L-Plant or similar machines, CMI Autograder or similar machines, Slip Form Paver, Caisson Augering Machine, Mucking Machine, Asphalt Heater-Planer Unit, Hydraulic Cranes, Mine Hoists; Athey, Barber-Green, Euclid or Haiss Loader, Asphalt Pug Mill, Fireman & Drier, Concrete Pump, Concrete Spreader (servicing 1 paver): Bulldozer, Endloader, Log Chippers or similar machines, Elevating Grader, Group Equipment Greaser, LeTourneaupull & similar machines, DW-10, Hyster Winch & similar machines, Motor Patrol, Power Blade, Push Cat, Tractor Pulling Elevating Grader or Power Blade, Tractor Operating Scoop or Scraper, Tractor with Power Attachments, Roller on Asphalt or Blacktop, Single Drum Hoist, Jaeger Mix & Place Machine, Pipe Bending Machine, Flexaplane or similar machines, Automatic Curbing Machines, Automatic Cement & Gravel Batch Plants (1 stop set-up), Seaman PulviMixer or similar machines, Blastholes Self-propelled Rotary Drill or similar machines, Work Boat, Combination Concrete Finishing Machine & Float, Self-Propelled Sheep Foot Roller or Compactor (used in conjunction with a Grading Spread), Asphalt Spreader Screed Operator, Apsco Spreader or similar machine, Slusher, Forklift (over 6000 lbs. cap. or working at heights above 28 ft.), Concrete Conveyors

GROUP 2 - Asphalt Booster, Fireman & Pump Operator at Asphalt Plant, Mud Jack, Underground Boring Machine, Concrete Finishing Machine, Form Grader with Roller on Earth, Mixers (3 bag to 16E), Power Operated Bull Float, Tractor without Power attachments, Dope Pot (agitating motor), Dope Chop Machine, Distributor (back end), Straddle Carrier, Portable Machine Fireman, Hydro-Hammer, Power Winch on Paving Work; Self-Propelled Roller or compactor (other than provided for above), Pump Operator (more than 1 well point pump), Portable Crusher Operator, Trench Machine (under 40 HP), Power Subgrader (on forms) or similar machines, Forklift (6000 lbs. or less capacity), Gypsum Pump, Conveyor over 20 HP, Fuller-Kenyon Cement Pump or similar machines; Air Compressor (275 CFM or over), Driver on Truck Crane or similar machines, Light Plant, Mixers (1 or 2 bag), Power Batching Machine (Cement Auger or Conveyor), Boiler (Engineer or Fireman), Water Pumps, Mechanical Broom, Automatic Cement & Gravel Batch Plants (2 or 3 stop set-up), Small Rubber-tired Tractors (not including backhoes or endloaders), Self-Propelled Curing Machine

GROUP 3 - Oiler, Mechanical Heater (other than steam boiler), Belt Machine, Small Outboard Motor Boat, Engine Driven Welding Machine

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: IOWA COUNTY: Dubuque
DECISION No. IA81-4091 DATE: Date of Publication
Supersedes Decision No. IA80-4045, dated August 8, 1980 in 45 FR 53046
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories).

BUILDING. WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$16.21	.60	1.35		.20
BOILERMAKERS	14.97	1.375	1.15		.05
BRICKLAYERS & STONEMASONS	15.29		.55		.02
CARPENTERS:					
Carpenters	12.87		1.00		.04
Piledrivermen	13.27		1.00		.04
Millwrights	13.37		1.00		.04
CEMENT MASONS	11.63				
ELECTRICIANS	14.25	.75	3%+.50		3/4%
ELEVATOR CONSTRUCTORS					
Mechanics	14.33	1.345	1.085	a	.035
Helpers	70%JR	1.345	1.085	a	.035
Helpers (Prob.)	50%JR				
GLAZIERS	14.31	.75	1.00		.02
IRONWORKERS:					
Southeast portion	16.60	.75	1.125		.30
Remainder of County	14.11	.90	1.00		.06
LABORERS:					
GROUP 1 - Common Laborers	10.55	.50	.53		.05
GROUP 2 - All air operated tools; bricklayers' tenders; Caisson workers; Carpenter tenders; handling & cleaning of all steel floor pans & wall forms; Mortar mixers; Plasterers' tenders; Tile setters (4"-6"-8")	10.65	.50	.53		.05
GROUP 3 - Tile setters (10" and up)	10.80	.50	.53		.05
LATHERS	10.00				
MARBLE SETTERS	10.59		.95		.02
PAINTERS:					
Brush or roller epoxy; paperhanging; Tapers	11.65	1.00	.60		
High work and steel; spraying	12.20	1.00	.60		
PLASTERERS	13.50				
PLUMBERS & STEAMPITTERS	14.42	.85	1.05		.08

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
City of Dubuque & 30 miles radius from city limits	$12.16		.50		
Remainder of County	12.00		.50		
SHEET METAL WORKERS	14.05	.75	1.72		.14
SPRINKLER FITTERS	15.10	.95	1.40		.08
TERRAZZO WORKERS	10.59		.95		.02
TILE SETTERS	10.59		.95		.02

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTE:
a - Employer contribute 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Seven Paid Holidays.

PAID HOLIDAYS
New Years' Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Day after Thanksgiving

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$12.32	.90	.90		.10
GROUP 2	12.085	.90	.90		.10
GROUP 3	10.78	.90	.90		.10
GROUP 4	10.015	.90	.90		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc., Tower cranes, Truck cranes and cherry pickers 12½ ton & over rated capacity; Derricks; Piledrivers and extractors; Caisson rigs; Side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; Welders; Mechanics; Locomotive; Dredge (levermen)
GROUP 2 - 1 and 2 drum hoist; Air and electric tuggers (on power plants or setting steel or grating); Economobiles; Plant mixers; Farm type tractors (with loaders; backhoes, attachments, etc.); Scrapers (tournapull, etc.); Endloaders; Dredge (engineer); Side boom and winch truck other than Group No. 1; Motor patol; bulldozers; Push Cat; Truck Cranes and cherry pickers (under 12½ ton); Concrete Mixers (1 yard and over); Ditching machines (8" and over); Fork lifts (on steel erection and machinery moving or hoisting above one complete story); Concrete pump; Dewatering pump; Temporary hoist cage operated; Second man on locomotive; Vibrating concrete spreader (Gomaco, C-450 or equal)
GROUP 3 - Tractor (under 35 HP) with or without attachments; Endloaders (under 35 HP) with or without attachments; Air compressors (one or a combination of 250 cfm or more); Pumps 3" or over; Welding machines 600 amps or combination thereof; Conveyors; Firemen (Boiler); Generator (75 KW & over); Fork lifts (other than above Group No. 2); Gunnite machine; Self-propelled rollers; Stump chippers; Self-propelled tampers; Air and electric tuggers (other than above); Ditching machine under 8"
GROUP 4 - Oilers; Mechanicl heaters; Truck crane drivers; Permanent elevators

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: KENTUCKY COUNTIES: CAMPBELL, KENTON, & PENDLETON

DECISION NUMBER: KY81-1312 DATE: DATE OF PUBLICATION

Supersedes Decision Number KY80-1111, dated October 3, 1980, in 44 FR 65886.

DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS (includes single family homes and apartments up to and including four (4) stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$ 6.25				
BRICKLAYERS	9.38				
CARPENTERS	7.14				
CEMENT MASONS	9.63				
DRYWALL FINISHERS	10.00				
DRYWALL HANGERS	7.53				
ELECTRICIANS	6.00				
INSULATION INSTALLERS	6.23				
LABORERS - GENERAL	5.17				
PAINTERS	6.90				
PLUMBERS & PIPEFITTERS	8.86				
ROOFERS	8.79				
SHEET METAL WORKERS	6.98				
SOFT FLOOR LAYERS	7.00				
TILE SETTERS	7.06				
TRUCK DRIVERS	6.87				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	9.00				
Bulldozer	9.70				
Front end loader	9.70				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: NORTH CAROLINA COUNTIES: Forsyth, Stokes, Surry, and Yadkin

DECISION NUMBER: NC81-1311 DATE: Date of Publication

Supersedes Decision No.: NC80-1061, May 2, 1980, 45 FR 29521.

DESCRIPTION OF WORK: Residential Construction consisting of single family homes and apartments up to and including 4 (four) stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANIC	$6.00				
BRICKLAYERS	7.53				
CARPENTERS	6.05				
CEMENT MASONS	5.00				
DRYWALL FINISHERS	6.46				
DRYWALL HANGERS	7.31				
ELECTRICIANS	6.15				
GLAZIERS	5.45				
INSULATION INSTALLERS	5.00				
IRONWORKERS	5.00				
LABORERS:					
Asphalt Rakers	4.50				
Pipelayers	4.83				
Unskilled	4.09				
PAINTERS, Brush	5.00				
PLASTERERS	8.00				
POWER EQUIPMENT OPERATORS:					
Backhoe	6.15				
Bulldozer	5.00				
Crane	6.72				
Forklift	5.19				
Grader	6.25				
Loader	5.36				
Pan-Scraper	5.14				
Paver	5.65				
Tractor	5.00				
PLUMBERS & PIPEFITTERS	7.04				
ROOFERS	5.00				
SHEET METAL WORKERS	6.32				
SOFT FLOOR LAYERS & CARPET LAYERS	6.55				
TILE SETTERS	6.74				
TRUCK DRIVERS	4.48				
WELDERS - Rate for Craft					

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: NEW HAMPSHIRE COUNTIES: HILLSBOROUGH & MERRIMACK

DECISION NUMBER NH81-3086 DATE: DATE OF PUBLICATION

Supersedes Decision No. NH81-3009, dated January 23, 1981 in 46 FR 7729

DESCRIPTION OF WORK: BUILDING (HILLSBORO COUNTY ONLY) AND HEAVY CONSTRUCTION PROJECTS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	15.91	1.50	1.20		.05
BOILERMAKERS	16.53	1.275	10%		.04
BRICKLAYERS, CEMENT MASONS, MARBLE SETTERS, PLASTERERS, STONE MASONS, TERRAZZO WORKERS & TILE SETTERS	11.77	1.01	.89		.01
CARPENTERS (HILLSBOROUGH CO)					
Pelham					
Carpenters & Soft Floor Layers	14.26	1.05	1.00+.25		.17
Millwrights	14.45	1.00	1.00		.10
Greenville					
Carpenters & Soft Floor Layers	14.11	1.05	1.15+.25		.17
Millwrights	14.45	1.00	1.00		.10
Remainder of County					
Carpenters & Soft Floor Layers	11.36	.65	.85		.03
Piledrivermen & Millwrights	12.21	.65	.85		.03
CARPENTERS & SOFT FLOOR LAYERS	11.36	.65	.85		.03
Millwrights & Piledrivers	12.21	.65	.85		.03
ELECTRICIANS (HILLSBOROUGH COUNTY)					
Pelham	12.37	1.00	3%+.60		.02
Remainder of County	12.40	.80	3%		.03
ELECTRICIANS					
Hookset	12.40	.80	3%		.03
Remainder of County:					
Gen. Contracts $400,000 & over	13.07	.80	3%+.50		.02
Gen. contracts less than $400,000	8.05	.80	3%+.50		.02
ELEVATOR CONSTRUCTORS					
Constructors	15.705	1.345	1.085	a+b	.035
Helpers	10.99	1.345	1.085	a+b	.035
GLAZIERS	9.47	.77	.69		.03
IRONWORKERS					
Structural, Ornamental, and Reinforcing	13.45	1.15	1.55		.02

