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Briefings on How To Use the Federal Register—
For information on briefings in Seattle, WA, and San Francisco, CA, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

SEATTLE, WA

WHEN: July 22; at 1:30 pm.

WHERE: North Auditorium, Fourth Floor, Federal Building, 915 2nd Avenue, Seattle, WA.

RESERVATIONS: Call the Portland Federal Information Center on the following local numbers:

Seattle	206-442-0570
Tacoma	206-383-5230
Portland	503-221-2222

SAN FRANCISCO, CA

WHEN: July 24; at 1:30 pm.

WHERE: Room 2007, Federal Building, 450 Golden Gate Avenue, San Francisco, CA.

RESERVATIONS: Call the San Francisco Federal Information Center, 415-556-6600

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Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 400

[Doc. No. 3350S]

General Administrative Regulations; Late Planting Agreement Option Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby revises and reissues the Late Planting Option (7 CFR Part 400, Subpart A), effective with the 1987 and succeeding crop years. The intended effect of this rule is to: (1) Delete the adverse weather condition requirement; (2) publish a corrected list of crop insurance regulations to which the Late Planting Option applies; and (3) provide availability of the Late Planting Option beginning with 1987 crop year fall-planted crops. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: July 7, 1986.

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is January 1, 1991.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, heatlh, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Other than minor changes in language and format, the principal changes in the Late Planting Option Regulations are:

1. Section 400.5.—Delete the Tobacco (Dollar Plan) Crop Insurance Regulations (7 CFR Part 434) as this plan is no longer offered under the provisions of Part 434.

Add Pea Crop Insurance Regulations (7 CFR Part 416) and Sweet Corn (Canning and Freezing) Crop Insurance Regulations (7 CFR Part 437) as crops eligible for the Late Planting Option.

Allow the Late Planting Agreement (LPA) to be used for fall-planted crops beginning with 1987 crop year. The LPA will be available on fall-planted crops and only in those areas where wheat, barley, oats and rye are not usually planted in the spring. The availability of this option to most spring planted crops has allowed FCIC to avoid extension of final planting dates with the concurrent reduction in yields. The Agreement allows an extension of the final planting date with a reduction in guarantee and is more actuarially sound than the previous procedure. FCIC has allowed the program in a limited winter wheat area and the results have been favorable for both the Corporation and the insured.

This change will allow the LPA to be used for fall planted wheat, barley, oat and rye areas provided these crops are insurable under the basic policy. All others areas will have the LPA available on a spring-planted basis only.

2. Section 400.6—Delete the adverse weather conditions requirement. It is difficult to determine if the planting delay is due to adverse weather conditions or some other factor. Since no actuarial basis exists for the restriction, FCIC deletes the requirement and allows an option regardless of the reason. This change will allow the Lake Planting Option to be used whenever the otherwise insurable crop is planted after the final planting date without regard to the reason.

On Friday, March 21, 1986, FCIC published a Notice of Proposed Rulemaking in the **Federal Register** at 51 FR 9826 to revise and reissue the Late Planting Agreement Option Regulations (7 CFR Part 400, Subpart A), effective for the 1987 and succeeding crop years. The public was given 30 days in which to submit written comments, data, and opinions on the rule, but none were received.

In reviewing the list of crops eligible for the LPAO, FCIC found that the Pea Crop Insurance Regulations (7 CFR Part 416) should have been included as a crop eligible for LPA. Accordingly, the Pea Crop Insurance Regulations are added as a crop determined to be eligible for the LPA.

Therefore, with the exception of minor language changes, the proposed rule, amended as outlined above, is hereby adopted as a final rule.

List of Subjects in 7 CFR Part 400

Crop insurance; Late planting agreement option.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby revises and reissues the Late Planting Agreement Option Regulations, Subpart A of Part 400, Title 7 of the

Code of Federal Regulations, effective for the 1987 and succeeding crop years, as set forth below:

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

Subpart A—Late Planting Agreement Option; Regulations for the 1987 and Succeeding Crop Years

Sec.

400.1 Availability of the late planting option.
400.2 Definitions.
400.3 Responsibilities of the insured.
400.4 Applicability to crops insured.
400.5 The Late Planting Agreement.

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

§400.1 Availability of the late planting option.

The Late Planting Option shall be offered under the provisions contained in 7 CFR Part 402, *et seq.*, within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), only on those crops identified in § 400.4 of this subpart. All provisions of the applicable contract for the insured crop apply, except those provisions which are in conflict with this subpart.

§400.2 Definitions.

For the purposes of the Late Planting Option:

(a) "Final planting date" means the final planting date for the insured crop contained in the actuarial table on file in the service office.

(b) "Late Planting Agreement" means that agreement executed by the final planting date, between the FCIC and the insured whereby the insured elects, and FCIC provides, insurance on acreage planted for up to 20 days after the applicable final planting date. The production guarantee applicable on the final planting date will be reduced on the acreage planted after the final planting date by 10 percent for each 5 days that the acreage is planted after the final planting date.

(c) "Production guarantee" means the guaranteed level of production under the provisions of the applicable contract for crop insurance (sometimes expressed in amounts of insurance).

§ 400.3 Responsibilities of the insured.

The insured is solely responsible for the completion of the Late Planting Agreement and for the accuracy of the data provided on that Agreement. The provisions of this subsection shall not relieve the insured of any responsibilities under the provisions of the insurance contract.

§ 400.4 Applicability to crops insured.

The provisions of this subpart shall be applicable to the provisions of FCIC policies issued under the following regulations for insuring crops:

7 CFR Part 416	Pea
7 CFR Part 418	Wheat
7 CFR Part 419	Barley
7 CFR Part 420	Grain Sorghum
7 CFR Part 421	Cotton
7 CFR Part 422	Potatoes
7 CFR Part 423	Flax
7 CFR Part 424	Rice
7 CFR Part 425	Peanuts
7 CFR Part 427	Oats
7 CFR Part 428	Sunflowers
7 CFR Part 429	Rye
7 CFR Part 430	Sugar Beets
7 CFR Part 431	Soybeans
7 CFR Part 432	Corn
7 CFR Part 433	Dry Beans
7 CFR Part 435	Tobacco (Quota Plan)
7 CFR Part 436	Tobacco (Guaranteed Production Plan)
7 CFR Part 437	Sweet corn (Canning and Freezing)
7 CFR Part 438	Tomatoes (Canning and Processing)
7 CFR Part 443	Hybrid Seed
7 CFR Part 447	Popcorn

The Late Planting Option shall be available in all counties in which the Corporation offers insurance on these crops.

§ 400.5 The Late Planting Agreement.

The provisions of the Late Planting Agreement are as follows:

U.S. DEPARTMENT OF AGRICULTURE

Federal Corp Insurance Corporation

Late Planting Agreement

Insured's Name _____
Contract No. _____
Address _____
Crop Year _____

Crop _____

Notwithstanding the provisions of section 2 of the policy regarding the insurability of crop acreage initially planted after the final planting date on file in the service office, I elect to have insurance provided on acreage planted for 20 days after such date. Upon my making this election, the production guarantee or amount of insurance, whichever is applicable, will be reduced 10 percent for each five days or portion thereof that the acreage is planted after the final planting date. Each 10 percent reduction will be applied to the production guarantee or amount of insurance applicable on the final planting date.

The premium will be computed based on the guarantee or amount of insurance applicable on the final planting date; therefore, no reduction in premium will occur as a result of my election to exercise this option.

If planting continues under this Agreement after the acreage reporting date on file in the service office, the acreage reporting date will be extended to 5 days after the completion of planting the acreage to which insurance will attach under this Agreement.

Insured's Signature _____
Date _____

Corporation Representative's Signature and Code Number _____
Date _____

Collection of Information and Data (Privacy Act)

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552(a)).

The authority for requesting the information to be supplied on this form is the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and regulations promulgated thereunder (7 CFR 400 *et seq.*). The information requested is necessary for FCIC to institute the Late Planting Agreement Option. The information may be furnished to FCIC contract agencies and loss adjusters, reinsured companies, processors, other U.S. Department of Agriculture agencies, the Internal Revenue Service, Department of Justice, other State and Federal law enforcement agencies, U.S. Government contract collection agencies and in response to orders of a court, magistrate, or administrative tribunal. Furnishing the information requested on this form is voluntary. However, failure to furnish the complete requested information may result in the Late Planting Agreement not being accepted by the Corporation.

Done in Washington, DC, on April 22, 1986.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 86–12421 Filed 6–3–86; 8:45 am]

BILLING CODE 3410–08–M

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7 CFR Part 417

[Doc. No. 0089A]

Sugarcane Crop Insurance Regulations; Correction

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule, correction.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) published a final rule in the **Federal Register** on Tuesday, April 29, 1986, at 51 FR 15871, revising and reissuing the Sugarcane Crop

Insurance Regulations (7 CFR Part 417). In that publication the provision to cover the insurance attachment period in areas having three or more years' of stubble cane was inadvertently omitted. This notice is published to correct that error.

ADDRESS: Written comments on this correction may be sent to the Office of Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture. Washington, DC 20250.

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

SUPPLEMENTARY INFORMATION: FR Doc. No. 86–9488, appearing at page 15871, is corrected by adding a provision for an insurance period in those areas having three or more years' stubble cane (appearing on page 15873 in the right column) to read as follows:

PART 417—[AMENDED]

1. The authority citation for 7 CFR Part 417 continues to read as follows:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. In §417.7(d), paragraph 7.a. of the Federal Crop Insurance Corporation Policy is amended by adding subparagraph (3) to read as follows:

§ 417.7 The application and policy.

* * * * *

(d) * * *

7. * * *

a. * * *

(3) All other stubble cane on the later of April 15 following normal harvest or 30 days after harvest.

* * * * *

Done in Washington, DC on May 29, 1986.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 86–12557 Filed 6–3–86; 8:45 am]

BILLING CODE 3410–08–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 111

Pollution Control; Eligibility Policy

AGENCY: Small Business Administration

ACTION: Final rule.

SUMMARY: This final rule provides that waste disposal concerns are not eligible for pollution control financing assistance under this Part.

EFFECTIVE DATE: June 4, 1986.

FOR FURTHER INFORMATION CONTACT: Robert C. Tallon, Director, Pollution Control Financing Staff (202) 653–2548.

SUPPLEMENTARY INFORMATION: On January 9, 1986, the Small Business Administration (SBA) published in the **Federal Register** (51 FR 966), a notice of proposed rulemaking which provided that waste disposal concerns are not eligible for pollution control financing assistance. The Agency received 21 written responses.

During the early stages of the Pollution Control Financing Guarantee (PCFG) program, SBA interpreted the legislative history of its guarantee authority to preclude assistance for the acquisition of a pollution control facility designed to control pollution caused by others than the applicant itself. For this reason applications from waste disposal concerns were considered ineligible.

Upon request of the (then) Administrator of SBA, the Comptroller General of the United States reviewed this conclusion. In an unpublished decision (B–149685) dated November 14, 1978, the Comptroller General stated that SBA could extend the benefit of the program to waste disposal concerns, if it chose to do so, because

> SBA is free, in the exercise of its discretion, to choose a definition of "pollution control facilities" which it feels will most effectively implement congressional intent and carry out the purposes of its guarantee program for such facilities.

But the Comptroller General cautioned that the legislative history did not necessarily support the eligibility of waste disposal concerns:

> It is possible to infer from these references [in the legislative history] that the Congress intended to exclude from guarantee benefits under Section 404, those small business concerns that provide pollution abatement services to others for profit, because investments made by these firms in facilities would be productive and income producing and could provide a satisfactory return. SBA apparently made that inference in the past, and construed the language of the second portion of the definition of "pollution control facilities" set forth above, as limiting solid waste facility coverage to those facilities ameliorating pollution problems caused by the small business concern's own solid waste.

In reexamining the question of the eligibility of waste disposal concerns for the PCFG program, SBA has concluded, after reviewing the responses, that the purposes of the PCFG program, as set forth in the legislative history and the statute, are better served by excluding such businesses from eligibility. Therefore, by the promulgation of this final rule SBA returns to its prior view that waste disposal concerns are not eligible for financial assistance under the PCFG program.

As both the Senate and House reports make clear, PCFG assistance, which is 100 percent underwritten by the Government, is intended for small concerns required to comply with ecological standards by installing nonproductive pollution abatement equipment, purchased incident to their other profit-oriented activities. Where pollution abatement is the main purpose of a concern, such equipment is dedicated to the profit-making activity itself, and is indistinguishable from equipment of any other industry providing a product or service. SBA believes that the purchase of such equipment by firms in the pollution control business is contrary to the purposes of the pollution control financing guarantee authority. The acquisition of such equipment by small concerns is properly assisted by either non-SBA programs or by SBA programs under Titles III and V of the Small Business Investment Act (15 U.S.C. 661 *et seq.*).

Of the 21 written comments, one respondent stated the regulation would preclude assistance to landfill, gas, etc., emissions; one stated that financial institutions would hesitate to lend to businesses which face clean up problems; three stated that the change would foster and encourage monopolization; three stated that expansion would be impossible without SBA assistance; four stated that the 7(a) Business Loan Program does not meet the needs of small business; nine were carbon copies that gave no reasons for their objections.

While there have been various interpretations of "pollution control facilities" over the years, the regulatory language, in accordance with such history, should clarify the distinction between the eligibility of those businesses providing pollution abatement services to others for profit and those businesses having a need to correct ongoing pollution problems caused by their own waste.

The final rule will not have a significant economic impact on a substantial number of small entities. It is not possible to predict the number of small concerns that would be affected by this final rule because our statistics are not kept on that basis, but if the final rule had been in effect during the time that the current rule was in effect (1980 to present), about one fifth, overall, of the pollution control guarantees would not have been made under this program:

Year	Total pollution control guarantees	Waste disposal concerns
1980	93	[1] 16
1981	63	[1] 15
1982	3	1
1983	4	1
1984	4	0
1985	5	2

[1] Estimate.