DECISION NO. NH81-3086

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION					
Linemen	11.00	.70	3%+.50	d	3/8 of1%
Equipment Operator, Cableman	9.35	.70	3%+.50	d	3/8 of1%
Groundman	7.15	.70	3%+.50	d	3/8 of1%
Driver Groundman	7.70	.70	3%+.50	d	3/8 of1%
PAINTERS					
Brush	10.00	.50			
Paperhangers	11.00	.50			
Spray & Sandblasting	11.50	.50			
Structural Steel	11.25	.50			
Steeple Jack	12.25	.50			
Work 20 ft. & over exclusive steel work or steeple jack, for entire drop	11.25	.50			
PLUMBERS & STEAMFITTERS (HILLSBOROUGH COUNTY)					
Hudson & Pelham	13.72	1.10	1.10		.02
Remainder of County	14.00	1.00	1.05		.02
PLUMBERS & STEAMFITTERS	14.00	.88	.75		.02
ROOFERS	7.80				
SHEET METAL WORKERS	10.92	.85	.85		.02
SPRINKLER FITTERS	13.83	.95	1.40		.08

DECISION NO. NH81-3086

Welders - receive rate prescribed for craft performing operation to which welding is incidental

PAID HOLIDAYS

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas

FOOTNOTES:

a. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Holidays: A through F

d. Holidays: A through F, plus Columbus Day, provided the employee has been employed 5 working days prior to the holiday and provided the employee works the scheduled work days immediately preceding and following the holiday

e. Holidays: B, C, and E provided employee works the day before and after each holiday

DECISION NO. NH81-3086	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
BUILDING CONSTRUCTION					
Laborers	9.11	.90	1.10		.10
Plasterers' Tenders	9.30	.90	1.10		.10
Pipelayers, Fence & Guard Rail Erectors	9.44	.90	1.10		.10
Pneumatic Tool Ops., Pavement Breakers, Drillers, Chipping Gun Op., Creosote work, Powdermen & Blasters	9.77	.90	1.10		.10
Pneumatic Tool Ops. on Boiler and Stack Work	10.29	.90	1.10		.10
HEAVY CONSTRUCTION					
Laborers and Pipelayers	7.67	.60	.80	e	.10
Pneumatic Tool Op., Drillers, Concrete Vibrators, & Electric Chipping Machines	8.17	.60	.80	e	.10
Blasterers and Powdermen	8.42	.60	.80	e	.10
POWER EQUIPMENT OPERATORS					
BUILDING CONSTRUCTION					
CLASS 1	12.53	1.05	1.15	a	.10
CLASS 2	12.28	1.05	1.15	a	.10
CLASS 3	12.08	1.05	1.15	a	.10
CLASS 4	11.10	1.05	1.15	a	.10
CLASS 5	11.07	1.05	1.15	a	.10
CLASS 6	10.14	1.05	1.15	a	.10
CLASS 7	10.34	1.05	1.15	a	.10
CLASS 8	13.53	1.05	1.15	a	.10
CLASS 9	12.74	1.05	1.15	a	.10

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POWER EQUIPMENT OPERATORS
BUILDING CONSTRUCTION

CLASS 1 - Shovel, Crane, Dragline, Derrick, Backhoe, Elevator with Chicago Boom, Gradall, Elevating Grader, Front End Loader 6 yds. and over, Cherry Picker, Pile Driving Rigs, Concrete Road Pavers, all three Drum Hoisting and Trenching Machines

CLASS 2 - Rotary Drill with Mounted Compressor, Compressor House (3-6 compressors), Rock and Earth Boring Machines excluding McCarthy and similar Drills, Graders, 4 yds. and over Front End Loader, Two Drum Hoists, High Fork Lifts with Capacity of 15' & over, Scrapers, Sonic Hammer, Vibratory Hammer

CLASS 3 - Bulldozers, Push Cats, Scrapers (tractor drawn), Asphalt Paver, Front End Loader 3/4 yds. to 4 yds., Well Driller, Mechanics, Pumpcrete Machines, Concrete Pumps and Similar Type Pumps, Engineer or Fireman on High Pressure Boiler (on job), Self Loading Batch Plant, Well Point Operators including installing, Engineer-in-charge of Power Grease Truck, all Automatic Elevators permanent or Temporary operated manually or by remote controls

CLASS 4 - Single Drum Hoist, Self powered Roller, Self Propelled Compactors, Power Pavement Breakers, Concrete Pavement Finishing Machines, Two Bag Mixers with Skip, Front End Loaders under 3/4 yds., McCarthy and similar Drills, Batch Plant not Self Loading, Bulk Cement Plants Self-Propelled Material Spreaders, A-Frame Trucks. Fork Lifts up to 15'

CLASS 5 - Compressor 315 Cubic ft. and over, (one or two), Pumps (4 inches & over total discharge) when total discharge is over 12 inches, Classification 3 will be paid, Tractor (without blade or Bucket) Drawing Roller Compactors or other Machines

CLASS 6 - Compressors (up to 315 cubic feet) Small Mixers, Pumps (up to 4 inches), Power Heaters, Welding Machines (when 3 or more heaters or Welding Machines are used on one job, classification 4 rate will be paid), Conveyor Oiler including Helpers on Grease Trucks and Grease Trucks with Hand Greasing Equipment

CLASS 7 - Oilers on Truck Cranes and Gradalls

CLASS 8 - Cranes with boom lenghts of 200 feet or more

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POWER EQUIPMENT OPERATORS
BUILDING CONSTRUCTION CONT'D

CLASS 9 - Crane with boom length of 150 feet or more

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE: A. Holidays: A through F, Veterans Day, Washington's Birthday and Columbus Day.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS HEAVY CONSTRUCTION					
CLASS 1	11.21	.95	1.00	a	.05
CLASS 2	10.90	.95	1.00	a	.05
CLASS 3	10.66	.95	1.00	a	.05
CLASS 4	9.98	.95	1.00	a	.05
CLASS 5	9.965	.95	1.00	a	.05
CLASS 6	8.95	.95	1.00	a	.05
CLASS 7	11.82	.95	1.00	a	.05

POWER EQUIPMENT OPERATORS
HEAVY CONSTRUCTION

CLASS 1 - Shovel, Crawler, Tower Truck and Hydraulic Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Gradalls, Piledrivers, Concrete Pavers, Engineers on Site Processing Plant, Dragline, Clamshell, Cableways

CLASS 2 - Rotary Drill (with mounted compressor), Compressor House (3 to 6 compressors) Rock and earth Boring Machine (excluding McCarthy and similar drills), Grader, Front End Loader (4 yds. or over)

CLASS 3 - Bulldozer, Push Cats, Scraper (Self propelled or tractor drawn), Self-Powered Asphalt Paver. (Front End Loader 3/4 to 4 yds.), Mechanics, Well driller, Pumpcrete Machine, Engineer or Fireman on High Pressure Boiler (on job), Well Point Operators

CLASS 4 - Hoists, Conveyors, Self-powered Rollers and Compactors, Self-propelled Material Spreaders, Self-powered Concrete Finishing Machine Mixers (2 bag with skip), Front End Loader (Under 3/4 yd.), McCarthy & similar Drills, Batch Plant (not a self-loading), Bulk Cement Plant

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POWER EQUIPMENT OPERATORS
HEAVY CONSTRUCTION CONT'D

CLASS 5 - Compressor (315 C.F. or over-one or two),Pump 4" or over, Tractor without blades, Drawing Sheeps-foot, Rubber Roller or other type Compactor including Machines for Pulverizing and aerating Soil

CLASS 6 - Compressor (up to 315 C.F.), Small Mixers with skip, Oiler Pumps up to 4", Grease Truck, Power Heaters, Welding Machines (when 3 or more Welding Machines Class 4 rate applied), A-Frame, Forklifts, (Where grease truck contains powered grease equipment, engineer in charge shall be paid Class 3 rate)

CLASS 7 - Crane with boom length of 200 feet or more including jib

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day, E-Thanksgiving Day; F-Christmas Day

FOOTNOTE: a. Holidays: A through F; Washington's Birthday; Veteran's Day and Columbus Day

DECISION NO. NH81-3086

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
CLASS 1	6.41	.80	.50	a	
CLASS 2	6.64	.80	.50	a	
CLASS 3	6.87	.80	.50	a	

TRUCK DRIVERS CLASSIFICATIONS

CLASS 1 - Two Axle Equipment

CLASS 2 - Three Axle Equipment including Low Beds

CLASS 3 - Special Earth Hauling Equipment other than Conventional Type on the road Truck and Semitrailers Trailer Dumps

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE: A. Holidays: A through F, plus Washington's Birthday, Veteran's Day and Columbus Day; (provided employee works two days in the calendar week in which the holiday falls; reports for work the last day assigned prior to the holiday and the first assigned following the holiday)

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

[FR Doc. 81-33839 Filed 11-12-81; 8:45 am]
BILLING CODE 4510-27-C

federal register

Friday
November 13, 1981

Part III

Department of the Interior

Bureau of Land Management

Administration of Livestock Grazing on Public Rangelands

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 4100

Administration of Livestock Grazing on Public Rangelands

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking would amend the existing regulations for the administration of livestock grazing use on the public rangelands. These amendments would respond to Executive Order 12291 of February 17, 1981, by eliminating needless, burdensome and counterproductive regulations. The intent of this rulemaking is to simplify and improve the provisions for administration of grazing use and remove cumbersome procedures from the regulations.

DATE: Comments by January 12, 1982.

ADDRESS: Comments should be sent to: Director (650), Bureau of Land Management, 18th and C Streets, N.W., Washington, D.C. 20240.

Comments are encouraged on any provision under Part 4100 of Title 43 of the Code of Federal Regulations. Comments will be available for public review between 7:45 a.m. and 4:15 p.m. in Room 5555 at the above address.

FOR FURTHER INFORMATION CONTACT: Paul Leonard, Chief, Division of Rangeland Management, (202) 343–5841.

SUPPLEMENTARY INFORMATION: The President's Executive Order 12291, published in the Federal Register on February 17, 1981, required the identification and removal of needless, burdensome and counterproductive regulations. Secretary of the Interior, James G. Watt, asked the Governors of the Public Land States and major rangeland interest groups to assist him in that effort with regard to the regulations concerning grazing administration. As a result, 32 comments were received from individuals or groups representing State Governors, the livestock industry, environmental interests, public utilities and energy related industries regarding the administration of livestock grazing use on the public rangelands (43 CFR Part 4100). All comments have been considered; some have been incorporated into the proposed rulemaking.

This rulemaking would remove reference to "land use plans" since all uses of the public lands, including grazing use, must be consistent with land-use plans as required under 43 CFR Part 1601. A number of other editorial changes would be made to clarify the meaning or to make the regulations easier to read and more understandable.

The following discussion summarizes the proposed amendments and provides an explanation for specific changes:

Objectives

Section 4100.0–2 would be rewritten to make it clear that grazing administration will be consistent with land-use plans required by section 102 of the Federal Land Policy and Management Act of 1976.

Definitions

The proposed rulemaking would modify three existing definitions in § 4100.0–5, add two new definitions and delete one. Generally, these amendments would make the definitions more consistent with the law.

Changes in Available Forage

This rulemaking would provide two changes in the provisions on available forage in § 4110.3. First, the authorized officer may give priority to allocating additional forage that is permanently available for livestock use to permittee(s) or lessee(s) whose contributions or efforts result in increased forage production. additional forage must be in excess of that needed to meet the preferences of permittees or lessees within the affected allotment. This amendment would provide an incentive for permittee(s) or lessee(s) to contribute toward, or engage in, actions designed to improve forage production. Second, although the current 5-year phase-in period for adjustments in grazing use would be retained in this rulemaking, the timing of the initial adjustment would depend on the availability of adequate data or on mutual agreement between the authorized officer and the affected permittee concerning the terms of implementing the grazing decision. Provisions in the existing regulations for subsequent adjustments in grazing use based upon the information resulting from monitoring would not be changed by this rulemaking.

Terms and Conditions

This rulemaking would amend § 4120.2–1(b) to conform with section 402(e) of the Federal Land Policy and Management Act of 1976 regarding the mandatory terms and conditions of a grazing permit or lease where an allotment management plan is not required.

The proposed rulemaking would amend § 4120.2–1(c) to provide that all permits and leases shall be subject to cancellation, in whole or in part, when a permittee or lessee loses control of all or part of a base property. The provision would respond to current situations where base properties are being subdivided and where water bases are not properly protected by water rights.

The proposed rulemaking, § 4120.2–2(d), would also amend the terms and conditions that may be specified in a grazing permit or lease to require a grazing permittee or lessee to certify actual use. Under the current regulations, the permittee or lessee, within 15 days of completing the annual grazing use, is required only to submit a report of actual livestock grazing use made.

Allotment Management Plans

Section 4120.2–3 would be expanded to include consultation, cooperation and coordination with affected interests during the preparation of allotment management plans to be consistent with the Public Rangelands Improvement Act of 1978.

Service Charge

Section 4130.5–3 would be expanded to include the charge for crossing permits that would be deleted from § 4130.5–1(c) and would require the service charge for processing crossing permits and other transfers and billing actions to be set based on the costs of processing such actions.

Settlement

The proposed rulemaking would amend the settlement provisions in § 4150.3. First, when unauthorized use is determined to be nonwillful, settlement would be required to include the expenses incurred by the United States, such as for gathering, impounding, caring for, and when necessary, disposing of unauthorized livestock. Under the current regulations, this provision already applies to settlement for willful or repeated willful violations. Second, under § 4160.5 of existing regulations, a show-cause notice may be issued for alleged willful or repeated violations, or a proposed decision may be issued under § 4160.1–2 of existing regulations. The show-cause process would be eliminated by this rulemaking and issuance of a proposed decision would be required, subject to appeal, to any alleged violator. This amendment would simplify and reduce confusion regarding the Bureau's administrative procedures for correcting unauthorized grazing use. Existing regulations requiring issuance of a proposed decision and providing for the right of appeal to all affected parties would be

retained. Third, in § 4150.3(a) the amount due the United States as settlement for unauthorized use would be increased to serve as a more effective deterrent.

Demand for Payment

This rulemaking would delete § 4150.4 in the existing regulations because the proposed decisions required for unauthorized use violations would include a demand for payment. This would eliminate the need for a separate document.

Impoundment

This rulemaking would expand provisions in § 4150.5 for a "Notice of intent to impound" to deter unauthorized use from occurring within a specified area. Similar authority in § 4150.6, "Closures to control unauthorized use," would be deleted.

Final Decisions

This rulemaking would amend § 4160.3 to clarify provisions for appeal of a final decision that is phased-in over a five-year period. The rulemaking would also amend language to clearly describe that the phased-in decision is one decision and is implemented over a five-year period.

There is one new information collection requirement contained in § 4120.6–1 of this proposed rulemaking that has been submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3507. Collection of this information will not be required until it has been approved by the Office of Management and Budget.

The Bureau of Land Management requests comments on the information collection requirements contained in 43 CFR Part 4100 with the goal of identifying provisions that may be excessive, burdensome and counterproductive.

The principal author of this proposed rulemaking is Terry L. Plummer, Division of Rangeland Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

Note.—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 Pub. L. 96–354.

It is hereby determined that this proposed rulemaking 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.

PART 4100—GRAZING ADMINISTRATION—EXCLUSIVE OF ALASKA

Under the authority of the Taylor Grazing Act of 1934, as amended (43 U.S.C. 315 et seq.), the Federal Land Policy and Management Act of 1976, as amended by the public Rangelands Improvement Act of 1978 (43 U.S.C. 1701 et seq.), and Executive Order 12291 of February 17, 1981, it is proposed to amend Part 4100, Subchapter D, Chapter II of Title 43 of the Code of Federal Regulations as set forth below:

1. Section 4100.0–2 is revised to read:

§ 4100.0–2 Objectives.

The objectives of these regulations are to administer livestock grazing on the public lands in a manner that will protect the lands and their resources from destruction or unnecessary injury, stabilize the livestock industry dependent on the public lands, and provide for the orderly use, improvement, development and rehabilitation of the public lands for livestock grazing consistent with land-use plans, multiple-use, sustained yield, environmental values, economic, and other objectives as stated in 43 CFR Subpart 1725 and in section 102 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

§ 4100.0–5 [Amended]

2. Section 4100.0–5 is amended by:

a. Revising paragraph (d) to read:

* * * * *

(d) "Allotment management plan" (AMP) means a documented program which applies to livestock operations on the public lands, which is prepared in consultation, cooperation and coordination with the permittee(s), lessee(s) or other affected interests involved, and which:

(1) Prescribes the manner and extent of the conduct of livestock operations in order to meet the multiple-use, sustained-yield, economic, and other needs and objectives identified for the public lands through land-use planning;

(2) Describes the type, location, ownership and general specifications for the range improvements to be installed and maintained on the public lands to meet the livestock grazing and other objectives of land management; and

(3) Contains such other provisions relating to livestock grazing and other objectives as may be prescribed by the authorized officer consistent with applicable law;

* * * * *

b. Adding a new paragraph (i) as follows:

* * * * *

(i) "Certified actual use" means the amount of actual livestock grazing use made in AUM's certified to be accurate by the permittee or lessee and normally submitted at the end of the grazing use period;

* * * * *

c. Redesignating paragraph (i) as paragraph (j);

d. Adding a new paragraph (k) to read as follows:

* * * * *

(k) "Consultation, cooperation and coordination" means communication between the Bureau of Land Management, other agencies and affected permittee(s) or lessee(s), landowners involved, the district grazing advisory boards where established, any State having lands within the area to be covered by such an allotment management plan and other affected interests regarding the planning and preparation of management alternatives for the purpose of deliberation, the interchange of opinions, and the potential resolution of differences or disputes, which recognizes:

(1) The knowledge and experience of those involved or interested in the management of rangelands; and

(2) The Bureau of Land Management's ultimate authority to ensure the proper management and use of public lands;

* * * * *

e. Redesignating paragraphs (j) through (q) as paragraphs (l) through (s), respectively;

f. Redesignating paragraph (r) as paragraph (t) and revising it to read:

* * * * *

(t) "Land use plan" means a planning decision document under the provisions of the Federal Land Policy and Management Act which establishes resource allocations and coordinated objectives and constraints for all forms of public land and resource use within the area covered by the plan;

g. Redesignating paragraphs (s), (t) and (u) as paragraphs (u), (v) and (w), respectively;

h. Redesignating paragraph (v) as paragraph (x) and revising it to read:

* * * * *

(x) "Monitoring" means the orderly collection and analysis of data to evaluate:

(1) Effects of management actions;

(2) Effectiveness of actions in meeting management objectives; and

(3) Compliance with laws, regulations, policies, executive directives and management decisions;

* * * * *

i. Redesignating paragraph (w) and paragraph (x) as paragraphs (y) and (z), respectively;

j. Removing paragraph (y) entitled "Range betterment fund" in its entirety; and

k. Redesignating paragraph (z), entitled "Range improvement" as paragraph (aa), entitled "Secretary", paragraph (bb), (cc) and (dd) as paragraphs (aa), (bb), (cc), (dd) and (ee), respectively.

§ 4110.2-1 [Amended]

3. Section 4110.2-1 is amended by removing paragraph (c) in its entirety.

§ 4110.2-3 [Amended]

4. Section 4110.2-3 is amended by:

a. Removing paragraph (a)(2) in its entirety;

b. Redesignating paragraph (a)(3) as paragraph (a)(2);

c. Redesignating paragraph (a)(4) as paragraph (a)(3) and removing the last sentence of the subparagraph; and

d. Redesignating paragraph (a)(5) as paragraph (a)(4).

§ 4110.2-3 [Amended]

5. Section 4110.2-3 is amended by:

a. Revising paragraph (b) to read:

* * * * *

(b) If base property is sold or leased, the transferee shall within 90 days of the date of sale or lease file with the authorized officer a properly executed transfer application showing the base property and the amount of grazing preference being transferred in animal unit months; and

* * * * *

b. Amending paragraph (c) by removing all after the first sentence of the paragraph.

§ 4110.2-4 [Amended]

6. Section 4110.2-4 is amended by removing in the second sentence the word "applicant"and inserting the words "preference holder".

§ 4110.3 [Amended]

7. Section 4110.3 is amended by removing the opening paragraph in its entirety.

§ 4110.3-1 [Amended]

8. Section 4110.3-1 is amended by:

a. Revising the introductory paragraph to read:

Additional forage may be allocated to qualified applicants for livestock grazing use consistent with multiple-use management objectives.

* * * * *

b. Revising paragraphs (c)(1) and (c)(2) to read:

* * * * *

(c) * * *

(1) Permittee(s) or lessee(s) in proportion to their contribution or efforts which resulted in increased forage production; or

(2) Permittee(s) or lessee(s) in proportion to their preference; or other qualified applicants under § 4110.5 of this title;

* * * * *

c. Revising paragraph (d) to read:

* * * * *

(d) Permanent increases in allocations of livestock forage shall be phased in over a period not to exceed 5 years, except that increases of 15 percent or less of the authorized active use for the previous year shall be phased in over a period of less than 5 years. The authorized officer may subsequently modify (either increase or decrease) such allocation of forage to livestock based on the results of monitoring.

* * * * *

§ 4110.3-2 [Amended]

9. Section 4110.3-2 is amended by:

a. Revising paragraph (b) to read:

* * * * *

(b) When authorized grazing use, which includes active use and any approved nonuse, exceeds the amount of forage available and allocated for livestock grazing within an allotment, or where reduced grazing use is necessary to facilitate achieving multiple-use management objectives, the authorized grazing use shall be reduced to the livestock grazing capacity. The difference between the authorized grazing use and the grazing preference shall be held in suspension.

* * * * *

b. Revising paragraph (c) to read:

* * * * *

(c) Provisions in paragraph (b) of this section shall be implemented through mutual agreement or by decision over a 5-year period. If data acceptable to the authorized officer are available, an initial reduction shall be taken on the effective date of the decision and the balance taken in the third and fifth years following that effective date, except as provided in paragraph (d) and (e) of this section. If data acceptable to the authorized officer to support an initial reduction are not available, adjustments shall be made in the third and fifth years following issuance of the decision based on additional data identified by the authorized officer as necessary.

* * * * *

c. Amending paragraph (d) by removing the word "interest" and replacing it with the word "interests".

10. Section 4110.4-1 is revised to read:

§ 4110.4-1 Additional land acreage.

When lands outside designated allotments become available for livestock grazing under the administration of the Bureau of Land Management, the livestock forage available may be allocated to qualified applicants at the discretion of the authorized officer. Grazing use shall be allocated under § 4110.5 of this title.

§ 4110.4-2 [Amended]

11. Section 4110.4-2 is amended by inserting in paragraph (b) at the end of the first sentence after the word "whole" the words "or in part".