The final rule will not cause any increase in cost for consumers, Federal, State or local government agencies or geographic regions. As for a cost increase to the waste disposal industry, it is not possible to predict that there will or will not be such increase. On the one hand, the pollution control program offers fixed rate long-term 100% guaranteed financings up to $5 million, including tax-exempt financings, with a guarantee fee authorized by statute at one (1) percent to three and one-half (3½) percent. On the other hand, the regular business loan program offers two (2) percent guarantee fees for guaranteeing up to 85% on loans up to $500,000 for SBA's share and a term tailored to the borrower's ability to repay.

There are no reporting, recordkeeping or other compliance requirements inherent in this rule, nor does the rule duplicate, overlap or conflict with any other Federal rule.

This is not a major rule for purposes of E.O. 12291 because the annual economic effect will be less than $100 million. The maximum financing under the PCFG is $5 million. The total authority for PCFG in FY 1986 is $150 million. If the prior ratio of waste disposal concern financings to total PCFG authority were maintained, such financings would not exceed $30 million.

List of Subjects in 13 CFR Part 111

Environmental protection, Loan programs/business, Small business.

Accordingly, pursuant to the authority in section 308(c) of the Small Business Investment Act (15 U.S.C. 687(c)), SBA amends Part 111, Chapter I, Title 13 of the Code of Federal Regulations as follows:

PART 111—POLLUTION CONTROL

1. The authority citation for Part 111 is revised to read as follows:

Authority: 15 U.S.C. 687(c).

2. Section 111.2 is revised to read as follows:

§ 111.2 Policy.

It is the intent of Congress to assist existing small concerns which are or are likely to be at an operational or financing disadvantage with other business concerns with respect to the planning, design, or installation of pollution control facilities, or the obtaining of financing therefor, by authorizing SBA to guarantee fully (100 percent), directly or in cooperation with others, the periodic payments due in connection with the purchase or lease of such Facilities under a Qualified Contract. The guarantee shall be a full faith and credit obligation of the United States, and may be issued notwithstanding that the pollution control Facility is acquired by the use of proceeds from tax-exempt industrial revenue bonds.

(Catalog of Federal Domestic Assistance Program No. 59.031, Small Business Pollution Control Financing Guarantee.)

Dated: May 12, 1986.

Charles L. Heatherly,

Acting Administrator.

[FR Doc. 86-12546 Filed 6-3-86; 8:45 am]

BILLING CODE 8025-01-M

13 CFR Part 122

[Rev. 4; Amdt. 1]

Business Loans, Interest Rates

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This final rule provides that with respect to any loan made prior to April 27, 1984, utilizing a quarterly fluctuating interest rate, such rate may be changed to a monthly fluctuation with the prior written consent of the borrower, the lender, the Small Business Administration (SBA), and the secondary market investor (if any).

EFFECTIVE DATE: June 4, 1986.

FOR FURTHER INFORMATION CONTACT: Robert Wise, Financial Analyst, Office of Portfolio Management, (202) 653-6900.

SUPPLEMENTARY INFORMATION: On November 15, 1985, SBA published in the **Federal Register** (50 FR 47227), a notice of proposed rulemaking which clarified the intent of the Agency to allow quarterly fluctuating interest rates, on loans made prior to April 27, 1984, to be changed to monthly fluctuations, so long as there is obtained the prior written consent of the borrower, participating Lender, SBA, and any secondary market holder of the guarantee portion. The Agency received one written response which favored the proposal. The competitive banking industry requires that lenders structure their loans to attract business. The prevalent attitude of borrowing customers is that it is in everyone's interest to schedule loans which can take advantage more quickly of the downward trend of interest rates. Without this final rule, an announced reduction of the prime rate for example, in April or May 1985, could not have been passed along to a borrower of an SBA guaranteed loan made prior to April 1984, until July 1985. Consequently participating lenders were not able to serve their customers properly in a competitive environment. This final rule permits a quarterly interest rate fluctuating loan to be changed, with all the parties consenting, to a monthly fluctuation so that the borrower might obtain the benefit in May, for example, of an April reduction in the prime rate.

SBA certifies that this final rule will not have a significant economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act (5 U.S.C. 605(b)). This change does not impose recordkeeping or paperwork requirements.

This is not a major rule for purposes of E.O. 12291 because the annual economic effect will be less than $100 million. The outstanding guaranteed loan portfolio at April 30, 1984, numbered 82,412 loans totaling $7,196,900,000. If two-thirds of these loans were variable rate loans still outstanding, the average effect on each loan would have to be $1,820 for a combined annual effect of $100,000,000 on average loan size of $87,328. This would be an annual effect of 2% on the interest rate with 100% participation in monthly adjustments. While borrower demand for conversion to monthly interest rate adjustments is unknown, neither the annual effect nor the participation rate will be to this degree.

List of Subjects in 13 CFR Part 122

Loan programs—business, Small business.

Accordingly, pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), SBA amends Part 122, Chapter I, Title 13, Code of Federal Regulations as follows:

PART 122—BUSINESS LOANS

1. The authority citation for Part 122 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6) and 636(a).

2. Section 122.8-4 is amended by revising paragraph (a) to read as follows:

§ 122.8-4 Variable (fluctuating) rate.

* * * * *

(a) Frequency. The fluctuation may occur no more frequently than monthly, except for the first fluctuation, which may occur on the first business day of

the month following initial disbursement: *Provided,* That with respect to any loan made prior to April 27, 1984, utilizing a quarterly fluctuation, the interest rate may be changed to a monthly fluctuation with the prior written consent of the borrower, Participating Lender, SBA, and Registered Holder (if any).

* * * * * *

(Catalog of Federal Domestic Assistance Programs No. 59.012, Small Business Loans.)

Dated: March 19, 1986.

James C. Sanders,

Administrator.

[FR Doc. 86-12545 Filed 6-3-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. 24185; Amdt. No. 25-60]

Airworthiness Standards; Fire Protection Requirements for Cargo or Baggage Compartments

Correction

In FR Doc. 86-11048 beginning of page 18236 in the issue of Friday, May 16, 1986, make the following correction:

On page 18244, above the signature, insert the following line:

"Issued in Washington, D.C., on May 9, 1986."

BILLING CODE 1505-01-M

14 CFR Part 39

[Docket No. 85-NM-164-AD; Amdt. 39-5327]

Airworthiness Directives: Boeing Model 707/720 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which supersedes an existing airworthiness directive (AD) applicable to certain Boeing Model 707/720 airplanes. The existing AD requires inspection and repair, as necessary, of cracks in the wing front spar upper chord. A recent reassessment by the manufacturer has revealed that the maximum allowable length of a crack in the upper front spar which may be repaired in accordance with previous releases of the applicable service bulletin must be reduced from 2.5 inches to 2.0 inches. Cracks greater than 2.0 inches in length, previously repaired in accordance with the existing AD, may be subject to failure under maximum design conditions, and could result in buckling of the spar chord.

DATES: Effective July 14, 1986.

ADDRESSES: The applicable service documents may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Carlton Holmes, Airframe Branch, ANM-120S; telephone (206) 431-2926. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) which supersedes an existing AD requiring inspections and repair, as necessary, of cracks in the wing front spar upper chord of certain Boeing Model 707/720 airplanes was published in the **Federal Register** on February 14, 1986, (51 FR 5543). The comment period for the proposal closed on April 7, 1986.

Interested parties have been afforded an opportunity to participate in the making of this AD, and due consideration has been given to all comments received.

The only comment received was from the manufacturer, which recommended substitution of the words "greater than 2.0 inches" for the words "between 2.0 and 2.5 inches" in paragraph D. of the proposed rule. The FAA concurs and the final rule has been revised accordingly.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously mentioned.

It is estimated that 18 airplanes will be affected by this AD. Airplanes which have been previously repaired will require approximately 40 manhours per airplane to review the existing repairs. Based on an average labor cost of $40 per manhour, the total cost to the U.S. fleet for accomplishment of this AD will be $28,800.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 707/720 series airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft.

PART 39—[AMENDED]

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends Section 39.13 of Part 39 of the Federal Aviation Regulations as follows:

§ 39.13 [Amended]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By superseding Airworthiness Directive (AD) 85-08-07, Amendment 39-5044 (50 FR 16465; April 26, 1985), with the following new airworthiness directive:

Boeing: Applies to Model 707 and 720 series airplanes, certificated in any category, with 15,000 or more landings. To ensure continued structural integrity of the wing front spar upper chord, accomplish the following within 100 landings or 60 days after the effective date of this AD, whichever occurs first, unless previously accomplished within the last 900 landings or 305 days:

A. Perform a close visual inspection of the wing front spar upper chord for cracks and corrosion in accordance with Boeing Service Bulletin 3240, Revision 1, dated November 13, 1981, or later FAA-Approved revision. Repeat the inspection at intervals not to exceed 1,000 landings or one year, whichever occurs first.

B. If cracks or corrosion areas are found, repair prior to further flight in accordance with Boeing Service Bulletin 3240, Revision 3, dated October 18, 1985, or later FAA-approved revision.

C. Cracks which have been repaired in accordance with the "stop drilling" procedure described in Part III, Figure 2, of Service Bulletin 3240, Revision 1, dated November 13, 1981, or later FAA-approved revision, must be visually inspected at intervals not exceeding 300 landings, until permanently repaired in accordance with Part III, Figure 2, of Service Bulletin 3240, Revision 3, dated October 18, 1985, or later FAA-approved revision. A permanent repair must be completed within 1,000 landings or one year, whichever occurs first after the effective date of this AD.

D. Cracks greater than 2.0 inches in length, which have been previously repaired in

accordance with Boeing Service Bulletin 3240, Revision 2, dated May 3, 1985, or earlier, must be repaired in accordance with Revision 3, dated October 18, 1985, or later FAA-approved revision, 1,000 landings or one year, whichever occurs first after the effective date of this AD.

E. After each of the above inspections and repairs have been performed, apply BMS–3–23 corrosion inhibitor, or equivalent, to the affected areas.

F. Alternate means of compliance or adjustment of the compliance time, which provide an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

G. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the inspections and/or modifications require by this AD.

All persons affected by this proposal who have already received the appropriate service documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This AD supersedes AD 85–08–07, Amendment 39–5044.

This amendment becomes effective July 14, 1986.

Issued in Seattle, Washington, on May 28 1986.

David E. Jones,

Acting Director, Northwest Mountain Region

[FR Doc. 86–12479 Filed 6–3–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 85–NM–159–AD; Amdt. 39–5326]

Airworthiness Directive: Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective by individual telegrams to all known U.S. owners and operators of Boeing Model 747 airplanes powered by General Electric CF6 or Pratt and Whitney Aircraft JT9D–70A turbofan engines. The AD requires inspections and repair, if necessary, of the Engine Number 1 engine control cable to ensure control system integrity. This action is prompted by an incident in which a broken engine control cable resulted in extensive structural damage to a Model 747, and injury to its passengers, when the airplane veered off the runway due to uncontrollable asymmetric thrust during landing thrust reversal. A broken control cable can cause the engine to accelerate to an unusually high level of forward thrust (above takeoff power), which can result in an uncontrollable airplane asymmetric thrust situation.

DATES: Effective June 23, 1986. As to all persons except those persons to whom it was made immediately effective by telegraphic AD T85–25–55, issued December 20, 1985.

ADDRESSES: The service bulletins specified in this AD may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur D. Scholes, Propulsion Branch, ANM–140S, Seattle Aircraft Certification Office; telephone (206) 431–2972. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: On December 2, 1985, Air France Flight 091, a Boeing Model 747–200 airplane powered by General Electric CF6 engines, was involved in an accident in which the airplane veered off the runway due to uncontrollable asymmetric thrust during landing thrust reversal. It was determined that the accident was caused by a broken Engine Number 1 control cable, which resulted in the inability of the flight crew to control the engine power. The accident resulted in injury to passengers and structural damage to the airplane.

The Engine Number 1 control cable is a 7-strand cable which goes through a cable passage hole in a support bracket on the strut. This installation is unique to CF6-powered Model 747's and JT9D–70A-powered Model 747's because of the common nacelle installation. Chafing of the cable against the side of the hole can result in the cable breaking. If the cable breaks while the throttles are in reverse thrust position, the release of cable tension will cause the thrust to decrease and may cause the reverser to retract. If the cable breaks while the throttles are in the forward thrust position, the release of cable tension will cause the thrust to increase—perhaps to the full throttle stop.

As a result to previous reports of broken control cable strands, including one broken cable which resulted in an inactive thrust reverser and loss of engine control (a less significant result than the Air France accident), Boeing issued Service Bulletin (SB) 747–76–2063 on July 12, 1985. This SB provides instructions to rework the support bracket and provided pulley bracket replacement to correct the chafing problem.

Following the Air France accident, Air France inspected sixteen CF6-powered Model 747 airplanes in Paris. Inspection results revealed that two Engine Number 1 control cables were worn and two had broken strands. Boeing then prepared an Alert Service Bulletin (ASB) 747–76A–2063, Revision 1, dated December 18, 1985, to provide instructions for inspection and necessary repairs of the Engine Number 1 control cables.

On December 20, 1985, telegraphic AD T85–25–55 was issued and made effective immediately as to all known U.S. owners and operators of Boeing Model 747 series airplanes powered by General Electric CF6 or Pratt and Whitney Aircraft JT9D–70A turbofan engines. The AD requires repetitive inspections and repair, if necessary, of the Engine Number 1 engine control cable in accordance with Boeing Alert Service Bulletin 747–76A–2063, Revision 1, dated December 18, 1985. Modification of the Engine Number 1 control cable in accordance with Boeing Service Bulletin 747–76–2063, dated July 12, 1985, constitutes terminating action for the required repetitive inspections.

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

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis,

as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required.)