§ 4110.5 [Amended]

12. Section 4110.5 is amended by revising the introductory paragraph to read:

When more than one qualified applicant applies for livestock grazing use of the same public land and/or where additional livestock forage or additional acreage becomes available, the authorized officer may allocate grazing use of such land or forage on the basis of any of the following factors:

* * * * *

§ 4120.2-1 [Amended]

13. Section 4120.2-1 is amended by revising paragraphs (b) and (c) to read:

* * * * *

(b) Where AMP's are not completed, or where the authorized officer has determined that an AMP is not necessary, the authorized officer shall incorporate in grazing permits or leases such terms and conditions as he/she deems appropriate for the management of the lands involved. The authorized officer may reexamine such lands at any time and if he/she finds on reexamination that the condition of the range requires adjustment in the amount or other aspect of grazing use, the permittee or lessee shall adjust his/her use to the extent the authorized officer deems appropriate. Such readjustments shall be put into full force and effect on the date specified by the authorized officer.

(c) All permits and leases shall be made subject to cancellation in whole or in part due to loss of control by the permittee or lessee of all or part of base property.

* * * * *

§ 4120.2-2 [Amended]

14. Section 4120.2-2 is amended by:

a. Removing in the opening paragraph, the words "achieving objectives identified in land use plans," and replacing them with the words

"achieving management objectives,"; and

b. Revising paragraph (d) to read:

* * * * *

(d) A requirement that permittees or lessees, operating under a grazing permit or lease, submit within 15 days after completing their annual grazing use, or as otherwise specified in the permit or lease, the certified actual use made;

* * * * *

§ 4120.2–3 [Amended]

15. Section 4120.2–3 is amended by:

a. Revising the opening paragraph to read:

If the authorized officer elects to develop an allotment management plan, he/she shall do so according to the following:

* * * * *

b. Revising paragraph (a) to read:

* * * * *

(a) An allotment management plan shall be prepared in careful and considered consultation, cooperation and coordination with affected permittee(s) or lessee(s), landowners involved, the district grazing advisory boards where established, any State having lands within the area to be covered by such an allotment management plan and other affected interests. Allotment management plans shall be implemented when approved by the authorized officer (see § 4100.0–5(d) of this title). The allotment management plan shall include terms and conditions under § 4120.2–1 of this title, and shall prescribe a system of grazing designed to meet specific multiple-use management objectives. The plan shall specify the limits of flexibility within which the permittee or lessee may adjust his/her operation without prior approval of the authorized officer. The plan shall provide for the collection of data that shall be used to evaluate the effectiveness of management actions in achieving the specific multiple-use management objectives of the plan.

* * * * *

c. Amending paragraph (c) by removing the words "parties involved" and replacing them with the words "affected interests."

d. Revising paragraph (e) to read:

* * * * *

(e) Permittees or lessees operating under a grazing permit or lease incorporating an allotment management plan shall, within 15 days after completing their annual grazing use, or as otherwise specified in the permit or lease, submit a report of the certified actual use made.

* * * * *

§ 4120.3 [Amended]

15. Section 4120.3 is amended by removing paragraphs (a)(3), (a)(4), (a)(5), (b) and (c) in their entirety.

§ 4120.4 [Amended]

16. Section 4120.4(a) is amended by removing all of the paragraph except the first sentence.

§ 4120.6–1 [Amended]

17. Section 4120.6–1 is amended by removing from paragraph (a) the words "the land use plans.", and inserting the words "multiple-use management.", by removing in paragraph (c) the word "install" and adding after the words "public lands" the words "under § 4120.2–2 of this title.", and by deleting paragraph (e) in its entirety.

§ 4120.6–3 [Amended]

18. Section 4120.6–3 is amended by inserting in paragraph (c) the word "those" after the words "under § 4110.2–1 of this title and".

19. Section 4120.6–4 is revised to read:

§ 4120.6–4 Standards, design and stipulations.

Range improvement cooperative agreements and permits shall specify the standards, design, construction and maintenance criteria for the range improvements and other additional conditions and stipulations or modifications deemed necessary by the authorized officer. Where an existing range improvement is significantly inconsistent with established design criteria, the authorized officer may require such improvement be improved or modified to meet established standards through modification of the cooperative agreement or permit. The authorization for improvements may be cancelled for failure to comply with such criteria.

§ 4120.6–6 [Amended]

21. Section 4120.6–6 is amended by removing from paragraph (c), after the words "If grazing permits or", the word "grazing".

22. Section 4120.8 is revised to read:

§ 4120.8 Special rules.

When a State Director determines that local conditions require a special rule to achieve improved administration consistent with the objective of this part, the Director may approve such rules. The rules shall be subject to public review and comment, as appropriate, and upon approval, shall become effective when published in the **Federal Register** as final rules.

§ 4130.2 [Amended]

23. Section 4130.2 is amended by:

a. Revising paragraph (b) to read:

* * * * *

(b) Grazing permits or leases shall be issued to authorize livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management. These grazing permits or leases shall specify terms and conditions as required by § 4120.2 of this title.";

* * * * *

b. Amending paragraph (d)(1) by removing the words "BLM control" and replacing them with the words "the administration of the Bureau of Land Management";

c. Revising paragraph (d)(2) to read:

* * * * *

(d) * * *

(2) Exceptions to the issuance of a grazing permit or lease for a term of 10 years shall be made on a case-by-case basis."; and

* * * * *

d. Revising paragraph (e)(1) to read:

* * * * *

(e) * * *

(1) The lands remain available for livestock grazing in accordance with the land-use plans (See § 4120.1 of this title)."

§ 4130.4 [Amended]

24. Section 4130.4 is amended by deleting the comma between the words "permits" and "or" where they first appear.

§ 4130.4–1 [Amended]

25. Section 4130.4–1 is amended by:

a. Revising paragraph (b) to read:

* * * * *

(b) The lands offered for exchange-of-use shall be within the exterior boundaries of the allotment, except that lands outside such boundaries may be included where it would otherwise meet specific managment objectives.

* * * * *

b. Revising paragraph (d) to read:

* * * * *

(d) The exchange-of-use grazing agreement may be issued for a term of not more than 10 years.

* * * * *

26. Section 4130.4–2 is revised to read:

§ 4130.4–2 Nonrenewable grazing permits and leases.

Nonrenewable grazing permits or leases may be issued on an annual basis to qualified applicants when forage is temporarily available, provided this use does not interfere with existing livestock operations on the public lands.

§ 4130.5–1 [Amended]

27. Section 4130.5–1 is amended by:

a. Revising paragraph (a) to read:

(a) Grazing fees shall be established annually by the Secretary based upon the grazing fee formula in the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901).

* * * * *

b. Amending paragraph (c) by removing all after the first sentence;

c. Revising paragraph (e) to read:

* * * * *

(e) Fees are due upon issuance of the billing notice and shall be paid in full prior to grazing use except where an allotment management plan providing for later payment has been incorporated in a grazing permit or lease. In such cases, a billing notice based on certified actual use may be issued at the end of the grazing period or year, or a billing notice based on the normal operation may be issued prior to the grazing period or year followed by an adjusted billing notice based on certified actual use after grazing use has been completed. If a certified actual use report is not submitted, the amount due shall be based on grazing use at the upper limit of flexibility specified in the allotment management plan. Actual use billing privileges shall be cancelled by the authorized officer where the permittee or lessee fails or refuses to:

(1) Submit a timely certified actual use report; or

(2) Make timely payment upon issuance of a billing notice based upon a certified actual use report or, if the actual use report has not been submitted, the upper limit of flexibility specified in the allotment management plan.

In any event, the permittee or lessee, is not relieved of the responsibility for submitting a certified actual use report under § 4120.2–3(e) of this title.

* * * * *

d. Removing paragraph (f) and the citation of authorities immediately following it in their entirety.

§ 4130.5–2 [Amended]

28. Section 4130.5–2(b) is amended by inserting in the last sentence after the words "fees, in whole or in part, or" the word "postpone" and by deleting after the words "fee payment", the words "may be postponed".

29. Section 4130.5–3 is revised to read:

§ 4130.5–3 Service charge.

A service charge shall be assessed for each crossing permit, transfer of grazing preference and each original, replacement or supplemental billing notice except for actions initiated by the authorized officer. Pursuant to section 304(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734(a)), calculation of the service charges assessed shall reflect processing costs for each type of action and shall be adjusted periodically as costs change. Notice of changes shall be published periodically in the **Federal Register.**

§ 4130.6 [Amended]

30. Section 4130.6 is amended by revising paragraph (b) to read:

* * * * *

(b) Changes in grazing use may be granted by the authorized officer.

* * * * *

§ 4140.1 [Amended]

31. Section 4140.1 is amended by:

a. Revising paragraph (b)(1) to read:

* * * * *

(b) * * *

(1) Allowing livestock or privately owned or controlled indigenous animals on or driving across these lands——";

* * * * *

b. Amending paragraph (b)(10) by inserting after the words "cooperative agreements" the words "certified actual use reports"; and

c. Removing paragraph (b)(12) in its entirety.

§ 4150.1 [Amended]

32. Section 4150.1 is amended by inserting after the words "impoundment and disposal" the words "of their livestock" and by deleting the last sentence of the section.

33. Section 4150.2(a) is revised to read:

§ 4150.2 Notice and order to remove.

(a) Whenever it appears that a violation exists and the owner of the unauthorized livestock is known, written notice of unauthorized use and order to remove livestock by a specified date shall be served upon the alleged violator or his/her agent, or both, by certified mail or personal delivery.

* * * * *

§ 4150.3 [Amended]

34. Section 4150.3 is amended by:

a. Revising the opening paragraph to read:

The authorized officer shall determine if the violation is nonwillful or willful. When violations are determined to be nonwillful, settlement shall be made under paragraphs (a)(1), (a)(3) and (a)(4) of this section. When violations are determined to be willful, or repeated willful, settlement shall be made under paragraphs (a)(2), (a)(3) and (a)(4) of this section. Where violations are repeated or willful, the authorized officer may take action under § 4170.1–1(a) of this title. Where violations are repeated willful, the authorized officer shall take action under § 4170.1–1(b) of this title.

* * * * *

b. Amending paragraph (a)(1) by removing, at the beginning of the paragraph, after the words "'Nonwillful violations'", the word "The" and replacing it with the words "Twice the";

c. Amending paragraph (a)(2) by removing, at the beginning of the paragraph, after the words "'Willful and repeated willful violations'", the word "Twice" and replacing it with the words "Three times"; and

d. Amending paragraph (c) by removing the words "or § 4160.5," and adding at the end a new sentence to read: "The proposed decision shall include a demand for payment."

§ 4150.4 [Removed]

35. Section 4150.4 is removed in its entirety.

§ 4150.5 [Redesignated as § 4150.4]

36. Section 4150.5 is redesignated as § 4150.4.

§ 4150.5–1 [Redesignated as § 4150.4–1 and amended]

37. Section 4150.5–1 is redesignated as § 4150.4–1 and is amended by adding a new paragraph (c) to read:

* * * * *

(c) To deter unauthorized use from occurring within a specified area, a notice of intent to impound any livestock, other than those authorized in the area described in the notice, shall be published under procedures in paragraph (b) of this section.

38. Section 4150.5–2 is redesignated as § 4150.4–2 and is revised to read:

§ 4150.4–2 Impoundment.

After 5 days from delivery of the notice under § 4150.4–1(a) of this title or any time after 5 days from publishing and posting the notice under §§ 4150.4–1(b) or 4150.4–1(c) of this title, unauthorized livestock may be impounded without further notice any time within the 12-month period following the effective date of the notice.

§§ 4150.5–3 and 4150.5–4 [Redesignated as §§ 4150.4–3 and 4150.4–4]

39. Sections 4150.5–3 and 4150.5–4 are redesignated §§ 4150.4–3 and 4150.4–4 respectively.

§ 4150.5–5 [Resignated as 4150.4–5 and amended]

40. Section 4150.5–5 is redesignated as § 4150.4–5 and is amended by deleting all after the first sentence of the section.

§ 4150.5–6 [Removed]

41. Section 4150.5–6 is removed in its entirety.

§ 4160.1–1 [Amended]

42. Section 4160.1–1 is amended by:

a. Amending the opening paragraph by deleting the words "or by his/her proposed action related to terms and conditions or permits (including range improvement permits) or leases";

b. Amending paragraph (a) by removing the words "rangeland program summary and appropriate updates" and replacing them with the words "summary document"; and

c. Removing paragraphs (a)(1) and (a)(2) in their entirety.

43. Section 4160.2 is revised to read:

§ 4160.2 Protests.

Any applicant, permittee, lessee or other adversely affected interests may protest the proposed decision under § 4160.1–2 of this title in person or in writing to the authorized officer within 15 days after receipt of such decision.

§ 4160.3 [Amended]

44. Section 4160.3 is amended by:

a. Amending paragraph (b) by removing in the second sentence the words "known interested individual" and replacing them with the words "affected interests,";

b. Amending paragraph (c) by removing the words "paragraphs (e) and (f)" and replacing them with the words "paragraphs (d) and (e)" and by deleting from the last sentence the words "as provided in paragraph (d) of this section,";

c. Removing paragraph (d) in its entirety;

d. Redesignating paragraph (e) as paragraph (d) and revising it to read:

* * * * *

(d) * * *

(1) An appeal of a final decision shall not suspend the operation of that decision for the fifth year increment of a 5-year phased-in decision.

(2) An appeal of the third year increment of a 5-year phased-in decision shall suspend implementation of the decision and grazing use shall be authorized at the level scheduled for the first year of the phase-in period.

(3) An application or an appeal from a decision on an application for grazing use in excess of that established by the 5-year phased-in decision shall not suspend the operation of the phased-in decision.

* * * * *

e. Redsignating paragraph (f) as paragraph (e) and amending it by inserting the word "total" between the words "provides for" and "implementation".

§ 4160.5 [Removed]

45. Section 4160.5 is removed in its entirety.

David C. Russell,

Acting Assistant Secretary of the Interior.

September 18, 1981.

[FR Doc. 81–32807 Filed 11–12–81; 8:45 am]

BILLING CODE 4310–84–M

federal register

Friday
November 13, 1981

Part IV

Department of Energy

Western Area Power Administration

Announcement of Final Guidelines and Acceptance Criteria for Customer Conservation and Renewable Energy Programs

DEPARTMENT OF ENERGY

Western Area Power Administration

Announcement of Final Guidelines and Acceptance Criteria for Customer Conservation and Renewable Energy Programs

AGENCY: Western Area Power Administration, Department of Energy.

ACTION: Final guidelines and acceptance criteria.

SUMMARY: The Western Area Power Administration (Western) has developed Guidelines and Acceptance Criteria for customer conservation and renewable energy programs. Western's major objectives are increased energy production from renewable resources, reduced dependence on foreign oil, improved efficiency in energy utilization, and reduced energy consumption.

The overall program approach recognizes individual customer needs and capabilities and will achnowledge past and present accomplishments in the areas of conservation and renewable energy. Customers are given primary responsibility for developing and implementing programs to meet energy production and conservation goals. The Guidelines and Acceptance Criteria will be implemented through contract articles or other formal agreements between Western and its customers. Customers may elect to submit their programs to Western prior to signing such contracts or agreements.

The customer's program submission must include a description of the specific program content, which is essentially a listing of proposed activities. Western's Guidelines and Acceptance Criteria include a list of suggested activities for customer consideration. Western will give full or partial credit for programs required by other entities that meet the requirements of this program.

Acceptance criteria for the customer programs are based on the customer's classification (i.e., cooperative, public utility district, etc.). The customer's program will be evaluated as a whole, but it is required to contain a minimum number of ongoing program activities. Customers may offer substitutes for listed activities if problems develop or circumstances warrant. Western will also provide technical assistance to resolve programmatic problems.

Western's review process for customer submissions consists of the following elements:

1. Publishing these final "Guidelines and Acceptance Criteria."

2. Providing technical assistance to customers upon their request.

3. Customers submitting their programs within 1 year after a contract or letter agreement is signed.

4. Reviewing customer submissions.

5. Answering customer questions and providing necessary assistance.

6. Reviewing accepted programs.

These Guidelines and Acceptance Criteria also include the option for customers to appeal program acceptability.

DATE: The effective date of these final Guidelines and Acceptance Criteria is December 31, 1981.

ADDRESS: For further information concerning these Guidelines and Acceptance Criteria, contact either the appropriate Western Area Office or: Mr. Thomas L. Weaver, Assistant Administrator for Power Management and O&M, Western Area Power Administration, U.S. Department of Energy, P.O. Box 3402, Golden, CO 80401, (303) 231–1518.

SUPPLEMENTARY INFORMATION:

Authority

The Guidelines and Acceptance Criteria were developed pursuant to Western's authority granted under the Department of Energy Organization Act (42 U.S.C. 7101, *et seq.*) and under Reclamation Law, Act of Congress approved June 17, 1902 (32 Stat. 388) and acts amendatory thereof or supplementary thereto, in particular section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)).

Determination Under Executive Order 12291

Pursuant to Executive Order 12291 of February 17, 1981 (46 FR 13193, February 19, 1981), each agency is to determine whether a rule it intends to issue is a "major rule." Western has determined that for purposes of Executive Order 12291, the final guidelines and Acceptance Criteria for Customer Conservation and Renewable Energy Programs are not a major rule because:

1. They will not have an annual effect on the economy of $100 million or more;

2. They will not result in a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

3. They will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule has been exempted from sections 3, 4, and 7 of Executive Order 12291. However, this rulemaking was submitted to the Office of Management and Budget prior to publication in the Federal Register.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*), each agency, when required by 5 U.S.C. to publish a final rule is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. Western has determined that: (1) a substantial number of small entities will not be affected as Western's customers represent a relatively small number of entities in the United States; and (2) the impacts of this program will not cause an adverse economic impact on the participating customers or small entities located within their service areas. The requirements of the Act can be waived if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. For the reasons cited above, the Administrator of Western has certified that the final Guidelines and Acceptance Criteria will not have a significant economic impact on a substantial number of small entities.

National Environmental Policy Act

Pursuant to the provisions of the National Environmental Policy Act of 1970 (42 U.S.C. 4321, *et seq.*), all agencies of the Federal Government shall include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment a detailed statement by the responsible official.

Western believes that the final Guidelines and Acceptance Criteria will not, of themselves, significantly affect the quality of the human environment or have adverse direct environmental impacts.

Discussion of Public Comments

Western received six direct comments from its customers during the August 27, 1981, public comment forum held in Denver, Colorado. Subsequent to the public comment forum, Western received 14 written comments pertaining to the Guidelines and Acceptance Criteria, three of which were submitted from organizations that presently are not Western customers. All comments offered by the 20 organizations have been considered by Western. All major

comments have been combined into the four categories stated below. Where changes have been made as a result of these comments, they are so noted herein. Not all comments submitted to Western pertained directly to the Guidelines and Accpetance Criteria document itself; however, they are also addressed herein for public information. Other comments that were either adequately addressed in the previously published draft document or in these responses have not been specifically identified below.

A. Regarding the Guidelines and Acceptance Criteria

1. Western should include provisions for voluntary customer participation prior to a mandated contractual requirement.

Western agrees; see change to the "Acceptance Criteria" section.

2. Western's customer Conservation and Renewable Energy Program should accept State required activities plus all DOE Residential Conservation Service Program (RCS) and Commercial and Apartment Conservation Service Program (CACS) related activities from the National Energy Conservation Policy Act (NECPA) and the Energy Security Act (ESA).

Western agrees; see addition to appendix A.

3. Western should define the term "customer profile."

Western agrees; see addition to appendix B.

4. Western's appeal procedure should go beyond its Administrator to someone outside of the Department of Energy.

Western believes that the appeal procedure to its Administrator is consistent with Western's current practices and authorities and is appropriate for its Guidelines and Acceptance Criteria. This procedure provides for a two-step formal review, first by the appropriate Area Manager, and second by the Administrator. Both of these officials have been granted contracting authority by the Department of Energy for power marketing contracts, and they are the responsible officials for carrying out such authority. Other agencies do not have such formal authority to review decisions of Western's Administrator. If a customer is not satisfied with the decision of the Administrator, other legal avenues are available.

5. Western should define "continuing or ongoing" and "one-time" program activities.

In general, a "continuing or ongoing" program activity is one whereby an initial investment made by a customer is sustained through continued use, funding, operation, or maintenance in the year it is considered as a program activity. A "one-time" program activity would involve no such sustaining yearly resources.

6. The term "irrigation districts" should include "irrigation, electrical, water delivery, water conservation, and other agricultural districts."

Western agrees; see change to the "Acceptance Criteria" section.

B. Regarding the "Parent-Entity" Customer Relationship

1. Can a "parent-entity" type of customer be fully responsible for its members and submit one program in behalf of its full membership?

Western requires that each of its "parent-entity" type of customers *and* their members that benefit from a long-term allocation of Federal power have their own individual ongoing conservation and renewable energy programs. Western will provide technical assistance as requested to individual parent-entity types of customers and their members for such program development and implementation within its capabilities.

Western believes that this requirement is the fairest approach for both the parent-entity type of customer and its members. If Western were to allow a parent-entity type of customer to submit one consolidated and/or collective conservation and renewable energy program in behalf of its full membership, and that program was found not to be acceptable to Western, then Western would have no option but to subject the parent-entity type of customer to withholding the entire 10 percent of its total firm power allocation. This approach could result in a situation where noncompliance by just one member could penalize both the parent-entity type of customer, as well as all of the other members who themselves were in full compliance with Western's customer Conservation and Renewable Energy Program requirements.

2. If a parent-entity type of customer has a member(s) who does not comply with Western's Conservation and Renewable Energy Program requirements, should that customer have the right to a pro rata share of the potential 10-percent reduction of that member's power for reallocation to its other members?

In the event that a member(s) of a parent-entity type of customer is in total noncompliance with Western's Conservation and Renewable Energy Program requirements, the lost pro rata share may be made available to any other Western preference customer on a case-by-case basis. In such an event, the other members of the parent-entity type of customer that is effected will be considered equally with all other Western preference customers. Also, see comment C.2 regarding this situation.

3. Must a parent-entity type of customer have separate and individual programs from each of its members, plus its own program; or may it have common programs in behalf of its full membership?

Both the parent-entity type of customer and each of its members must have separate and individual programs. However, both the parent-entity type of customer and its members may also have the same program activities. It is recognized that some customers and/or their members may all be implementing common activities as part of their respective programs.

4. How will a distribution member's proportionate share of the customer's total allocation be determined for penalty purposes?

The distribution member's share is in direct proportion to that member's Federal power benefits. Also, see comment C.4 regarding this situation.

C. Regarding the Contract Article

1. Since the contract article is "not a part of the published proposal, the implementing contract language should be negotiable for future contracts." Customers should have the "right to further discussion" (on contract language) and "participation should be by all of Western's customers in the development of standard contract language."

Western intends to be consistent with its customers throughout its service area regarding inclusion of a customer Conservation and Renewable Energy Program article in contract renewals, amendments, or new contracts.