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

PART 39—[AMENDED]

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends Section 39.13 of Part 39 of the Federal Aviation Regulations as follows:

§ 39.13 [Amended]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 40 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

Boeing: Applies to all Model 747 series airplanes, line number 1 through 607, powered by General Electric CF6 or Pratt & Whitney Aircraft JT9D–70A turbofan engines, certificated in any category.

To prevent failure of the Engine Number 1 control cable which may cause loss of control of the engine, accomplish the following, unless previously accomplished:

A. Within 48 hours following receipt of this AD, and thereafter at intervals not to exceed 600 flight hours, perform inspections and repair, if necessary, in accordance with Boeing Alert Service Bulletin 747–76A–2063, Revision 1, dated December 18, 1985, or later FAA-approved revisions.

2. Alternate means of compliance which provides an acceptable level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

3. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and modifications required by this AD.

4. Modification of the Engine Number 1 engine control cable in accordance with Boeing Service Bulletin 747–76–2063, dated July 12, 1985, constitutes terminating action for the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective June 23, 1986.

It was effective earlier to all recipients of telegraphic AD T85–25–55 issued December 20, 1985.

Issued in Seattle, Washington, on May 28, 1986.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–12480 Filed 6–3–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 86–ANE–6; Amdt. 39–5325]

Airworthiness Directives; Garrett Turbine Engine Company Model TFE731–2, –3, and –3R Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes a currently effective priority letter Airworthiness Directive (AD) 86–04–02 applicable to Garrett Turbine Engine Company (GTEC) Model TFE731–2, –3, –3R turbofan engines. The priority letter AD requires the removal of certain fan rotor discs with more than 4000 total operating cycles in service. This final rule AD is needed to prevent the failure of the fan rotor disc due to fatigue cracking which could result in separation of the fan rotor assembly from the engine. Supersedure of priority letter AD 86–04–02 is necessary to include additional dash number fan rotor disc part numbers that were not listed in the priority letter AD.

DATES: Effective upon receipt of priority letter AD 86–04–02 dated February 14, 1986, for operators with GTEC TFE31–2, –3, –3R turbofan engines with fan rotor disc part numbers 3073436–1, –2, and –3, and 3072162–1, –2, and –3 installed.

Effective June 16, 1986 for operators with GTEC TFE731–2, –3, and –3R turbofan engines with rotor disc part numbers 3073436–4 and 3072162–4 installed.

Compliance required according to the complaince schedule as prescribed in the body of the AD.

ADDRESSES: The applicable service documents may be obtained from Garrett General Aviation Services Company, Department H65–1, Building 601AD, P.O. Box 29003, Phoenix, Arizona 85038.

A copy of the service documents is contained in the Rules Docket, FAA, New England Region, Room 311, 12 New England Executive Park, Burlington, Massachusetts, 01803.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Moring, Aerospace Engineer, Propulsion Section, ANM–174W, FAA, Northwest Mountain Region, Western Aircraft Certification Office, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009–2007; telephone (213) 297–1382.

SUPPLEMENTARY INFORMATION: On February 14, 1986, Priority Letter AD No. 86–04–02 was issued and made effective immediately as to all known U.S. owners and operators of certain Garrett Turbine Engine Company Model TFE731–2, –3, and –3R turbofan engines. The priority letter AD requires removal from service of certian fan rotor discs with more than 4000 cycles. This AD action was prompted by fatigue failure of the fan rotor disc which caused separation of the fan rotor assembly from the engine. Priority Letter AD 86–04–02 is being superseded to add part numbers 3073436–4, and 3072162–4 to the list of affected fan discs. These –4 dics, subject to the same life limits, have become available since the issuance of the priority letter.

Since a situation exists affecting continued airworthiness of these engines that requires immediate adoption of this regulation, it is found that notice and public procedure thereon are impracticable and contrary to public interest, and good cause exists for making this amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the proecedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT".**

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety.

PART 39—[AMENDED]

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulation (FAR) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

2. By adding to Section 39.13 the following new airworthiness directive (AD):

Garrett Turbine Engine Company (formerly the AiResearch Manufacturing Company of Arizona): Applies to all Model TFE731–2, –3, and –3R turbofan engines installed is aircraft certified in all categories equipped with fan rotor discs, part number 3073436–1, –2, –3, and–4 and 3072162–1, –2, –3, and –4.

Compliance is required as indicated unless already accomplished.

To prevent failure of the fan rotor disc due to fatigue cracking, accomplish the following:

(a) For fan rotor discs with 4000 or less operating cycles on the effective date of this AD, remove fan rotor disc from service before reaching 4100 total operating cycles.

(b) For fan rotor discs with more than 4000 but with 6000 or less operating cycles on the effective date of this AD, remove fan rotor disc from service within the next 100 operating cycles or prior to reaching 6005 total operating cycles whichever occurs first.

(c) For fan rotor discs with more than 6000 but with 8000 or less operating cycles on the effective date of this AD, remove fan rotor disc from service within the next 5 operating cycles or prior to reaching 8001 total operating cycles whichever occurs first.

(d) For fan rotor discs with more than 8000 operating cycles on the effective date of this AD, remove fan rotor disc from service prior to further flight.

Notes: (1) An operating cycle is considered as any engine operating sequence involving an engine start, at least one acceleration to 80 percent or more low pressure rotor speed, and an engine shutdown. An alternate method of determining cycles is to consider each airplane landing as one cycle. Fan rotor discs which have had their cyclic lives calculated by any other method are to have their cyclic lives recalculated using one of the two methods specified above.

(2) It has come to the attention of the FAA that some life limit log cards in the engine log book were incorrectly filled out in that the "dash number" of the disc part numbers (i.e. –1/–2/–3–/–4) may have been left off. This should be corrected when the disc is next available to read the entire part number. All fan rotor discs are –1,–2, –3, –4, and are affected by this AD. Fan rotor discs may be returned to GTEC for evaluation. Shipping information is contained in Garrett Alert Service Bulletin No. TFE731–A72–3328 Revision 2 dated April 4, 1986.

Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Western Aircraft Certification Office, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Western Aircraft Certification Office, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009–2007 may adjust the compliance time specified in this AD.

This amendment supersedes Priority Letter AD 86–04–02 issued February 14, 1986.

There are two effective dates for this superseding AD.

For those operators who received Priority Letter AD 86–04–02, the effective date of this AD is the date of the priority letter AD.

The effective date of this AD is June 16, 1986, for operators with fan rotor disc part number 3073436–4 or 3072162–4 installed and for operators who did not receive the priority letter AD.

Issued in Burlington, Massachusetts, on May 22, 1986.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 86–12476 Filed 6–3–86; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 377

[Docket No. 51298–6092]

Exports of Crude Oil Derived From Alaska's Cook Inlet

AGENCY: Office of Industrial Resource Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: This final rule modifies section 377 of the Export Administration Regulations by creating a new eligibility category under § 377.6(d)(1)—Exports of crude oil from Alaska's Cook Inlet. Each exporter is required to submit a license application along with supporting information demonstrating that the proposed export qualifies under this new category. No export can be made without the Department of Commerce first issuing an individual validated license. Exporters should be aware that any licenses issued will have a term of not greater than one year. Moreover, they should also be aware that outstanding licenses may be revoked if there is serious interruption to available U.S. oil supplies.

This rule is issued in final form following review and consideration of comments received in response to a proposed rule published on December 26, 1985 (50 FR 52798).

Only crude oil derived from state-owned submerged lands in Alaska's Cook Inlet and not subject to the restrictions contained in the Export Administration Act of 1979, as amended, Naval Petroleum Reserves Production Act of 1976, Outer Continental Shelf Lands Act, or Mineral Lands Leasing Act of 1920, as amended, is eligible to be exported under this rule. This excludes domestic crude oil derived from the North Slope or Outer Continental Shelf, or crude oil transported over a federal right-of-way granted pursuant to the Mineral Lands Leasing Act or the Trans-Alaska Pipeline Authorization Act.

EFFECTIVE DATE: June 4, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Rodney A. Joseph, Acting Manager, Short Supply Program, Room 3876, Office of Industrial Resource Administration, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202/377–3984.

SUPPLEMENTARY INFORMATION: On December 26, 1985, the Department of Commerce published in the **Federal Register** (50 FR 52798) a notice requesting public comments on a proposed rule to revise Part 377 of the Export Administration Regulations (EAR) to permit exports of crude oil derived from Alaska's Cook Inlet. The proposed rule was intended to implement a finding made by Commerce Secretary Malcolm Baldrige on November 6, 1985 under section 103 of the Energy Policy and Conservation Act (EPCA), that the export of Cook Inlet oil was in the national interest and consistent with the purposes of EPCA ("national interest finding"). The Secretary's finding followed a decision by President Reagan contained in a Presidential Policy Directive, dated October 24, 1985, based on the recommendation of the Economic Policy Council, to use his administrative authority to permit the sale of Cook Inlet oil to other countries.

The State of Alaska estimates the 1986 crude oil production from state-owned submerged lands in Cook Inlet at approximately 40,000 barrels per day. This production has been declining, and is expected to continue to decline, at approximately 15 percent per year. The oil is produced by a number of companies and serves several U.S. markets, which are expected to continue to use some of the oil.

Without further development of Cook Inlet resources, it is estimated that no more than 20,000 barrels per day may be available for export and most likely only 4,000 to 5,000 barrels per day of state royalty oil may be exported. This

quantity would require only a few vessel sailings a year and would have a minimal impact on the shipping industry.

Comments

The Department received 32 comments in response to the notice of proposed rulemaking, including one comment which consisted of nine separate statements, for a total of 40 comments. All of the commentators addressed the substance of the decision to permit the export of oil from Alaska's Cook Inlet. Twenty-seven commentators favored and 13 commentators opposed such exports. Six of the commentators challenged the Secretary's national interest finding based on procedural grounds. Only four commentators addressed the proposed rule itself. These comments related to the definition of Cook Inlet oil and to the documentation requirements supporting export license applications.

The Office of the Governor of the State of Alaska commented on the definition of the area included under "Cook Inlet" in the proposed regulations recommending the phrase "state-owned submerged lands." The proposed regulations had used the term "state waters of Alaska's Cook Inlet". The final rule adopts the recommendation because "state-owned submerged lands" is a more precise term.

Two oil producers also commented on the definition of "Cook Inlet" suggesting inclusion of onshore Cook Inlet fields. Export from onshore fields in the Cook Inlet Basin would invoke other statutory export restrictions, most notably the Mineral Lands Leasing Act of 1920 as amended (MLLA). Therefore, that area is not included within the definition.

The Coalition to Keep Alaska Oil questioned the Department's ability to insure compliance with the MLLA. License applications submitted under § 377.6(d) of the EAR are subject to the documentation requirements of § 377.6(e). Section 377.6(e) requires: (1) Documentary evidence of an order as described in § 372.6(a)(1) and (2); (2) a sworn affidavit, signed by an authorized representative of the exporter, which demonstrates (in conjunction with such supporting evidence as may be required by the Department of Commerce) that the applicable criteria of § 377.6(d)(1) are satisfied; and (3) an affidavit, attesting that the crude oil has not been nor will be produced from a Naval Petroleum Reserve.

The affidavit required by item 2 must state that the crude oil to be exported was derived from state-owned submerged lands in Alaska's Cook Inlet and has not been and will not be transported by a pipeline over a federal right-of-way granted pursuant to section 28(u) of the Mineral Lands Leasing Act of 1920 or by section 203 of the Trans-Alaska Pipeline Authorization Act. The applicant also will be required to provide documented independent verification of the origin of the crude oil. The Department has the right under existing regulations to require any additional supporting documentation.

The remaining comments received did not address the proposed rule but rather the Secretary's national interest finding.

The comments that challenged the substance of the Secretary's finding alleged that: Exports would not increase incentives for investment in the exploration and development of domestic crude oil would not result in transportation efficiencies; and, would not materially enhance the energy security of our allies. The favorable comments received concluded that: Increased export market opportunities would provide economic incentives for domestic oil exploration and development; that transport of oil to Pacific Rim countries is more efficient than to the U.S. Gulf Coast; that allowing Pacific Rim allies to purchase oil from more-diverse sources strengthens their energy security; and, that removing restrictions on crude oil exports would provide an incentive for our trading partners to remove barriers to U.S. goods.

Comment that challenged the Secretary's national interest finding on procedural grounds asserted that EPCA and the Administrative Procedure Act require public notice and comment prior to the finding; that the notice of proposed rulemaking failed to disclose whether EPCA's "mandated" criteria were considered in making the finding; and, that the notice did not make public the substance of advice received from any government agency concerning the finding.

The notice of proposed rulemaking met all applicable statutory provisions relating to notice and comment requirements. Neither the language of the applicable statutory provisions, nor any reasonable interpretation of the language, imposes a notice and comment requirement with respect to the national interest finding. Furthermore, EPCA does not "mandate" criteria. It grants the Secretary broad discretion in making the finding subject only to the criteria that exemption be based on a "reasonable classification or basis" as the Secretary determines to be appropriate and consistent with the national interest and the purposes of EPCA. The basis for the Secretary's finding was included with the proposed rule. Finally, advice obtained from other agencies is not routinely placed in the public record so as to facilitate frank interagency communication in rulemaking decisions.

Another comment stated that the national interest finding was improper under the delegation provisions in section 2 of Executive Order 11912 because the rule did not state that the Secretary had consulted with the Secretary of Defense or other agencies. Section 2 of the Executive Order cites section 5(a) of the 1969 Export Administration Act. That section of the Act did not require consultation with the Secretary of Defense specifically but merely charged the Secretary to seek information and advice from other agencies. As stated with the proposed rule, the Secretary's decision was taken in "consultation with other appropriate U.S. Government officials" and, as noted above, after a decision by the President pursuant to a recommendation of the Economic Policy Council.

Finally, comments were received concerning the classification of the proposed rule as not a major rule under E.O. 12291, alleging that exports of oil would result in an annual impact on the economy of $100 million or more. The conclusion in the comment was based on the theoretical effects of Alaska oil exports in general and not Cook Inlet oil specifically. The Department confirms its conclusion that the readily forseeable impact of this rule is less than $100 million annually.

Rulemaking Requirements

In connection with various rulemaking requirements, the Office of Industrial Resource Administration has determined that:

1. This final rule is not a major rule within the meaning of section 1 of Executive Order 12291 because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs 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 in the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, preparation of a Regulatory Impact Analysis is not required, and neither a preliminary nor a final Regulatory Impact Analysis has been or will be prepared.

2. The General Counsel of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this

final rule will not have a significant economic impact on a substantial number of small entities. This is because the rule relieves a U.S. government prohibition on crude oil exports derived from Alaska's Cook Inlet and has no direct or indirect costs of compliance other than a routine licensing requirement. As a result, neither an initial nor final Regulatory Flexibility Analysis has been or will be prepared.

3. This rule affects collections of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq*). These collections have been approved by the Office of Management and Budget under control numbers 0625–0001 and 0625–0155.

4. This rule is effective June 4, 1986 since it is a substantive rule that relieves a restriction on certain crude oil exports, and therefore is excepted under section 553(d)(1) of the Administrative Procedure Act (5 U.S.C. 553) from the requirement of a thirty (30) day delay in effective date.

List of Subjects in 15 CFR Part 377

Administrative practice and procedure, Exports, Forests and forest products, Petroleum, Reporting and recordkeeping requirements.

Accordingly, Part 377 of Title 15, Code of Federal Regulations, is amended as follows:

PART 377—SHORT SUPPLY CONTROLS AND MONITORING

1. The authority citation for Part 377 continues to read as follows:

Authority: Pub. L. 96–72, 93 Stat 503, 50 U.S.C. app. 2401 *et seq.* as amended by Pub. L. 97–145, of Dec. 29, 1981 and by Pub. L. 99–64 of July 12, 1985, E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Sec. 103, Pub. L. 94–163, as amended, (42 U.S.C. 6212) as amended by Pub. L. 99–58 of July 2, 1985; Sec. 28 Pub. L. 93–153, (30 U.S.C. 185); Sec. 28 Pub. L. 95–372, (43 U.S.C 1354); E.O. 11912 of April 3, 1976 (41 FR 15825, as amended); Sec. 101 and 201(11)(e) Pub. L. 94–258, (10 U.S.C. 7420 and 7430(e)); and Presidential Findings (50 FR 25189, June 18, 1985).

2. Section 377.6(d)(1)(ix) is added as follows:

§ 377.6 Petroleum and petroleum products.

* * * * *

(d) * * *

(1) * * *

(ix) Exports from Alaska's Cook Inlet. The Group A commodity was derived from the state-owned submerged lands of Alaska's Cook Inlet and has not been and will not be transported by a pipeline over a federal right-of-way granted pursuant to section 28(u) of the Mineral Lands Leasing Act of 1920 or by section 203 of the Trans-Alaska Pipeline Authorization Act.[1]

* * * * *

Issued May 30, 1986.

Paul Freedenberg,

Assistant Secretary for Trade Administration.

[FR Doc. 86–12490 Filed 6–3–86; 8:45 am]

BILLING CODE 3510–DT–M

[1] On November 6, 1985, the Secretary of Commerce determined that the export of crude oil derived from Alaska's Cook Inlet is consistent with the national interest and the purposes of the Energy Policy and Conservation Act.

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

[Release No. 33–6645; File No. S7–38–84]

Definition of Annuity Contract or Optional Annuity Contract

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of rule.

SUMMARY: The Commission is adopting a rule, which establishes a "safe harbor" for certain forms of annuity contracts that will not be deemed subject to the federal securities laws. The Commission is also withdrawing its general statement of policy regarding the factors which should be considered in any determination of the status under the federal securities laws of certain contracts issued by insurance companies. The "safe harbor" rule enables a corporation subject to insurance regulation by any state to offer and sell a contract with reasonable assurance that it falls within the meaning of the phrase "annuity contract or optional annuity contract," as used in section 3(a)(8) of the Securities Act of 1933, provided that the rule's conditions are satisfied. The release also addresses several related matters.

EFFECTIVE DATE: June 4, 1986.

FOR FURTHER INFORMATION CONTACT: Brian M. Kaplowitz, Special Counsel, (202) 272–2061, or Joseph R. Fleming, Attorney, (202) 272–3017, Office of Insurance Products and Legal Compliance, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") today is adopting rule 151 under the Securities Act of 1933 [15 U.S.C. 77a et seq.] ("Act") relating to certain types of annuity contracts issued by insurance companies, including what are generally known as guaranteed investment contracts.[1] Simultaneously, the Commission is withdrawing Securities Act Release No. 6051 (April 5, 1979) ("Release 6051"), 44 FR 21626 (April 11, 1979), an interpretative release concerning the availability of section 3(a)(8) of the Act to certain contracts issued by insurance companies. Rule 151 provides "safe harbor" from the federal securities laws for an "annuity contract or optional annuity contract," as those terms are used in section 3(a)(8) of the Act, that satisfies all of the rule's conditions. The rule specifies a three-prong test for determining whether an insurer is able to find refuge for its contract in the "safe harbor." The annuity or optional annuity contract must (1) be issued by a corporation (an "insurer") subject to the supervision of the state insurance commissioner, bank commissioner, or any agency or officer performing like functions; (2) include certain guarantees of principal and interest sufficient for the insurer to be deemed to assume the investment risk; and (3) not be marketed primarily as an investment. The general purpose of the rule is to provide greater certainty regarding the availability of section 3(a)(8) to certain annuity products and to facilitate the Commission's effective administration of its statutes. The Commission is also expressing its views on several ancillary items relating to the subject matter of the rule.

Rule 151 was proposed for public comment on November 21, 1984.[2] The original comment period closed February 15, 1985, but was subsequently extended to April 15, 1985.[3] In response

[1] The contracts included within this term are discussed in Securities Act Rel. No. 5838 (June 22, 1977) [42 FR 32861 (June 28, 1977)]. As relevant here, these contracts, generally speaking, are deferred annuities under which the purchaser agrees to pay money to an insurer (either in a lump sum or in installments) and the insurer promises to pay interest at a guaranteed rate for the life of the contract. In some contracts, the insurer may periodically pay discretionary excess interest over and above the guaranteed rate. In addition, virtually all of these contracts allow the purchaser to buy an annuity with the monies accumulated under the contract. Finally, these contracts are issued on either an individual or a group basis.

[2] The reasons for proposing rule 151 and the administrative history of the rule are set forth in Securities Act Release No. 6558 (November 21, 1984) ("proposing release") [49 FR 46750 (November 28, 1984)].

[3] *See* Securities Act Rel. No. 6566 (February 15, 1985) [50 FR 7186 (February 21, 1985)]. This extension of the comment period was made at the request of the insurance industry's principal trade association to give it more time to study and prepare comments on the proposed rule.

to its request for comments, the Commission received twenty-two letters. While almost all of the commentators commended the Commission for attempting to bring greater certainty to a complex area through objective standards, many expressed concern over certain elements of the proposed rule and some of the positions taken by the Commission in the proposing release. Several commentators also suggested refinements which they believed would enhance the rule's usefulness. After considering the comments, the Commission has decided to adopt rule 151, subject to several technical and clarifying changes, and to issue this release, which (together with the proposing release to the extent not modified by this release) will assist in interpreting the rule.

Discussion

The first portion of this discussion will focus on specific elements of the rule and certain interpretive positions taken by the Commission in the proposing release about which comments and suggestions were offered. The remainder of the discussion will deal with the issues raised by the commentators about the Commission's views on several ancillary matters relating to the rule.

1. Characterization of the Rule as a Safe Harbor Definition

One commentator questioned the Commission's characterization of the rule as a "definition" of the phrase "annuity contract or optional annuity contract" as used in section 3(a)(8) of the Act. This commentator suggested that it would be more appropriate conceptually to caption the rule as a "safe harbor," since it is, in the commentator's opinion, simply "an interpretation describing those forms of annuity contracts that clearly fall within the boundaries of section 3(a)(8)."

Rule 151 is merely a "safe harbor," not an all-inclusive definition purporting to encompass every annuity contract that falls within the section 3(a)(8) exclusion. The rule, therefore, does not attempt to identify the outer limits of section 3(a)(8) beyond which a contract, though denominated "insurance," is a security subject to federal regulation. Rather, the rule simply defines a class of annuities that the Commission believes is clearly entitled to rely on the section. While compliance with rule 151 will assure "non-security status," failure to comply with the rule would not mandate "security status" for an annuity product. Finally, as stated in the proposing release, an insurer offering a contract that, for one reason or another, does not satisfy all of the rule's conditions may still rely directly on section 3(a)(8), albeit with no Commission assurance that the contract is covered by the section 3(a)(8) exclusion.[4] The Commission has revised the caption of the rule to better emphasize that it is just a "safe harbor."

2. Paragraph (a)(1)—State Regulation

Paragraph (a)(1), as proposed, would require that the contract be issued by a corporation subject to regulation as an issuer of insurance by any agency or officer of any State or Territory of the United States or District of Columbia. As stated in the proposing release, the purpose of this initial requirement is to determine whether the status under the Act of the investment vehicle in question should be analyzed under section 3(a)(8).[5]

One commentator noted that while paragraph (a)(1), as proposed, did not mirror exactly the corresponding language of section 3(a)(8), it appeared to be consistent with the purpose of the section. However, this commentator suggested that the rule should also provide that "the contract itself by subject to state regulation as an annuity or insurance contract." This requirement, according to the commentator, would insure that the rule would be available only for those contracts which were subject to relevant state regulation with respect to such matters as reserves, investment restrictions, and approval of contract forms.

The Commission agrees with the concerns that apparently prompted the comment—only bona fide annuity contracts should be able to rely on the "safe harbor" rule.[6] The wording of the rule has been modified slightly to make it clearer that only "annuity or optional annuity contracts" may use the rule. Any such contract issued by an insurer satisfying the rule's requirements would, no doubt, be "subject to state regulation as an annuity or insurance."

Accordingly, the Commission believes no further modification is needed.

3. Mortality Risk

Release 6051 contained a requirement that the insurer assume a "meaningful mortality risk" under the contract by guaranteeing "permanent" annuity purchase rates that are not "significantly lower than those otherwise commercially available." In the proposing release, the Commission requested comments on whether a mortality risk assumption requirement should be an element of the rule, and, if so, how best to implement such a requirement.

Five commentators, associated primarily with the life insurance industry, supported omitting any *per se* mortality risk test from the proposed rule. In their view, eliminating such a test is supported by the legislative history of section 3(a)(8) and the relevant case law. These commentators went on, however, to urge the Commission to make clear that any decision to omit a mortality risk test is not intended to mean that mortality risk is not an appropriate consideration in a section 3(a)(8) "facts and circumstances" analysis for annuity contracts outside rule 151. One of the commentators emphasized that this approach is consistent with the Commission's position, as stated in the proposing release, that to the extent an insurer is unable to rely on the rule, it has the responsibility for determining the status of its contract under section 3(a)(8). Thus, the commentator contended that any assessment of the relevance of mortality risk for contracts not coming within the "safe harbor" should be left to the issuing insurance company.

Two commentators argued that rule 151 should contain a mortality risk assumption requirement. One of them noted that many owners of single premium deferred annuities ("SPDAs")[7] may not be protected by the insurance guaranty association laws of some states.[8] This commentator stated that insurance guaranty associations that do not cover SPDAs consider such contracts to be investment vehicles and not insurance. The reason for this determination, the commentator said, is because SPDAs frequently provide

[4] In this regard, insurers offering life insurance contracts are in the same position as those who seek to offer annuity contracts in direct reliance upon section 3(a)(8). The securities law status of a life insurance contract may be analyzed by reference to the principles discussed in rule 151 and accompanying releases and by reference to relevant judicial interpretation of section 3(a)(8).

It should be noted that rule 151 is not intended to address appropriate accounting treatment under generally accepted accounting principles.

[5] 49 FR at 46752 [proposing release at 6].

[6] The case law seems to support the substance of the comment. *See Securities and Exchange Commission* v. *Variable Annuity Life Ins. Co.*, 359 U.S. 65, 67 (1959) ("VALIC").

[7] SPDAs are a type of guaranteed investment contract. *See* note 1, *supra*.

[8] Generally, state association guaranty laws provide for the indemnification of losses suffered by contractowners due to the impairment or insolvency of an insurer. An association derives funds for this purpose from assessments against insurers doing business in the state.

lower guaranteed annuity conversion rates than "bona fide" annuities, and thus do not shift a material mortality risk to the insurer.

After analysis of the relevant cases, [9] as well as section 3(a)(8) and its legislative history, the Commission has determined not to include a mortality risk assumption requirement as a separate element of rule 151. [10] When Congress created the insurance exclusion under the Act, there were certain "traditional" annuity contracts in effect that involved no assumption of mortality or longevity risks by the insurer. [11] However, the Commission is not concluding by this action that consideration of mortality risk assumption has no place in a section 3(a)(8) analysis of annuity contracts outside the "safe harbor." The presence or absence of a mortality risk assumption may be an appropriate factor to consider in a general facts and circumstances analysis under section 3(a)(8).

4. Paragraph (a)(2)—Investment Risk

An insurer may rely on the rule only if it assumes the investment risk under the contract.[12] The rule approaches this issue in terms of the degree of investment risk assumed by the insurer and sets objective standards in paragraph (b) for the minimum risk that must be assumed under the contract. Paragraph (b) contains three conditions that a contract must meet in order for the insurer to establish that is has assumed sufficient investment risk for purposes of the "safe harbor" rule.