2. By what criteria will Western reallocate a customer's lost Contract Rate of Delivery?

Reallocation will be determined on a case-by-case basis in accordance with Western's authorities and obligations, consistent with our marketing policies in effect at such time and after providing the requisite public notice and opportunity for public comments. All relevant factors will be considered in such a reallocation.

3. How many times can a penalty be assessed for noncompliance?

A penalty can be assessed only once for noncompliance with Western's Guidelines and Acceptance Criteria.

4. Why does Western's contract article for customer conservation and renewable energy programs include

potential penalty provisions for Western's customers?

Western's contract article for this program does include a potential penalty provision in that a customer who does not produce an acceptable conservation and renewable energy program within 1 year of its becoming a contractual requirement is subjected to the potential loss of 10 percent of its firm power allocation.

This provision serves to assure full customer participation which will help discredit charges of wasteful use of Federal power. It is also consistent with the current Administration's National Energy Policy plan in that such a provision actively encourages wise and efficient energy production and utilization. The potential penalty provision creates an active mechanism for continued interest and emphasis on conservation and renewable energy activities which are in accord with the legislation under which Western was formed and which governs our overall policy direction.

D. Regarding Western's Program in General

1. Western should work jointly with other organizations in renewable resource development regarding: (1) Actual financing of feasibility studies; (2) providing personnel for data collection and staff support activities; (3) small demonstration projects; and (4) guaranteed power purchases.

Within the limits of Western's funding and staffing resources, joint activities will be considered on a case-by-case basis.

2. Western should encourage cost-effective power within its customer programs by: (1) Conditioning the sale of power upon customer implementation of effective conservation programs, conservation-oriented retail rate structures, load management standards, and residential conservation service guidelines; (2) reforming wholesale rates by replacing demand charges with time-of-use energy charges that more accurately reflect the marginal cost of the new supply; (3) purchasing or wheeling power from preferred alternative resources; and (4) reserving a substantial portion of capacity for firming customers' alternative resource projects.

Comments (2), (3), and (4) above are beyond the scope of Western's Conservation and Renewable Energy Program that is applicable to all of its firm power customers. These suggestions could only be considered for implementation on a project-by-project basis because they relate to specific rates and marketing policies which differ widely among numerous reclamation and water resource projects. In fact, some of these suggestions have been recently considered or adopted in certain Western power marketing plans.

Western believes that the program adopted herein does accommodate comment (1) above, while concurrently providing a more flexible approach whereby each customer or customer group will determine what conservation and/or renewable energy alternatives are best suited practically and economically to its individual needs. This approach was considered more desirable due to the wide variety of customers served from the different water resource projects from which Western markets power. It would not make sense to mandate specific conservation and renewable energy programs or practices to all customers, because there would likely be some customers for which such programs or practices would not be practical or economical.

Western's program as presently structured allows the customers themselves to determine, on the basis of their needs, what program activities will be most cost effective and result in the greatest net benefit to them. Western does, however, strongly encourge all of their customers to actively and continually engage in some conservation and renewable energy activities.

3. Western should: (1) Not allow credit for programs required by other entities; (2) develop a mechanism to assign relative values for expected energy saved and for assessing program benefits; and (3) assure customer compliance before any power supply contracts or agreements are signed.

Western believes that it should not add to its customers' costs by duplicating the requirements of other agencies; and, therefore, a customer may satisfy Western's Conservation and Renewable Energy Program requirements by compliance with other agencies' applicable requirements. Also, a customer may already be implementing all economical and practical conservation and/or renewable energy activities within its capabilities to comply with other agencies' requirements. It would, therefore, not make sense for Western to require additional program activities which are not cost effective and would not result in any real benefits to the customer.

The merits of each customer conservation and renewable energy program will be evaluated. Western expects that data regarding energy saved and program benefits would be provided in the first instance by its customers. Given the wide variety of customers to which Western markets power, Western believes that it cannot develop more specific qualitative or quantitative evaluation criteria than are provided herein without subjecting its customers to unrealistic requirements.

It is not Western's intent to grant or deny firm power contract sales solely on the basis of whether a customer has its own conservation and renewable energy program in existance. Rather, Western's program requirements are intended to actively encourage those conservation and renewable energy activities which are most desirable and feasible to the customers themselves. Accordingly, Western believes that it is appropriate to allow 1 year for a customer to develop its own individual conservation and renewable energy program after, rather than before, any power supply contracts or agreements are signed.

4. Western's customer program implementation and maintenance costs will be very high and collectively will exceed $100 million each year.

Western's total 1980 revenues were approximately $320 million from its customers; most of whom were already engaged in some form of conservation and renewable energy program activities which are applicable to meeting Western's program requirements. To suggest that an annual sum of over $100 million would be required for implementation and maintenance of these relatively small programs is not realistic. For the estimated small number of Western's wholesale customers who are not yet implementing any conservation and renewable energy program activities, Western believes that their program costs to meet its minimum criteria would be insignificant.

Guidelines and Acceptance Criteria—Customer Conservation and Renewable Energy Programs

Objectives

These guidlines are provided by the Western Area Power Administration to set forth the approach, responsibilities, program content, and review and acceptance process for customer development and implementation of conservation and renewable energy programs.

Such customer programs, coupled with Western's own conservation and renewable energy efforts, are intended to help achieve one or more of the following objectives:

1. Increased energy production from renewable resources.

2. Reduced United States dependence on imported oil.

3. Improved efficiency in energy utilization.

4. Reduced energy consumption.

Approach

Western's overall program approach recognizes the different needs and abilities of each of its customers, acknowledges past and present accomplishments in the areas of conservation and renewable energy development, and involves a cooperative effort in developing and implementing individual customer programs. It is Western's intent that these program requirements do not cause undue hardship or bureaucratic red tape for its customers. To accomplish this goal, Western is using the approach of having each customer select and implement those program activities that it believes will help achieve the above-stated objectives.

Responsibilities

Western's customers have primary responsibility for developing and implementing programs to directly encourage consumers to conserve energy and to increase energy production via renewable resources. An important step in meeting this responsibility is preparation of a program document that describes the initiatives and activities that the customer organization is already doing or will undertake.

Western's basic requirement is that each customer which benefits from a long-term allocation of Federal power will have its own ongoing conservation and renewable energy program. If such a program is already developed and includes the specified minimum number of activities from the listing in appendix A, Western will review the customer's program for acceptance. If not, a program should be developed for submission to Western that meets the needs of the particular customer organization. Western will provide technical assistance as requested for such program development within its capabilities.

Western also recognizes that some of its customers are already responding to a variety of Federal, State, and other programs that apply to conservation and renewable energy development. In order to avoid duplication of effort, customers may receive full or partial program credit(s) for ongoing activities.

Western will review and may modify its "Guidelines and Acceptance Criteria" document on its own behalf or upon receipt of formal customer requests. Western's review and possible modification would occur at intervals of not less than 3 years. Such modifications would be fully coordinated with Western's customers and, if determined to be necessary, they would be processed through public participation procedures.

Program Content

The most important element of a customer's program document submission is the description of specific program content. Such content is essentially a listing of ongoing or proposed activities that, as a set, describe the customer's total program. Western suggests consideration of the following items as part of this description:

a. Statements adopted by the customer's governing body regarding formal conservation and renewable energy policies and objectives.

b. Designated contact person(s) within the customer's organization who is responsible for program development and implementation.

c. Ongoing customer program activities directed at increasing the use of renewable energy resources, increasing the efficient utilization of energy, or reducing the growth of energy consumption (see appendix A).

d. Customer plans and schedules for continuing the above-stated activities or initiating new activities (see appendix A).

e. Customer methods for determining successful program accomplishment.

f. Documents prepared for other Federal, State, or local agencies that could be submitted in lieu of or supplemental to Western's requested information.

g. Specific areas where a customer feels that assistance is needed from Western.

h. Additional data/information that a customer desires to be included as part of its program description.

Suggested Program Reporting Format

The example reporting format provided in appendix B is suggested for customer use in describing their program. This format is intended to allow customers to briefly describe the general nature and direction of their programs, as well as their specific program content. Western recognizes that some customers are already submitting reports to other governmental agencies pertaining to their ongoing conservation and renewable energy activities. If a customer's existing reporting format already includes the desired information describing their program, such format may be substituted for that suggested in appendix B. Customers are expected to notify Western of continuation and progress regarding previously accepted program activities and to report significant changes in their program content as they occur; such notification may be by letter. Significant proposed changes in program content should be submitted to Western for review and acceptance.

Acceptance Criteria

Customer program acceptance criteria are defined as a set of minimum program activities that will be reviewed by Western in its acceptance process of a customer's conservation and renewable energy program, submitted in accordance with applicable contractual articles or other formal agreements.

Program development and implementation prior to execution of such articles or formal agreements is encouraged, but is not mandatory. Such voluntary participation does require a formal program submission that will be reviewed by Western for acceptability and applicability to future firm power contracts.

A customer's program will be reviewed as a whole, based on a demonstrated good faith effort. However, in order to provide an objective basis for consistency, Western requires that a customer's program include a minimum number of ongoing/planned program activities selected from the listing in appendix A as follows:

Type of customer [1]	Minimum number of activities
Cooperatives	3
Municipalities	3
Public utility districts	3
Federal/State agencies	3
Investor-owned utilities	3
Parent-type entities and their distribution members (i.e., generation and transmission wholesalers and their members, etc.)	3
Irrigation districts [2]	[3] 1

[1] The term "customer" refers to an entity that has a firm power contract and its member systems, if any, that receive the benefits of Federal power.

[2] The term "irrigation districts" also includes agricultural types of districts, such as electrical districts, water delivery districts, and water conservation districts.

[3] One (1) activity is the required minimum if the irrigation district only performs an irrigation function. Three (3) activities are the required minimum if the irrigation district performs multiple utility functions (i.e., residential service, other utility responsibilities, etc.). Such a determination will be made by Western on a case-by-case basis.

If customers believe that they have sufficient justification (i.e., economic, technical, net benefits, cost effectiveness, etc.) to warrant special consideration by Western, they may offer substitutions to the activities listed in appendix A, request deferred activity implementation, or request program credit(s). Western will provide technical

assistance to resolve individual customer problems.

Program activities accepted by Western will be implemented and remain in effect until customer initiated changes are requested and subsequently accepted by Western. Program activities accepted by Western as a result of voluntary customer participation via formal program submission shall be considered valid for future contractual purposes at the time of contractual arrangements. Such prior Western acceptance of a customer's voluntary program does not preclude the requirement for a future customer Conservation and Renewable Energy Program contract article.

Western's Review and Acceptance Process

The process for publication, submittal, and review of draft and final customer conservation and renewable energy programs is as follows:

a. Western's publication of these final customer "Guidelines and Acceptance Criteria."

b. Within its capabilities, Western will provide technical assistance upon request to help customers prepare and implement their programs in accordance with published final "Guidelines and Acceptance Criteria."

c. Customers will submit their programs to the appropriate Western Area Office within 1 year after a contract or formal agreement is signed or within 1 year after the effective date of published Guidelines and Acceptance Criteria in accordance with the contract article or formal agreement.

d. Western's Area Offices will review customer program submissions in accordance with the published final Guidelines and Acceptance Criteria within 3 months of receipt and decide on overall program acceptability. This process may include oral or written communications and possible visits to a customer's headquarters or other program activity locations.

e. During the entire customer program development, submission, and acceptance cycle, Western will be available to answer customer questions and provide assistance to expedite program development, acceptance, and implementation.

f. Western will work cooperatively on a continuing basis as customers implement their accepted programs to reduce the need for reports and paperwork. Accepted programs are subject to onsite reviews upon reasonable notice by Western (i.e., 2 weeks or more).