[9] *See, e.g., VALIC*, 359 U.S. 65; *Securities and Exchange Commission* v. *United Benefit Life Ins. Co.*, 387 U.S. 202 (1967) ("United Benefit").

[10] The Commission notes that the states are moving to eliminate the gaps in coverage and protection under their guaranty association systems for investors in guaranteed investment contracts. *See, e.g.*, 27 N.Y. Ins. Law 7701–7718 (McKinney's 1986 Pocket Part); NAIC Life and Health Insurance Guaranty Association Model Act (1985) (the former model law was the basis for guaranty association laws in 36 states). In any event, the presence or absence of coverage under these laws is not determinative of the issue of whether a mortality risk assumption requirement is necessary. The Supreme Court in *VALIC* said, "the meaning of 'insurance' or 'annuity' under these Federal Acts is a federal question." *VALIC*, 359 U.S. at 69.

[11] A commonly accepted form of "annuity" issued prior to 1933 provided for payments in fixed amounts at regular intervals over a stated number of years ("annuities certain"). *See, e.g.*, C. Crobaugh, *Annuities and Their Uses*, 31–32 (1933); G. Fitch, *What Everybody Wants to Know About Annuities*, 9–11 (1934).

[12] This position is well supported by the applicable case law. *VALIC*, 359 U.S. 65; *United Benefit*, 387 U.S. 202.

A. Paragraph (b)(1)—Separate Account Funding of Contracts

Paragraph (b)(1) of the rule provides that one of the conditions that must be met for the insurer to be deemed to have assumed the investment risk under the contract is that the value of the contract not vary according to the investment experience of a separate account. Commentators on paragraph (b)(1) asked whether contracts that provide for the allocation of contributions to a separate account but do *not* provide for contract values that depend on the success of any investments in the separate account are disqualified from relying on the "safe harbor" rule. This use of a separate account, they maintained, has absolutely no effect on the contractual guarantees made by the insurer. They also argued that funds in this type of account are supported by the totality of general account assets. The commentators noted that insurer use such "nonunitized" separate accounts to facilitate the matching of maturities of fixed-income securities that support contract liabilities and as a mechanism for complying with state law reserve requirements or statutory accounting standards.[13]

A contract which provides for the allocation of net contributions to a separate account but does not provide for contract values that vary with the investment performance of the separate account would satisfy paragraph (b)(1) of the rule. This position presupposes that such "nonunitized" separate accounts are used solely to accommodate the circumstances described above and that the assets of the insurer's general account will be available to meet the guarantees provided under the contract without resulting in additional investment risk. Put another way, these accounts are not functionally equivalent to the types of separate accounts with which paragraph (b)(1) is concerned.

B. Paragraph (b)(2)—Guarantee of Principal and a Minimum Rate of Interest

As proposed, the second condition of the rule's investment risk test would have required that the insurer must, for the life of the contract, (1) guarantee the principal amount of purchase payments (net of deductions for sales, administrative, or other expenses) and interest credited thereto (paragraph (b)(2)(i)); and (2) credit a specified rate of interest to purchase payments and interest credited thereto (paragraph (b)(2)(ii)). The main points raised by the commentators concerning this condition involved market value adjustment features, deferred charges and the guaranteed minimum interest rate.

Market Value Adjustment Features. In the proposing release, the Commission took the position that the requirements of paragraphs (b)(2) (i) and (ii) would preclude a contract with a market value adjustment ("MVA") feature from relying on the safe harbor provided by the rule.[14]

The Commission based its conclusion on the Supreme Court's determination in *VALIC* that the concept of ". . . 'insurance' involves a guarantee that at least some fraction of the benefits will be payable in fixed amounts." [15]

Several commentators acknowledged that MVA features shift some investment risk back to the contractowner. These commentators and others, however, challenged what they viewed as an implicit conclusion by the Commission that this feature alone could jeopardize a contract's status under section 3(a)(8) generally. They maintained that the terms of these provisions vary widely from contract to contract and that the MVA feature of a given contract may well be designed so that the insurer assumes sufficient investment risk under the contract to qualify it for the section 3(a)(8) exclusion. Moreover, some of these commentators urged, based in part on similar reasoning, that some types of MVA features should be expressly permitted under the rule.[16] Accordingly,

[13] The term "nonunitized," as used here, reflects the fact that this type of separate account is *not* structured as a single unit operating independently of the investment experience of the insurer's general account.

[14] 49 FR at 46752, n. 17 [proposing release at 10, n. 17]. Under an MVA feature, the insured adjusts the proceeds a contractowner receives upon an early surrender (*i.e.*, a surrender made before the end of a period of guaranteed discretionary excess interest) to reflect changes in the market value of its portfolio securities supporting the contract. If the market value of the insurer's assets has decreased (*e.g.*, interest rates have increased for comparable interest-bearing instruments) the amount payable upon surrender is adjusted downward. Many MVA features are based upon a formula that recognizes the disparity between the rate of interest being credited to the contract's accumulated value and the rate the insurer is crediting on new money received under new or existing contracts. For surrenders made at a time of increasing market rates, the adjustment could affect both interest accretions and principal.

[15] *VALIC*, 359 U.S. at 71.

[16] Commentators also argued for permitting some MVA features under the rule because, they said, these provisions act as additional surrender charges and thereby enhance the contract's appeal as a long-term retirement vehicle. The Commission believes, however, that the shifting of investment risk distinguishes an MVA feature from a surrender charge. *See* note 20, *infra*.

two commentators argued that the status of a contract with an MVA feature under either the rule or section 3(a)(8) should depend upon the total "facts and circumstances" in each case. In the commentators' view, among the factors relevant to this analysis are (1) the terms of the MVA provision; (2) the circumstances that trigger its application; (3) whether the value accumulated under the contract may be withdrawn in installments over time, or applied to the purchase of guaranteed annuity benefits, without diminution; and (4) whether the withdrawal provisions to which an MVA is applicable are primary or incidental features of the contract.

Because the Commission is concerned that a contract which includes an MVA feature may transfer investment risk to the contractowner to an extent that "safe harbor" treatment would be inappropriate, it continues to believe that it should not permit issuers of such contracts to rely on rule 151.[17] Further, while the proposing release referred only to an "MVA feature," the Commission regards any contract that incorporates a provision, irrespective of the name given to it, which functions in a fashion substantially similar to an MVA as not entitled to the protections afforded by the rule. For example, if a contract includes a damages or default clause that operates like an MVA feature, and if the clause is designed to compensate the insurer under certain circumstances for any loss in market value of the investments supporting the guarantees made by the insurer under the contract, that clause will result in the contract's failure to satisfy paragraph (b)(2) of the rule.[18]

By deciding that a contract with an MVA feature may not rely on rule 151, however, the Commission, as noted in the proposing release, emphasizes that the presence of this feature should not create the negative inference that no such contract is eligible for the exclusion under section 3(a)(8). The degree to which any given MVA feature affects investment risk, and, therefore, the status of the contract, would depend on, among other things, the terms of the feature. In this regard, an MVA feature that invaded principal would be more problematic under a section 3(a)(8) analysis than one that merely requires forfeiture of a small portion of previously credited excess interest.[19]

Deferred Charges. Paragraph (b)(2)(i) of the proposed rule would require that the insurer for the life of the contract guarantee ". . . the principal amount of purchase payments (net of deductions for sales, administrative, or other expenses) and interest credited thereto." The Commission received a substantial number of comments requesting that this provision of the rule be clarified to avoid any appearance of favoring front-end loaded contracts over those that incorporate contingent deferred sales charges or defray sales and other charges and expenses through a charge against the contract value. This interpretation, they said, results from the positioning of the parenthetical reference to deductions, which seems to modify only "purchase payments" and not the entire amount credited under the contract, including interest. A few of these commentators pointed out that the presence of deferred charges encourages the product's use as a long-term retirement vehicle. Thus, several commentators suggested that this interpretive problem would be resolved by moving the parenthetical to the end of paragraph (b)(2)(i).

This rule has been modified slightly by adopting in substance the revision suggested by the commentators. This revision, the Commission believes, makes clear that the rule does not discriminate against contracts that do not have front-end charge structures. In making this change, however, the Commission assumes that it will not result in expense structures that transfer additional investment risk from the insurer to a contractowner.[20]

Minimum Interest Rate. In footnote 16 of the proposing release, the Commission indicated that the specified interest rate credited under the contract, as prescribed in paragraph (b)(2)(ii) of the rule, must at least be equal to the minimum rate required to be credited by the Standard Nonforfeiture Law used by the states.

Two of the three commentators on this point cited practical concerns which they believe make this standard unworkable for measuring the adequacy of the specified interest rate guaranteed under the contract. They observed that (1) a few states have no annuity nonforfeiture law at all on which to base the minimum specified interest rate; (2) the states that currently have such a law may not remain uniform in the future; and (3) there may be forms of annuities, such as group contracts and individual "modified guaranteed annuities," that will not be subject to such a law. One of them mentioned that group annuity contracts generally do not provide interest rate guarantees (minimum or otherwise) of unlimited duration. This commentator further noted that group annuity contracts that include an interest rate guarantee, even a very conservative one, for an indefinite period of time might present the issuing insurer with problems in complying with state law reserving requirements, particularly during a period of rapidly declining interest rates. Thus, this commentator specifically recommended that insurers be permitted to adjust, not more frequently than once every five years, the minimum interest rate in group annuity contracts. The commentator stated that if an insurer modified or eliminated the minimum guarantee at the end of a current five year time period because, *e.g.*, of a sharp drop in interest rates, the group annuity contract would no longer fall within the "safe harbor", and the insurer would thereafter have to rely directly on section 3(a)(8).

Both of these commentators suggested that footnote 16 be reworded to provide that the specified interest rate must not be less than the minimum rate under the

[17] The way in which an MVA feature may affect investment risk is perhaps best shown by example. Suppose a given contract has a minimum rate of 3% and an excess rate for the year of 5%. Further suppose that the contract is funded by Treasury bonds (paying, e.g., 8¼%) and has an MVA feature tied to the Treasury bond rate. The insurer, by the MVA feature, will have effectively shifted to the investor the risk of any changes in the Treasury bond rate. If the rate moves up, the investor would be more likely to wish to withdraw all or part of the money invested in the contract to reinvest at higher rates. If he or she does so, however, the insurer can adjust the amount withdrawn by discounting it in accordance with those rates. Thus, the insurer is able to protect against redemptions resulting from an upturn in interest rates by adjusting downward the amount payable upon redemption. Of course, the insurer would already be partially protected against a downturn in interest rates by being able to reassess the discretionary rate each year and lower interest if necessary.

[18] For an example of this type of damages or default clause, *see* State Mutual Life Assurance Company of America (pub. avail. December 9, 1985).

[19] In the simple example given *supra* at note 17, a sufficient increase in the Treasury bond rate could cause an invasion of principal, absent an express limitation. Thus, if the investor made a $1,000 payment on January 1 (at 8% simple interest, accrued daily), he or she would have $1,040 available for withdrawal on June 30. If that amount was adjusted for a Treasury bond rate of 10%, however, the investor would receive only $945.45 upon withdrawal, almost $55 less than principal.

Five guaranteed investment contracts have been registered with the Commission under the Act to date. Each had an MVA feature that could invade principal.

[20] For example, a contingent deferred sales load ("CDSL") is simply a sales load that is deducted upon partial or full redemption and that is contingent on the number of years the contract has been in effect. A CDSL normally does not shift additional investment risk to the contractowner, and should be distinguished from an MVA. *See* the MVA discussion *supra* note 16 and accompanying text.

relevant nonforfeiture law in the jurisdiction in which the contract is issued. Absent such a law, they maintained, the rate should be not less than the minimum rate required for individual annuity contracts under the Standard Nonforfeiture Law approved by the National Association of Insurance Commissioners ("NAIC").[21]

The third commentator in this area was critical of the inclusion of a minimum interest rate as a requirement of the rule. The Commission, this commentator said, "appears to assume the role of a state legislature by prescribing the substantive content of annuity contracts that are not necessarily within the purview of the Commission's jurisdiction." For that reason, this commentator urged the Commission to delete paragraph (b)(2)(ii) entirely or, alternatively, to remove the minimum rate requirement noted in the proposing release.

The Commission is adopting paragraph (b)(2)(ii) as proposed. It would be inappropriate, particularly in light of clear judicial precedent, to eliminate this provision of the proposal. The Supreme Court in *VALIC* unambiguously concluded that absent some element of a fixed return, *i.e.*, "[s]ome investment risk-taking on the part of the company," [22] an annuity contract is outside the scope of section 3(a)(8). As stated in the proposing release, paragraphs (b)(2) (i) and (ii) of the rule's investment risk test work in tandem to ensure that a contract relying on the rule includes a guarantee by the insurer that at least some portion of benefits will be paid in a fixed amount.

With respect to footnote 16 of the proposing release, the Commission has clarified the minimum interest rate standard stated therein to take into account many of the practical problems noted by the commentators. In addition, the standard for both individual and group contracts is now set out in paragraph (c) of the rule to make it easier for readers to ascertain the meaning of the term "specified rate of interest," as used paragraph (b)(2)(ii) of the rule.

The Commission has determined not to extend this standard to allow, as requested by one commentator, insurers to modify the minimum interest rate in group annuity contracts at five-year intervals. As discussed above, a guarantee of a minimum interest rate for the life of the contract is critical for purposes of the "safe harbor" rule.

[21] This law is the model for the annuity nonforfeiture laws of most states.

[22] *VALIC*, 359 U.S. at 71.

C. Paragraph (b)(3)—Guarantee of Excess Interest for At Least One Year Periods

The final condition of the proposed rule's investment risk test would require the insurer to guarantee that the rate of any discretionary excess interest credited under the contract will not be modified more frequently than once per year. This provision of the rule elicited a variety of comments, which can generally be broken down into three categories. The commentators expressed concern about the legal justification for this provision, the meaning and application of the term "year," and adjustments to the excess interest rate.

Justification. On commentator contended that the guarantee of excess interest for one year periods still leaves the purchaser shouldering much, if not all, of the investment risk under the contract. This commentator further contended that the guarantees of principal and one year's interest are an inadequate substitute for federal securities law type disclosures about the insurer's financial status, its investment policies and the charges deducted under the contract.

On the other hand, five commentators strongly urged the Commission to omit paragraph (b)(3) from the final rule. They contended that the one-year requirement is both unnecessary and founded on erroneous premises. The frequency of excess interest credits, they maintained, is not a reasonable indicator of the allocation of attendant investment risk between insurer and contractowner. Accordingly, four of these commentators argued that if a contract satisfies the first two conditions of the rule's investment risk test, there is a sufficient amount of risk assumption by the insurer for purposes of section 3(a)(8). Finally, a few commentators argued that Congress, through fairly recent amendments to the federal tax laws, has already taken adequate steps to encourage the use of deferred annuity contracts to meet long-term investment goals, such as the accumulation of savings for retirement, and discourage their use as short-term, tax deferred investment vehicles.[23] They asserted that the new tax law provisions, in contrast to the provisions upon which the Commission based the one-year requirement, are better suited to prevent annuities from being used as a tax favored, short-term investment.[24]

While the commentators make some reasonable arguments, the Commission is adopting the one-year requirement as proposed. Taking the position that various types of excess interest contracts are entitled to rely on the section 3(a)(8) exclusion is itself a major step. The length of time between interest rate modifications is one legitimate measure of the degree of investment risk assumed by the insurer. Designing a "safe harbor" rule is essentially a matter of balancing the legitimate interests of flexibility in structuring insurance products against the need to provide adequate investor protection. Where the limits of the "safe harbor" are set is a matter of discretion and judgment. The Commission believes, therefore, that the one-year period is, on balance, a reasonable condition, complementing the two other components of the rule's investment risk test.

Interpretation of the Term "Year". To avoid a series of practical problems, the commentators generally agreed that if the Commission decided to retain the one-year requirement, the release accompanying the final rule should provide clarification and amplification of the term "year." They said that these problems stem from the diverse methods employed by insurance companies in calculating and declaring excess interest.

Several commentators mentioned that where excess interest is declared for a "year," that year may be a calendar year,[25] a contract year,[26] or some other

[23] The Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, 96 Stat. 324 (1982) ("TEFRA"), changed the tax consequences to contractowners of "premature distributions" from annuity contracts; *i.e.*, distributions received under the contract prior to the annuity starting date. Under TEFRA, premature distributions are treated as taxable income to the extent the cash value of the annuity contract exceeds the investment therein and the remainder as a return of principal. I.R.C. 72(e) (1982). In addition, TEFRA imposed a five percent penalty tax on premature distributions not meeting certain conditions. I.R.C. 72(q) (1982). The Deficit Reduction Act of 1984, Pub. L. 98-369, 98 Stat. 750 (1984), stiffened the penalty provision. I.R.C. 72(q) (1984).

[24] In the proposing release, the Commission cited certain TEFRA provisions as indirect support for using the one-year requirement. TEFRA provided special tax treatment to insurers for discretionary excess interest, provided that the excess interest rate was guaranteed in advance for not less than 12 months. I.R.C. 805(f) (1982). In 1984, Congress repealed this section when it redesigned the statutory scheme for taxation of life insurance companies. Deficit Reduction Act of 1984, Pub. L. 98-369, 98 Stat. 750 (1984).

[25] Under a calendar year method, the excess rate may be adjusted once per year on January 1, regardless of when payments are received by the insurer from a particular contractowner.

[26] Under a contract year method, the excess rate may be adjusted once per year on the anniversary of the issuance of the contract, regardless of when payments are received by the insurer from a particular contractowner.

12-month period. Consequently, they asked that the Commission not restrict the use of these methods. In addition, a few commentators asked how the prescribed time period is to be linked to purchase payments under a given contract or class of contracts. In this regard, one commentator observed that excess rates may be established on a contract basis, pursuant to which rates are declared for all funds under the contract, or they may be determined on a payment basis, where specified rates are established for all payments received in a particular time period (day, month, quarter, etc.).

A number of commentators were concerned with what they referred to as "stub end" problems.[27] The commentators offered a series of hypothetical situations which they said illustrates only a few of the ways "stub end" problems arise. One such illustration involved the situation where an insurer guarantees on January 1 that all money received, *i.e.*, new money, on new or existing contracts during the ensuing calendar year will be guaranteed excess interest at a specified rate. Under this arrangement, any contract sold after the beginning of the 12-month period would not have a full one-year guarantee for money received that year.[28] If the insurer is not permitted to use the same discretionary interest rate for all new money received during the calendar year, it would be required to make separate 12-month guarantees with respect to each contract issued or each payment received. This, the commentators stressed, could burden insurers administering contracts in this manner with significant additional administrative and systems costs.

The Commission recognizes that the one-year requirement can raise interpretive issues such as those mentioned by the commentators. However, a "rule of reason" interpretation is desirable to afford some flexibility to insurers. More specifically, the Commission does not intend to foreclose insurers from using calendar year, contract year or other twelve-month periods.[29] Neither does it wish to prevent insurers from establishing rates on a contract basis or a per payment basis, as described above. Also, the Commission has no objection to insurers using a combination of different forms of 12-month periods under the same contract.[30] This position, the Commission believes, should eliminate the "stub end" difficulties about which the commentators were concerned.

In adopting this position the Commission expects that insurers will not manipulate the meaning of the term "year" in a way that circumvents the purposes of this provision of the rule. The Commission and its staff will scrutinize the operation of paragraph (b)(3) and will be prepared to adjust the rule, should any abuses appear.

Adjustments to the Excess Interest Rate. This discussion can be broken down into two sub-categories: (1) increases and "three-tier" contracts, and (2) indexed excess interest features.

Increases and "Three-Tier" Contracts

With respect to increases in the rate of excess interest, two commentators noted that paragraph (b)(3) of the rule appears to prohibit *any* modification of the rate during the one-year period. They suggested that the prohibition should apply only to reductions of the effective rate during the one-year period. One of them said that there appears to be no valid reason for preventing the insurer from increasing a rate during that period, provided the new rate is itself prospective and not subject to reduction during the remainder of the period. This, the commentator asserted, would benefit contractowners. Both commentators, therefore, recommended that paragraph (b)(3) be revised to permit explicitly increases in the excess rate during the one-year period.

In the same vein, two commentators requested the Commission to make clear that the one-year requirement is not intended to preclude the use of so-called "three tier" contracts.[31] They both argued that the third tier does not affect the investment risk borne by the insurer, as long as the second-tier rate is reasonably close to market rates at the time of its declaration. One of them further argued that this contract feature is principally designed to serve as a partial buffer between the insurer and the risk of adverse selection whenever market rates fall below the excess interest rate.[32]

The Commission has decided to extend the rule to permit increases in excess rates, provided that the new rate is not subject to reduction for a further one-year period. Thus, after each additional upward adjustment to the excess rate, the one-year period would begin anew. A downward adjustment would not be permitted until one year from the last increase in the excess rate.

However, "three tier" contracts and contracts that allow a reduction in the excess interest rate before a one-year period has run are excluded from the rule.[33] Such contracts are not necessary to protect against the risk of adverse selection; under the rule's flexible approach to the "stub-end" problems an insurer could structure the method used for establishing the excess interest rate to mitigate this risk.[34] More importantly, these contracts could, in effect, lead to a shorter time period for which total excess interest is guaranteed or could easily be structured to undermine the purpose of the one year guarantee.[35] In

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[27] Generally speaking, a "stub end" problem occurs when the excess interest rate credited to a particular purchase payment in either the initial or a subsequent year of the contract is guaranteed for less than a 12-month period. For example, if an insurer declares excess interest each January 1, but pays a more current rate on new contracts entered into or new payments received under existing contracts during the year, a payment received under a contract entered into on July 1 may be credited a given amount (the current rate) of excess interest at that rate for only six months (*i.e.*, until the next January 1).

[28] Of course, money received that year would receive twelve month guarantees for the remainder of the contract, *i.e.*, from the next excess interest declaration.

[29] Thus, a scenario such as that discussed in the example *supra* at note 27 is acceptable under the rule.

[30] For example, an insurer may provide separate 12-month guarantees with respect to each payment received under a multiple payment contract. On January 1, after the second contract year, an insurer could convert to a calendar year period for all funds accumulated to date under the contract. Each purchase payment received during the next two years could continue to receive separate 12-month guarantees. This process could be repeated at two year intervals.

[31] A "three-tier" contract is one type of guaranteed investment contract, under the terms of which the insurer agrees to credit a guaranteed minimum interest rate for the life of the contract, excess interest for a specified period (e.g., one year) at a rate near the market rate prevailing when the rate is set, and a third tier of excess interest for a shorter period (e.g., three months).

[32] If, for example, an insurer using a calendar year period guarantees that all money received on new or existing contracts during the ensuing year will be credited excess interest at a specified rate, this rate applies to a potentially unlimited amount of funds to be received during the 12-month period. Thus, if market rates drop below the insurer's specified rate, purchasers may take advantage of the insurer's more favorable rate. This possibility is the "risk of adverse selection." By setting the one-year, second-tier rate just below the market rate and by reserving the right to adjust the third-tier rate up or down on a periodic basis, this commentator maintained that an insurer could reduce the risk of adverse selection and yet still offer competitive rates.

[33] By definition, "three tier" contracts are precluded from relying on the rule. Under these contracts, the third tier rate may be increased *or decreased* at shorter intervals than once per year. *See* note 31, *supra*.

[34] *See* notes 27 and 29 and accompanying text, *supra*.

[35] For example, a "three tier" contract could permit a scenerio under which an insurer guarantees a minimum rate of 3% and a second tier, one-year rate of .5%, enabling the insurer to adjust freely the third tier rate to the extent it exceeds 3.5%. Certain types of short-term increases in the excess interest rate could be similarly

Continued

the case of discretionary excess interest, the shorter the period for which such interest is guaranteed, the greater the degree of investment risk shifted from the insurer to the contractowner. With each additional adjustment to the rate of return credited to the value accumulated under the contract, the obligations of the insurer are measured less in fixed-dollar terms and the investor shares to a greater extent the investment experience of the company.[36]

Indexed Excess Interest Features

The Commission indicated in footnote 19 of the proposing release that it intended to exclude from the "safe harbor" any contract pursuant to which excess interest is determined in accordance with an external formula or index ("index feature"), such as a composite bond index or Treasury bill rate. The Commission reasoned that an insurer which uses an index feature externalizes its discretionary excess interest rate, and thus shifts to the contractowner all of the investment risk regarding fluctuations in the rate.

Eight commentators suggested that the Commission reconsider its position. They contended that the insurer bears an investment risk in that the return on its own invested assets may not equal the rate determined under the index feature. One commentator said that purchasers who use annuity contracts to meet long-term investment goals feel more comfortable in having a product where interest rates change more often and track more closely to those of shorter term funds. Finally, to the extent the rule is expanded to encompass index feature contracts, one commentator questioned whether the "safe harbor" is available to such a contract if the rate of excess interest paid (but not the formula pursuant to which the rate is calculated) changes more frequently than once per year.

After reviewing the comments, the Commission has determined that it would be appropriate to extend the rule to permit insurers to make limited use of index features in determining the excess interest rate, so long as the excess rate is not modified more frequently then once per year.[37] The insurer, therefore, would be permitted to specify an index to which it will refer, no more often than annually, to determine the excess rate that it will guarantee under the contract for the next 12-month or longer period. Once determined, the rate of excess interest credited to a particular purchase payment or to the value accumulated under the contract must remain in effect for at least the one-year time period established by the rule.[38] Thus, while the rate of interest calculated under a particular index or formula may fluctuate upward or downward on a daily basis, the excess interest rate actually credited may not fluctuate more than once per year.[39] The Commission is concerned that index feature contracts that adjust the rate of return actually credited on a more frequent basis operate less like a traditional annuity and more like a security and that they shift to the contractowner all of the investment risk regarding fluctuations in that rate.

5. Paragraph (a)(3)—Marketing

The third element of rule 151, as proposed, is the requirement that "[t]he contract is not marketed primarily as an investment." The Commission cited the *United Benefit* case as its principal support for the application of a marketing test as an element in determining whether or not a contract is within the scope of rule 151.[40] The commentators addressed (1) the necessity for a marketing test, (2) the standards to be used in its application, and (3) certain matters incidental to the test, *i.e.*, "opt-out" features.

Necessity For A Marketing Test

Virtually all commentators on this point stated that because of the largely subjective nature of the marketing test, it appears to be fundamentally inconsistent with the Commission's stated goal of providing greater certainty in this area. They emphasized that annunities have always had a large investment component, and that, therefore, it would be unfair to insurers and the public not to market these products as "wise investments."

Although several commentators acknowledged that the Court in *United Benefit* looked beyond the contract to review marketing, they contended that the Supreme Court's analysis was different from that which is implied in the proposing release. They argued that it was only after the Court had determined, based on the degree of investment risk assumption, that the contract was not an insurance product entitled to section 3(a)(8) treatment, did marketing become a part of the Court's ultimate analysis of the contract's status under section 2(1) of tha Act.[41] Therefore, they asserted, marketing as a *per se* test has not been found by the Supreme Court to be an essential element of analysis under section 3(a)(8).

The Commission is adopting paragraph (a)(3) as originally proposed. it continues to believe,[42] as the relevant case law supports,[43] that the manner in which a contract is *primarily* marketed is a significant factor which must be considered in determining a contract's status under the federal securities laws. In *United Benefit*, the insurer advertised its product by "emphasizing the possibility of investment return and the experience of United's management in professional investing."[44] The Supreme Court found this activity to be highly relevant in concluding that the contract does not fall within the insurance exclusion of section 3(a)(8) of the Act.