Administrative Appeal Procedures

If a customer disagrees with Western's determination of the acceptability of its submitted program, progress reports, requested program changes, or other items, the customer may request reconsideration by filing a written appeal with the appropriate Western Area Office. Appeals may be submitted any time that such a disagreement should occur. They should be specific at to the nature of the disagreement, the reasons why the customer disagrees, and any other pertinent facts which the customer feels should be brought to Western's attention. If a customer's disagreement cannot be resolved at the Western Area Office level, appeal may then be made to the administrator of Western.

Appendix A—Customer Conservation and Renewable Energy Activity List

The following list of program activities or initiatives is provided for customer consideration as Western-accepted program activities. Various numbers of these activities must be included as part of a customer's program based on classification as a particular type of customer as previously stated in the Acceptance Criteria section. Selected activities may come from a single category or a combination of the three categories listed below.

Category "A"—Energy Conservation Activities

- Home energy conservation programs; which may include such activities as:
  - Boiler, furnace, air condition retrofitting
  - Weatherization (home or utility)
  - Storm windows/doors
  - Insulation of air ducts, boilers, pipes, etc.
  - Heat reflective/absorbing window or floor material, etc.
  - Clock thermostats
  - Electrical or mechanical ignition systems
  - Heat pumps
- Energy audits
- Load management devices/systems
- Scrap and waste reclamation
- Waste heat recovery
- Lighting redesign and management
- Power-factor correction
- Electric motor replacement
- Rephasing operations to reduce energy consumption
- Cogeneration projects
- Improved boiler and equipment maintenance
- Better sizing of boilers and/or equipment
- Installation of energy storage equipment
- Information dissemination programs
- Economic assessment studies for conservation activities
- Development of energy efficiency awards programs
- Equipment inspection programs
- Building plan review/service programs
- Conservation grants
- Conservation demonstration projects
- Installation arrangements/assistance
- Upgrading of transmission lines and/or substation equipment
- Information programs
- Technical assistance to consumers
- Listing services for suppliers/lenders
- Other energy conservation activities; such as activities initiated under DOE's Residential Conservation Service (RCS) Program, Commercial and Apartment Conservation Service (CACS) Program, or other Federal/State programs (i.e., REA, State PUC's, etc.).

Category "B"—Renewable Energy Activities

- Solar thermal/photovoltaics projects
- Active solar installations
- Passive solar installations
- Small/large-scale wind turbine installations
- Biomass/refuse-derived fuels projects
- Small-scale hydroelectric projects
- Geothermal projects
- Wind measurement/recording equipment
- Economic assessment studies for renewable resources
- Interconnection services to remote renewable resource facilities
- Purchase of electricity from renewable resource facilities
- Cooperative renewable resource development projects
- Other renewable resource projects or activities; such as those required by the example agencies mentioned under category "A."

Category "C"—Other Program Activities

- Customer in-house program activities
- Loan arrangements/assistance
- Attendance at conservation and/or renewable energy training
- Purchase of customer-generated renewable energy
- Sale of surplus power to displace petroleum fuels (resource coordination)
- Rate restructuring/adjustments
- Area-wide resource assessments
- Agricultural improvements which conserve energy such as:
  - Irrigation pump utilization/scheduling
  - Irrigation pump testing or efficiency improvements
  - Ditch lining and piping
  - Laser land-leveling
  - Pumpback systems
  - Alternate energy saving water sources
  - Field irrigation system improvements
- Other applicable energy saving measures; such as those required by the example agencies mentioned under category "A."

Appendix B—Suggested Reporting Format

Western Area Power Administration; Customer Conservation and Renewable Energy Programs; Program Content and Description

I. Customer Name:
Address:
Contact Person(s):
Phone Number(s):

II. A brief narrative description of the customer's overall program policy, objectives, implementation methods, and milestones. (Note: Narrative continuation and/or additional materials may be attached at the customer's discretion.)

III. A brief narrative statement of the followup method(s) used to determine the successful accomplishment of a customer's conservation and renewable energy program.

IV. Identification of any other documents or materials that are included with the customer's program documents for Western's review and acceptance of the customer's program; such as:

Policy Statement(s)
Program Document Submittals to Other Agencies
Request for Western Assistance
Request for Credit(s) for Ongoing Activities
Request for Special Consideration or Other Conditions
Customer Profile*
Identification of Other Assistance Required or Being Received
Declaration of Program Limitations
Other Data (List Document Titles)

V. Using the Activity List in appendix A of Western's "Guidelines and Acceptance Criteria," customer identification of each Conservation and Renewable Energy Program activity that the customer has included in its program submission for review and acceptance by Western. The customer should specifically identify the program activity, location, and implementation date(s).

VI. For each activity listed in item V above, the customer should include pertinent information or attach additional pages or documentation as the customer deems appropriate to briefly describe its ongoing and/or planned efforts regarding individual activity development and implementation.

In consideration of the foregoing, Western's final Guidelines and Acceptance Criteria for its customer Conservation and Renewable Energy Programs are as set forth above.

Issued at Golden, Colorado, November 2, 1981.

Robert L. McPhail,

Administrator.

[FR Doc. 81-32703 Filed 11-12-81; 8:45 am]

BILLING CODE 6450-01-M

*Pertinent information that provides a general description of the customer's organization (i.e. Annual Report, FPC Form 1, etc.).

federal register

Friday
November 13, 1981

Part V

Department of the Treasury

Internal Revenue Service

Clarification of Special Rules for Leases Under the Economic Recovery Tax Act of 1981

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 5c

[T.D. 7795]

Clarification of Special Rules for Leases Under the Economic Recovery Tax Act of 1981

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains amendments which clarify the temporary regulations relating to the special rules for leases under the Economic Recovery Tax Act of 1981. These regulations provide guidance to persons executing lease agreements under section 168(f)(8) of the Internal Revenue Code of 1954.

DATE: Except as otherwise provided, the regulations apply with respect to certain property placed in service after December 31, 1980.

FOR FURTHER INFORMATION CONTACT: John Tolleris of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, (202) 566-3829.

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the temporary regulations promulgated by Treasury Decision 7791 regarding special rules for leases under section 168(f)(8) of the Internal Revenue Code of 1954, which were published in the **Federal Register** for October 23, 1981 (46 FR 51907). These regulations are included in Part 5c, Temporary Income Tax Regulations under the Economic Recovery Tax Act of 1981, and will remain in effect until superseded by later final regulations with respect to section 168 concerning the accelerated cost recovery system (ACRS).

Explanation

These amendments provide a number of clarifications with respect to Treasury Decision 7791 which promulgated temporary regulations under section 168(f)(8) of the Internal Revenue Code of 1954 regarding special rules for leases. One clarification regards the disposition of a partnership interest in a section 168(f)(8) lease. These amendments also provide new rules regarding a lessee's disposition of leased property in bankruptcy or other similar proceeding. Other rules clarify the application of the installment sale method with respect to leases under section 168(f)(8). Although the amendments regarding bankruptcy and similar proceedings are prospective, taxpayers may elect to have them apply to leasing transactions closed before June 1, 1982.

Inapplicability of Executive Order 12291

These regulations are not major legislative regulations for purposes of Executive Order 12291 because the economic effect of these regulations flows principally from the statutory provisions upon which these regulations are based.

Drafting Information

The principal author of these regulations is John A. Tolleris of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Adoption of Amendments to the Regulations

PART 5c—TEMPORARY INCOME TAX REGULATIONS UNDER THE ECONOMIC RECOVERY TAX ACT OF 1981

Accordingly, the following amendments to 26 CFR Part 5c are adopted:

Paragraph 1. Section 5c.168 (f)(8)-1 is amended by revising paragraph (d) to read as follows:

§ 5c.168(f)(8)-1 Special rules for leases.

* * * * *

(d) *Ownership in one of the parties.* Notwithstanding any other section, if neither the lessor nor the lessee would be the owner of the property without regard to section 168(f)(8), or, if any party with an economic interest in the property (other than the lessor or lessee or any subsequent transferee of their interests) claims ACRS deductions or any investment tax credit with respect to the leased property, an election under section 168(f)(8) with respect to such property shall be void as of the date of the execution of the lease agreement.

* * * * *

Par. 2. Section 5c.168(f)(8)-2 is amended by inserting within the first sentence of paragraph (a)(3)(ii) the term "(timely filed including extensions of time)" after the term "income tax return", by revising subparagraph (5) of paragraph (a), by adding after subparagraph (5) of paragraph (a) new subparagraphs (6), (7), and (8), and by adding new examples (3), (4), (5), and (6) in paragraph (b). These revised and added provisions read as follows:

§ 5c.168 (f)(8)-2 Election to characterize transaction as a section 168(f)(8) lease.

(a) *Election* * * *

(5) *Disposition by lessee.* Except in the case of transactions described in subparagraph (6), of this paragraph, if the lessee (or any transferee of the lessee's interest) sells or assigns its interest in the lease or in the property, the agreement will cease to be characterized as a lease under section 168(f)(8) as of the time of the sale or assignment unless the transferee furnishes to the lessor within 60 days following the transfer the transferee's written consent to take the property subject to the lease, and the transferee and lessor file a statement with their timely filed Federal income tax returns for the taxable year in which the transfer occurs containing the following information:

(i) The name, address, and taxpayer identifying number of the lessor and the transferee;

(ii) The district director's office with which the income tax returns of the lessor and transferee are filed;

(iii) A description of the property; and

(iv) Confirmation of the transferee's consent.

See § 5c.168(f)(8)-8 for the Federal income tax consequence where an agreement ceases to be characterized as a lease under section 168(f)(8).

(6) *Disposition of lessee's interest in bankruptcy, etc., or similar proceeding.* In the case of an agreement executed after May 31, 1982, where the lessee's interest in the lease or in the property is sold or assigned in a bankruptcy, liquidation, receivership, a court-supervised foreclosure, or in any similar proceeding for the relief or protection of insolvent debtors in Federal or State court, the agreement will continue to be characterized as a lease under section 168(f)(8) and the purchaser or assignee shall take the property subject to the lease if—

(i) Prior to the consummation of the sale or assignment, the lessor gives written notice of its Federal income tax ownership to the judicial or administrative body having jurisdiction over the proceeding and to the debtor in possession of the interest or, if at such time a trustee, receiver or similar person has been appointed by the court, to the person appointed. The notice must contain a request that the court and the debtor or the person appointed provide a copy of the notice to the purchaser or assignee prior to the consummation of the sale or assignment. Within 60 days

following the sale or assignment, the lessor must provide notice of its Federal income tax ownership and copies of the lease agreement, and, in the case of a sale and leaseback transaction, the lessor's purchase money obligation, to the purchaser or assignee;

(ii) The lessor files a statement with its timely filed Federal income tax return for the taxable year in which the sale or assignment occurs containing the following information:

(A) The name, address, and taxpayer identifying number of the lessor and the purchaser or assignee;

(B) The district director's office with which the Federal income tax returns of the lessor and purchaser or assignee are filed;

(C) A description of the property; and

(iii) Prior to the consummation of the sale or assignment, all secured lenders of the lessee with interests in the property, which interests arose not later than the time the lessee first used the property under the lease (and which were perfected in accordance with applicable local law), specifically either exclude or release in writing the Federal income tax ownership of the property from their interests.