The Standard and Its Application

One commentator suggested that the standard set forth in paragraph (a)(3) of the rule be changed to "not marketed as a security" because "the term security is well-defined in law." Three other commentators suggested that a more appropriate standard would be that "the contract is not marketed in a manner inconsistent with its character as an annuity."

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manipulated. Consider the following example. An insurer initially takes a conservative approach by setting the excess interest rate at a level below market. Six months later, after its investment posture becomes clearer, the insurer adjusts the excess rate upward (even to a level above market rates) in an attempt to produce a favorable annual rate of return to the contractowner. If the insurer adjusts the rate downward twelve months after the initial rate was set (*i.e.*, six months after the previous adjustment), it would have shortened to six months the period during which it assumed the risk of interest rate movements. This type of increase would, consequently, not be permissible under the rule.

[36] At some point, such a contract "between the investor and the organization no longer squares with the sort of contract in regard to which Congress in 1933 thought . . ." the disclosure and prospectus delivery requirements of the Act were unnecessary. *VALIC*, 359 U.S. at 78 (Brennan, J., concurring).

[37] The Commission's interpretation of the term "year," as discussed earlier, is pertinent here as well. *See* the discussion in Section 4.C., *supra*.

[38] In addition, an insurer cannot change the terms of the index feature pursuant to which the excess rate is calculated more frequently than once per year.

[39] An upward adjustment to the excess interest rate that is consistent with the Commission's position on increases in the excess rate would, however, be permitted. *See* the discussion titled "Increases and 'Three Tier' Contracts" in Section 4.C., *supra*.

[40] 49 FR at 46753 [proposing release at 12].

[41] 15 U.S.C. 77(b)(1). Section 2(1) defines the term "security" for purposes of the Act to include any "investment contract."

[42] The Commission's position here is consistent with its prior positions in this area. *See, e.g.*, Release 6051; Securities Act Release No. 6050 (April 5, 1979) [44 FR 21656 (April 11, 1979)].

[43] The Commission does not subscribe to the interpretation of the *United Benefit* case proffered by several commentators.

[44] *United Benefit*, 387 U.S. at 211, n.15.

Two of the commentators suggested that explicit guidelines be published. On the other hand, one commentator suggested that explicit guidelines would inhibit the creation of new products and would raise more issues than they solved.

The Commission believes that paragraph (a)(3) accurately sets forth the standard for applying the marketing test. By adopting this standard, however, the Commission is not saying, nor has it ever said, that an insurer in marketing its product cannot describe the investment nature of the contract, including its interest rate sensitivity and tax-favored status.[45] The standard adopted by the rule follows the Court's language in *United Benefit* and means simply that the thrust of the insurer's total marketing plan for the product must be targeted to appeal to purchasers ". . . on the usual insurance basis of stability and security. . . ."[46] For example, a marketing approach that fairly and accurately describes both the insurance and investment features of a particular contract, and that emphasizes the product's usefulness as a long-term insurance device for retirement or income security purposes, would undoubtedly "pass" the rule's marketing test.[47]

Because of the many different types of sales practices and the large mix of product features, it would be counterproductive for the Commission to attempt to provide insurers with a mechanical checklist of acceptable and unacceptable marketing techniques. Such a list would soon be outdated and, as one commentator noted, would deprive insurers of flexibility.

Accordingly, the Commission has determined not to publish specific guidelines for sales literature and marketing activities of insurers.[48]

"Opt-Out" Features

With respect to "opt-out" features,[49] three commentators wrote that they presumed the method of marketing this feature, rather than its actual presence or operation could cause a contract with this feature to be excluded from the proposed rule. They said "opt-out" provisions prompt insurers to continue crediting competitive discretionary rates, which, in turn, gives contractowners a greater incentive for retaining the contract as a long-term investment.

The presence of an "opt-out" feature in itself will not jeopardize a contract's status under the rule. The proposing release does not state that an "opt-out" feature may not or should not be mentioned when selling an annuity in reliance on the rule. Rather, the rule's approach is to examine the primary emphasis of the entire marketing environment. Depending on how an "opt-out" feature is promoted, its presence may be *one* factor relevant to a finding that a contract is being marketed primarily as an investment.[50]

6. Other Matters

A. Deposit Fund Riders

In the proposing release the Commission took the position that the appropriate method for analyzing deposit fund riders in the context of either rule 151 or section 3(a)(8) generally is to require all such riders to be tested separately from the contracts with which they are associated.[51]

Three commentators urged the Commission to take the position that for purposes of either rule 151 or section 3(a)(8) generally, deposit fund riders that are an integral part of the contract with which they are associated or that are incidental to the contract (and, as to the latter, do not involve a shift of a substantial portion of the investment risk to the contractowner) need not be analyzed independently.

For purposes of rule 151, the Commission is of the view that it is appropriate to determine the status of all deposit fund riders separately from the contracts to which they relate. Such an approach, the Commission believes, is not only in accord with relevant precedent,[52] but also focuses primarily on the fundamental question of whether the insurer is assuming a significant degree of investment risk under any deposit fund rider to any annuity contract. If a deposit fund rider is structured as a security it should be treated as such, regardless of the status of the contract to which it is attached or the nature of its relationship to that contract.

B. Withdrawal of Release 6051

In the release proposing rule 151, the Commission indicated that upon final adoption of the rule it would withdraw Release 6051. Commentators generally agreed in principal that Release 6051 should be withdrawn upon adoption of rule 151. However, many commentators were troubled by the prospect of an absence of interpretive guidance on the factors which should be considered in determining the status of annuity contracts falling outside the "safe harbor." The commentators, therefore, urged the Commission to publish, in the release adopting rule 151 or in a separate release, such guidance.

The Commission has determined to withdraw Release 6051 because of certain reservations about its continued usefulness. Any insurer that is unable, or chooses not, to rely on rule 151 may still look to the rule and accompanying releases for interpretive guidance. The rationale underlying the conditions set forth in the rule is relevant to any section 3(a)(8) determination.[53]

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act [15 U.S.C. 605(b)], the Chairman of the Commission previously certified that the adoption of rule 151 will not have a significant economic impact on a substantial number of small entities. No comments were received on that certification.

Paperwork Reduction Act

The rule is not subject to the Act because it does not impose an information collection requirement.

List of Subjects in 17 CFR Part 230

Reporting and recordkeeping requirements, Securities.

[45] The Commission recognizes that consideration of the investment aspects of a contract is a natural consequence in any discussion of the traditional long-term nature of annuities. However, a presentation of the contract as one type of tax-sheltered investment that may be directly compared to, for example, tax-free municipal bonds, and that is pitched to the same consumer interest in tax-free or tax-deferred interest income, may lead to a different conclusion.

[46] *United Benefit*, 387 U.S. at 211.

[47] By way of contrast, if a contract is promoted with *primary* emphasis on current discretionary excess interest, and the possibility of future interest, or other investment-oriented features of the contract, that contract would likely fail the marketing test.

[48] The Commission, however, reiterates the position it took in footnote 13 of Release 6051. This position includes, among other things, a statement that the "mischievous oral comments of a single unscrupulous sales person" will not change the status of a company's contract.

[49] In general, "opt-out" or "bail out" provisions allow contractowners to redeem the annuity without the insurer deducting the surrender charge otherwise applicable to a redemption if at any time the rate of discretionary interest declared by the insurer drops below a rate specified in the annuity contract. *See* 49 FR at 46753, n.24 [proposing release at 13, n.24].

[50] An example of how an "opt-out" feature may enable a contract to be marketed as an investment is where an insurer, in an attempt to compete with short-term liquid investments, such as money market funds, promotes the feature by emphasizing its use as a device to provide liquidity.

[51] A deposit fund rider typically is associated with an insurance contract and permits monies in excess of the minimum purchase payments for the principal contract to be deposited with the insurer and credited with interest at a discretionary rate.

[52] *See United Benefit*, 387 U.S. at 209.

[53] *See supra* note 4.

Text of Rule 151

Part 230 of Chapter II of Title 17 of the Code of Federal Regulations is amended as shown.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for Part 230 is amended by adding the following citation:

Citations before * * * indicate general rulemaking authority.

Authority: Sec. 19, 48 Stat. 85, as amended; 15 U.S.C. 77s, * * * § 230.151 also issued under section 19(a) [15 U.S.C. 77(s)(a)].

2. By adding § 230.151 to read as follows:

§ 230.151 Safe harbor definition of certain "annuity contracts or optional annuity contracts" within the meaning of Section 3(a)(8).

(a) Any annuity contract or optional annuity contract (a "contract") shall be deemed to be within the provisions of section 3(a)(8) of the Securities Act of 1933 [15 U.S.C. 77c(a)(8)], *Provided,* That

(1) The annuity or optional annuity contract is issued by a corporation (the "insurer") subject to the supervision of the insurance commissioner, bank commissioner, or any agency or officer performing like functions, of any State or Territory of the United States or the District of Columbia;

(2) The insurer assumes the investment risk under the contract as prescribed in paragraph (b) of this section; and

(3) The contract is not marketed primarily as an investment.

(b) The insurer shall be deemed to assume the investment risk under the contract if:

(1) The value of the contract does not vary according to the investment experience of a separate account;

(2) The insurer for the life of the contract

(i) Guarantees the principal amount of purchase payments and interest credited thereto, less any deduction (without regard to its timing) for sales, administrative or other expenses or charges; and

(ii) Credits a specified rate of interest (as defined in paragraph (c) of this section to net purchase payments and interest credited thereto; and

(3) The insurer guarantees that the rate of any interest to be credited in excess of that described in paragraph (b)(2)(ii) of this section will not be modifed more frequently than once per year.

(c) The term "specified rate of interest," as used in paragraph (b)(2)(ii) of this section, means a rate of interest under the contract that is at least equal to the minimum rate required to be credited by the relevant nonforfeiture law in the jurisdiction in which the contract is issued. If that jurisdiction does not have any applicable nonforfeiture law at the time the contract is issued (or if the minimum rate applicable to an existing contract is no longer mandated in that jurisdiction), the specified rate under the contract must at least be equal to the minimum rate then required for individual annuity contracts by the NAIC Standard Nonforfeiture Law.

By the Commission.

Dated: May 29, 1986.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 86-12595 Filed 6-3-86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 430 and 442

[Docket No. 86N-0191]

Antibiotic Drugs; Sterile Cefotetan Disodium

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the inclusion of accepted standards for a new antibiotic drug, sterile cefotetan disodium. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective June 4, 1986; comments, notice of participation, and request for hearing by July 7, 1986; data, information, and analyses to justify a hearing by August 4, 1986.

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

FOR FURTHER INFORMATION CONTACT: Richard Norton, Center for Drugs and Biologics (HFN-815), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to a request for approval of a new antibiotic drug, sterile cefotetan disodium. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in Parts 430 and 442 (21 CFR Parts 430 and 442) to provide for the inclusion of accepted standards for the product.

Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Submitting Comments and Filing Objections

This final rule announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this final rule is not controversial and because when effective it provides notice of accepted standards, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. This final rule, therefore, is effective June 4, 1986. However, interested persons may, on or before July 7, 1986, submit written comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this final rule may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before July 7, 1986, a written notice of participation and request for hearing, and (2) on or before August 4, 1986, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.300. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact

precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the persons(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements govering this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 314.300.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 430

Administrative practice and procedure; Antibiotics.

21 CFR Part 442

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Parts 430 and 442 are amended as follows:

PART 430—ANTIBIOTIC DRUGS; GENERAL

1. The authority citation for 21 CFR Part 430 continues to read as follows:

Authority: Secs. 507, 701(a), 59 Stat. 463 as amended, 52 Stat. 1055 (21 U.S.C. 357, 371(a)); 21 CFR 5.10.

2. Section 430.5 is amended by adding new paragraphs (a)(88) and (b)(90) to read as follows:

§ 430.5 Definitions of master and working standards.

(a) * * *

(88) *Cefotetan.* The term "cefotetan master standard" means a specific lot of cefotetan that is designated by the Commissioner as the standard of comparison in determining the potency of the cefotetan working standard.

(b) * * *

(90) *Cefotetan.* The term "cefotetan working standard" means a specific lot of a homogeneous preparation of cefotetan.

3. Section 430.6 is amended by adding new paragraph (b)(90) to read as follows:

§ 430.6 Definitions of the terms "unit" and "microgram" as applied to antibiotic substances.

* * * * *

(b) * * *

(90) *Cefotetan.* The term "microgram" applied to cefotetan means the cefotetan activity (potency) contained in 1.012 micrograms of the cefotetan master standard.

PART 442—CEPHA ANTIBIOTIC DRUGS

4. The authority citation for 21 CFR Part 442 is revised to read as follows and the authority citations following the sections in Part 442 are removed.

Authority: Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357); 21 CFR 5.10.

5. New § 442.53a is added to read as follows:

§ 442.53a Sterile cefotetan disodium.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Sterile cefotetan disodium is a white to off-white lyophilized powder. It is so purified and dried that:

(i) If the cefotetan disodium is not packaged for dispensing, its potency is not less than 830 micrograms and not more than 970 micrograms of cefotetan per milligram on the anhydrous basis. If the cefotetan disodium is packaged for dispensing, its potency is not less than 830 micrograms and not more than 970 micrograms of cefotetan per milligram on the anhydrous basis and also, each container contains not less than 90 percent and not more than 120 percent of the number of milligrams of cefotetan that it is represented to contain.

(ii) It is sterile.

(iii) It is nonpyrogenic.

(iv) Its moisture content is not more than 1.5 percent.

(v) Its pH in an aqueous solution containing 100 milligrams of cefotetan disodium per milliliter is not less than 4.0 and not more than 6.5.

(vi) It gives a positive identity test for cefotetan.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, sterility, pyrogens, moisture, pH, and identity.