The purchaser or assignee of the interest with respect to which this paragraph applies shall file a statement with its timely filed Federal income tax return for the taxable year in which the sale or assignment occurs containing the information described in subdivision (ii) of this Subparagraph. If the interest is subsequently transferred (other than in a bankruptcy, liquidation, receivership, court-supervised foreclosure, or similar proceeding) during the term of the lease, the agreement will continue to be characterized as a lease under section 168(f)(8) and the transferee will take the property subject to the lease if either (A) the lessor gives the transferee, prior to the transfer, a copy of the lease, written notice of its Federal income tax ownership, and, in the case of a sale and leaseback transaction, a copy of the lessor's purchase money obligation, and the lessor files a statement with its timely filed Federal income tax return as described in subdivision (ii) of this subparagraph, or (B) within 60 days following the transfer, the transferee agrees in writing to take the property subject to the lease and the lessor and transferee file a statement with their timely filed Federal income tax returns within the time and in the manner described in paragraph (a)(5) of this section. However, an agreement will not continue to be characterized as a lease under this subparagraph if, under another applicable provision, it would cease to be characterized as a lease. See § 5c.168(f)(8)–8 for the Federal income tax consequences where an agreement ceased to be characterized as a lease under section 168(f)(8).

(7) *Consequences of taking the property subject to the lease agreement.* For purposes of § 5c.168(f)(8)–1 through § 5c168(f)(8)–11, in a situation where a transferee of a lessee's interest acquires the property subject to the lease, the transferee shall be deemed to have acquired a leasehold interest in the property equal to the remaining lease term, any unpaid obligation of the lessor arising in connection with the sale of the property by the original lessee in a sale and leaseback transaction, and any option of the lessee to purchase the property. Any consideration paid by the transferee for the property shall be allocated to the lessor's obligation to the extent of the unpaid balance of the obligation. Any excess over the unpaid balance shall be allocated between the leasehold interest and the purchase option in proportion to their relative fair market values. As the new lessee, the transferee shall not be entitled to claim any ACRS deduction with respect to the property while the lease remains in effect and shall not be entitled to any investment tax credit with respect to the property. The transferee shall report interest income on the lessor's obligation, and shall be entitled to deduct the rent paid under the lease, in accordance with § 5c.168(f)(8)–7. In addition, the transferee shall be entitled to amortize the portion of its cost allocable to the leasehold interest. Coversely, as long as the lease remains in effect, the lessor will continue to be recognized as the owner of the property for Federal income tax purposes, shall be required to report rents due under the lease, and shall be entitled to deduct interest on its obligation.

(8) *Election to treat certain leases under subparagraph (6) rules.* The lessor under a section 168(f)(8) lease executed on or before May 31, 1982, may elect to have the provisions of paragraph (a)(6) of this section apply in the case of a sale or assignment of the lessee's interest in the lease or in the property in a bankruptcy, receivership, liquidation, court-supervised foreclosure, or similar proceeding. The election of the lessor with respect to any leased property may be made at any time prior to the consummation of any sale or assignment of such property in a bankruptcy, etc., or similar proceeding, by complying with the provisions of subparagraph (6) of this paragraph.

(b) *Examples.* * * *

Example (3). X Corp. (as lessee) sells certain new equipment to Y Corp. (as lessor) and leases it back under a section 168(f)(8) lease. During the term of the lease X sells its interest in the property to T Corp. (other than in a bankruptcy or similar proceeding), and T does not give Y a written consent to take the property subject to the leased. The agreement ceases to be treated as a lease under section 168(f)(8) as of the date of the sale.

Example (4). The facts are the same as in example (3) except that the sale of the property takes place while X is under the jurisdiction of a court in a bankruptcy proceeding. All lenders of X having perfected interests in the property that arose by the time the property was first used under the lease have specifically either excluded or released the ownership of the property for Federal income tax purposes from their interests. Within the required time periods, Y gives appropriate notification to the court, the bankruptcy trustee, and T that the property is subject to the lease and files the required statement with its Federal income tax return for the taxable year in which the sale occurs. The agreement continues to be treated as a lease under section 168(f)(8). T will take the property subject to the lease. T must allocate the purchase price among the lessor's note, the leasehold interest, and the option (if any) to purchase the property.

Example (5). The facts are the same as in example (4), except that one lender of X having a perfected and timely interest in the property does not specifically exclude or release the Federal income tax ownership of the property from its interest. The agreement will cease to be treated as a lease under section 168(f)(8) as of the date of the transfer to T. The result would be the same if Y failed to furnish any of the notices required by subdivision (i) of paragraph (a) and (6) or failed to file a statement as required by subdivision (ii) of paragraph (a)(6).

Example (6). The facts are the same as in example (4). In addition, during the term of the lease T transfers the property to U Corp. and Y fails to furnish U with written notice that the property is subject to the lease prior to the sale and U refuses to agree to consent to the lease agreement. The agreement will cease to be treated as a lease under section 168(f)(8) as of the date of the transfer to U. The result would be the same if Y furnished U with timely written notice of its tax ownership but failed to file the required statement with its tax return for its taxable year in which the sale occurred.

Par. 3. Section 5c.168(f)(8)–3 is amended by revising paragraph (c) and *Example (2)* of paragraph (d). The revised provisions read as follows:

§ 5c.168(f)(8)–3 Requirements for lessor.

* * * * *

(c) *One tax owner per property.* Only one person may be a qualified lessor under section 168(f)(8) with respect to leased property. Thus, property that is subject to a lease under section 168(f)(8) may not be subleased under a lease for which a section 168(f)(8) election is

made. In addition, if a lessor sells or assigns in a taxable transaction its interest in a section 168(f)(8) lease or in the underlying property, the lease shall cease to qualify under section 168(f)(8) and no other lease may be executed under section 168(f)(8) with respect to the property. The preceding sentence applies to a sale or assignment of its interest by a partner of a lessor that is a partnership described in paragraph (a)(2) of this section or by a beneficiary of a lessor that is a trust described in paragraph (a)(3) of this section. See § 5c.168(f)(8)–8 for the Federal income tax consequences where a lease ceases to qualify under section 168(f)(8). However, lease brokers, agents, etc., may, for example, prepare executory contracts with the lessee whereby the broker's assignee may execute a lease as lessor, and, if the requirements of section 168(f)(8) and §§ 5c.168(f)(8)–1 through 5c.168(f)(8)–11 are met, the lease will qualify under section 168(f)(8).

(d) *Examples.* The application of paragraph (c) may be illustrated by the following examples: * * *

Example (2). X Corp., which wishes to acquire certain equipment for use in its business and to transfer ownership of the property for Federal income tax law purposes, purchases the equipment and enters into an executory contract with LB, a lease broker, under which X agrees to execute a section 168(f)(8) lease as lessee with a third party lessor. At a later date (but within the prescribed 3-month period), LB arranges for X and T Corp. (which wishes to secure Federal income tax law ownership) to execute a lease agreement in accordance with § 5c.168(f)(8)–2. The lease will qualify for treatment under section 168(f)(8).

* * * * *

Par. 4. Section 168(f)(8)–6 is amended by revising the first sentence of paragraph (b)(4) to read as follows:

§ 5c.168(f)(8)–6 Qualified leased property.

* * * * *

(b) *Special rules.* * * *

(4) *Foreign lessees.* In addition to the other provisions of this section, property which is leased under a section 168(f)(8) lease to a foreign person shall not be qualified leased property unless the gross income attributable to the property from all sources (determined without regard to section 872(a) or 882(b)) is effectively connected with a trade or business within the United States, and the taxable income, if any, attributable to the property is subject to tax under section 871(b)(1) or 882(a)(1).

* * *

Par. 5. Section 5c.168(f)(8)–7 is amended by revising paragraph(b), by revising so much of paragraph(c)(1), (c)(1)(i) and (c)(1)(ii) as precedes the flush material, and by revising the first sentence of paragraph(d)(1). The revised provisions read as follows:

§ 5c.168(f)(8)–7 Reporting of income, deductions, and investment tax credit; at risk rules.

* * * * *

(b) *Requirements for sale and leaseback transaction.* If the property leased is financed by the lessee (or a related party of the leasee) in a sale and leaseback transaction, the lease will not qualify under section 168(f)(8) unless—

(1) The term of the lessor's purchase money obligation is coterminous with the term of the lease, and

(2) The lessor's obligation bears a reasonable rate of interest. For this purpose, a rate of interest shall be presumed to be reasonable if, on the date the agreement is executed, it is within 3 percentage points of (i) the rate in effect under section 6621, the prime rate in effect at any local commercial bank, or the most recent applicable rate determined by the Secretary under § 1.385–6 (e)(2)(i), or (ii) an arm's-length rate as defined in § 1.482–2, or (iii) any rate between any two of the rates described by subdivisions (i) and (ii) of this paragraph(b)(2).

(c) *Interest deductions and income*—(1) *Deductibility from income.* In determining the amount of interest that a lessor may deduct in a taxable year with respect to its purchase money obligation given to the lessee or to a third party creditor, the lessor may not claim a deduction that would be—

(i) Greater than a deduction that would be allowed to an accrual basis taxpayer under a level-payment mortgage, amortized over a period equal to the term of the lessor's obligation, or

(ii) Less than a deduction that would be allowed to an accrual basis taxpayer under a straight line amortization of the principal over the term of the lessor's obligation. * * *

(d) *Rental income and deductions*—(1) *Deductibility from income.* The amount of the lessee's rent deduction under a section 168 (f)(8) lease with respect to any taxable year shall be a pro rata portion of the aggregate amount required to be paid by the lessee to the lessor under the terms of the lease agreement. * * *

* * * * *

Par. 6. Section 5c.168(f)(8)–8 is amended by revising subparagraphs (2) and (3) of paragraph (b), by adding new subparagraphs (10), (11), and (12) to paragraph (b), and by adding a new sentence at the end of paragraph (d). The revised and added provisions read as follows:

§ 5c.168(f)(8)–8 Loss of section 168 (f)(8) protection; recapture.

* * * * *

(b) *Events which cause an agreement to cease to be characterized as a lease.*

* * *

(2) The failure by the lessor to timely file the required information return described in § 5c.168(f)(8)–2(a)(3) by the due date of its Federal income tax return (taking extensions into account) for the taxable year in which the leasing transaction occurred.

(3) The lessee (or any transferee of the lessee's interest) sells or assigns its interest in the lease or in the qualified leased property in a transaction not described in § 5c.168(f)(8)–2(a)(6) and the transferee fails to execute, within the prescribed time, the consent described in § 5c.168(f)(8)–2(a)(5), or either the lessor or the transferee fail to file statements with their income tax returns as required by that paragraph.

* * * * *

(10) The property is transferred in a bankruptcy or similar proceeding and the lessor fails either to furnish the appropriate notification or to file a statement with its income tax return as required by § 5c.168(f)(8)–2(a)(6).

(11) The property is transferred in a bankruptcy or similar proceeding and not all lenders with perfected and timely interests in the property specifically exclude or release the Federal income tax ownership of the property as required under § 5c.168(f)(8)–2(a)(6)(iii.)

(12) The property is transferred subsequent to a bankruptcy or similar proceeding and the lessor fails to furnish notice to the transferee prior to the transfer or fails to file a statement with its income tax return, and either the lessor fails to secure the transferee's consent or the lessor or the transferee fail to file statements with their returns.

* * * * *

(d) *Consequence of loss of safe harbor protection.* * * * A disposition that results from a disqualifying event shall not be treated as an installment sale under section 453.

* * * * *

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Sec. 168(f)(8)(G), 7805, Internal Revenue Code of 1954 (95 Stat. 216 (26 U.S.C. 168(f)(8)(G)); and 68A Stat. 917, (26 U.S.C. 7805))

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: November 10, 1981.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 81-32967 Filed 11-10-81; 4:59 pm]

BILLING CODE 4830-01-M

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DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
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DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

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.

REMINDERS

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.**

Last Listing November 10, 1981