(ii) Samples, if required by the Director, Center for Drugs and Biologics:

(*a*) If the batch is packaged for repacking or for use in the manufacture of another drug:

(*1*) For all tests except sterility: 10 packages, each containing approximately 500 milligrams.

(*2*) For sterility testing: 20 packages, each containing approximately 300 milligrams.

(*b*) If the batch is packaged for dispensing:

(*1*) For all tests except sterility: A minimum of 10 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.216 of this chapter, except use the resolution test solution to determine resolution in lieu of the working standard solution. Perform the assay at ambient temperature, using an ultraviolet detection system operating at a wavelength of 254 nanometers, a column packed with microparticulate (3 to 10 micrometers in diameter) reversed phase packing material such as octadecyl hydrocarbon bonded silicas, a flow rate not exceeding 2.0 milliliters per minute, and a known injection volume of between 10 and 20 microliters. Reagents, working standard solution, sample solution, resolution test solution, system suitability requirements, and calculations are as follows:

(i) *Reagents*—(*a*) *Diluting solution.* Mix water:methanol:acetonitrile (90:5:5).

(*b*) *Mobile phase.* Mix 0.1*M* phosphoric acid:glacial acetic acid:methanol:acetonitrile (1700:100:105:105). Filter through a suitable filter capable of removing particulate matter greater than 0.5 micron in diameter. Degas the mobile phase just prior to its introduction into the chromatograph.

(ii) *Preparation of working standard, sample, and resolution test solutions*—(*a*) *Working standard solution.* Accurately weigh approximately 50 milligrams of the cefotetan working standard into a 250-milliliter volumetric flask containing 12.5 milliliters of methanol. Swirl the flask for several minutes, then add 12.5 milliliters of acetonitrile. Swirl the flask until the cefotetan is dissolved. Dilute to volume with water to obtain a solution containing approximately 200 micrograms of cefotetan per milliliter. Mix well. Protect the working standard solution from light.

(*b*) *Sample solutions*—(*1*) *Product not packaged for dispensing (micrograms of cefotetan per milligram).* Dissolve an accurately weighed portion of the

sample with sufficient diluting solution described in paragraph (b)(1)(i)(*a*) of this section, to obtain a concentration of approximately 200 micrograms of cefotetan per milliliter.

(*2*) *Product packaged for dispensing.* Determine both micrograms of cefotetan per milligram of the sample and milligrams of cefotetan per container. Use separate containers for preparation of each sample solution as described in paragraph (b)(1)(ii)(*b*)(*2*) (*i*) and (*ii*) of this section.

(*i*) *Micrograms of cefotetan per milligram.* Dissolve an accurately weighed portion of the sample with sufficient diluting solution described in paragraph (b)(1)(i)(*a*) of this section, to obtain a concentration of approximately 200 micrograms of cefotetan per milliliter.

(*ii*) *Milligrams of cefotetan per container.* Reconstitute the sample as directed in the labeling. Then, using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single-dose container; or, if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Further dilute an aliquot of the solution thus obtained with sufficient diluting solution described in paragraph (b)(1)(i)(*a*) of this section, to obtain a concentration of approximately 200 micrograms of cefotetan per milliliter.

(*c*) *Resolution test solution.* Place 10 milliliters of the working standard solution in a stoppered flask containing a few milligrams of magnesium carbonate. Close the flask and sonicate for 10 minutes. If the solution is not slightly turbid, add more magnesium carbonate and repeat sonication. Filter the turbid solution through a 0.5-micron filter and use within 2 hours. As this solution stands, the tautomer concentration increases.

(iii) *System suitability requirements*—(*a*) *Tailing factor.* The tailing factor (*T*) is satisfactory if it is not more than 1.3 at 10 percent of peak height in lieu of 5 percent of peak height.

(*b*) *Efficiency of the column.* The efficiency of the column (*n*) is satisfactory if it is greater than 1,500 theoretical plates.

(*c*) *Resolution.* The resolution (*R*) between the peak for cefotetan and its tautomer is satisfactory if it is not less than 2.0.

(*d*) *Coefficient of variation.* The coefficient of variation (S_R in percent) of five replicate injections is satisfactory if it is not more than 2.0 percent.

If the system suitability requirements have been met, then proceed as described in § 436.216(b) of this chapter. Alternate chromatographic conditions are acceptable provided comparable system suitability requirements are met. However, the sample preparation described in paragraph (b)(1)(ii)(*b*) of this section should not be changed.

(iv) *Calculations*—(*a*) Calculate the micrograms of cefotetan per milligram of sample as follows:

$$\text{Micrograms of cefotetan per milligram} = \frac{A_u \times P_s}{A_s \times C_u}$$

where:

A_u = Area of the cefotetan peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_s = Area of the cefotetan peak in the chromatogram of the cefotetan working standard;

P_s = Cefotetan activity in the cefotetan working standard solution in micrograms per milliliter; and

C_u = Milligrams of sample per milliliter of sample solution.

(*b*) Calculate the cefotetan content of the container as follows:

$$\text{Milligrams of cefotetan per container} = \frac{A_u \times P_s \times d}{A_s \times 1{,}000}$$

where:

A_u = Area of the cefotetan peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_s = Area of the cefotetan peak in the chromatogram of the cefotetan working standard;

P_s = Cefotetan activity in the cefotetan working standard solution in micrograms per milliliter; and

d = Dilution factor of the sample.

(*2*) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(*3*) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 50 milligrams of cefotetan per milliliter.

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

(*5*) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 100 milligrams of cefotetan disodium per milliliter.

(*6*) *Identity.* The high-performance liquid chromatogram of the sample determined as directed in paragraph (b)(1) of this section, compares qualitatively to that of the cefotetan working standard.

6. New § 442.253 is added to read as follows:

§ 442.253 Sterile cefotetan disodium.

The requirements for certification and the tests and methods of assay for sterile cefotetan disodium packaged for dispensing are described in § 442.53a.

Dated: May 29, 1986.

Sammie R. Young,

Deputy Director, Office of Compliance.

[FR Doc. 86-12486 Filed 6-3-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 207, 220, 221, 236, 246, 251, and 255

[Docket No. R-86-1181; FR-1905]

Multifamily Housing Mortgage Insurance—Deregulation of Rents

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

ACTION: Final rule.

SUMMARY: This rule generally ends HUD regulation of rents and charges for services and facilities in projects with mortgages insured under section 207 of the National Housing Act (NHA) on or after November 30, 1983. HUD regulation of these projects will continue for (1) rents and charges for facilities and services for units occupied by Section 8 tenants and for subsidized projects refinanced pursuant to section 223(f) of the NHA, and (2) rents for projects where the mortgagor opts for continued HUD regulation in order to maintain the project's tax-exempt status. HUD will also continue to regulate rents for a limited class of projects that otherwise qualify for deregulation, where the effect of deregulation would be imposition of State or local rent controls previously inapplicable by the terms of the State or local law by reason of HUD rent regulation.

The rule also decontrols rents on unassisted units in projects that are insured under section 220 or 221(d)(4) of the NHA and are receiving Section 8 Loan Management Set-Aside Assistance, and adds provisions (analogous to the section 207 revisions) for HUD rent regulation of projects insured under those authorities to maintain a project's tax-exempt status or to avoid local rent control. The rule specifies how maximum rents are determined when HUD preempts State

or local rent control, and makes a number of corresponding changes to the multifamily coinsurance authorities under 24 CFR Parts 251 and 255 that use sections 221 and 207 of the NHA, respectively, as their insuring authorities. Finally, the rule makes clear that in partially subsidized, HUD-insured or -held projects, rents for units that are occupied by tenants receiving Section 8 assistance qualify for automatic preemption of State or local rent controls under Subpart C of 24 CFR Part 246; rents for other units in these projects are subject to case-by-case preemption review and tenant participation under Subpart B of Part 246.

EFFECTIVE DATE: July 21, 1986.

FOR FURTHER INFORMATION CONTACT: James J. Tahash, Office of Multifamily Housing Management, Room 6180, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Telephone number (202) 426-3970. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Summary of the Statutory Scheme and Proposed Rule

Section 431(a)(1) of the Housing and Urban-Rural Recovery Act of 1983 (Pub. L. No. 98-181) (the 1983 Act) amended section 207(b)(2) of the National Housing Act (NHA) to make discretionary the Secretary's authority to regulate rents and other charges for multifamily housing projects insured under section 207. Before enactment of the 1983 Act, the Secretary was *required* to regulate these rents and charges. Section 431(c) of the 1983 Act provided that this change does not apply to mortgages insured by HUD before the date of enactment of the 1983 Act—November 30, 1983.

The proposed rule (49 FR 39690, published on October 10, 1984) added a new paragraph to § 207.19(e) deregulating rents and charges for facilities and services in projects insured under section 207 on or after November 30, 1983. The rule provided that HUD regulation would continue for charges for services and facilities in elderly or handicapped projects, and for rents and charges for services and facilities for units occupied by tenants receiving Section 8 assistance and for certain subsidized projects refinanced pursuant to section 223(f) of the NHA.

The proposed rule also amended § 207.19(e)(4) to provide that rents for HUD-regulated section 207 projects that were insured before November 30, 1983 and are receiving Section 8 Loan Management Set-Aside assistance could be determined under either of the formulae for determining HUD-regulated rents for unsubsidized section 207 projects. (The existing regulation provides that rents for unsubsidized section 207 projects could be determined (at the mortgagor's option) by applying the original "debt service factor" to anticipated operating expenses or by using a formula based on the property's fair market value or rentals for comparable projects. Rents for Section 8 Loan Management projects, however, can only be determined under the "debt service" approach.) Where the mortgagor chose to use the market-based section 207 rent formula, the proposed rule made clear that rents for units occupied by Section 8 tenants would continue to be determined under the Housing Assistance Payments Contract and applicable administrative instructions.

The proposed rule made similar changes to 24 CFR Part 255—the coinsurance program for the purchase or refinancing of existing multifamily projects. Part 255 uses section 207 of the NHA as its insuring authority.

The proposed rule also amended 24 CFR Parts 200 and 221, the regulatory authorities that implement the mortgage insurance programs under sections 220 and 221 of the NHA, respectively. The regulation of rents for multifamily projects insured under sections 220 and 221(d)(4) has long been discretionary with HUD. On April 19, 1983 (48 FR 16670), the Department published a final rule in the **Federal Register**, that, among other things, generally decontrolled rents and charges for facilities and services in projects insured under section 220 or 221(d)(4) of the NHA. One of the exceptions was the continued regulation of rents for insured projects with Section 8 Loan Management assistance. The proposed rule in this proceeding provided for the deregulation of rents and charges for facilities and services in projects receiving Loan Management assistance, except that rents and other charges for units occupied by tenants receiving Section 8 assistance were to be determined under the HAP Contract and other applicable requirements.

Finally, the proposed rule amended 24 CFR Part 246 to make clear that in partially assisted, HUD-insured or -held Section 8 projects, rents for units occupied by tenants receiving Section 8 assistance qualify for automatic rent control preemption under Subpart C, and that rents for unassisted units are subject to the case-by-case preemption and tenant participation procedures under Subpart B. The rule also specified the rent control mechanism to be used in determining maximum rents after HUD has preempted State or local rent control laws.

Public Comments

The proposed rule invited comment for a period of 60 days ending December 10, 1984. The Department received six comments on the proposed rule. The comments supported the rule or offered suggestions to extend the rule's coverage.

One commenter suggested that the "economic viability" of project mortgages insured before November 30, 1983 is of the same "paramount interest" to HUD as those insured on or after that date. The commenter concluded that HUD should consider deregulating rents on projects with mortgages insured before November 30, 1983.

The statute does not permit the Department to deregulate rents on projects covered by mortgages insured before November 30, 1983. As noted above, section 431(c) of the 1983 Act provides that the amendment to section 207(b)(2) (making the regulation of rents discretionary with HUD) does not apply to mortgages insured by HUD before that date. (This prohibition was specifically added during congressional consideration of the bill that was enacted as the 1983 Act, and was not a limitation that had been requested by this Department.)

A trade association commented that the rule would provide an incentive to owners to upgrade their buildings and to maintain them as rental housing. In furtherance of these objectives, the commenter urged HUD to implement the President's Housing Commission recommendation that the "Federal government should preempt the application of any State or local government rent controls" with respect to federally assisted housing.

HUD preemption of State and local rent control laws and ordinances is governed by 24 CFR Part 246 (formerly 24 CFR Part 403). Subpart C provides for automatic preemption of local rent controls for HUD-insured or -held projects that are subsidized under section 236 or 221(d)(3) BMIR of the NHA, or the Rent Supplement, Section 23, or Section 8 programs. (See §§ 246.1, 246.20, and 246.21.) Subpart B provides for preemption for unsubsidized, HUD-insured or -held projects on a case-by-case basis, where HUD determines that rent control will jeopardize its economic interest in the project. (See §§ 246.1 and 246.5.) The Department believes that the current Part 246 is the appropriate approach for dealing with rent controls,

and will not change this policy in the final rule.

The same commenter requesed that the rule clarify whether private appraisers or HUD appraisers will be used to determine appraised market value. The provision in question—§ 207.19(e)(2)(ii)(B) of the final rule—is clear that the appraised market value is determined by a qualified real estate appraiser of the mortgagor's choice. Owners are, therefore, free to select private appraisers.

Another commenter proposed that the rule deregulate rents on projects insured under section 207 that receive final Transfer of Physical Assets (TPA) approval after November 30, 1983. The commenter's rationale was that a TPA has the same effect on a project as a refinancing, in that repairs may be made and new debt is incurred. The commenter was alluding to an earlier point in its comment that " an existing section 207 project could be refinanced under section 223(f) after November 30, 1983 and qualify for rent deregulation."

The commenter is in error with respect to its assertion that properties whose assets were transferred after November 30, 1983 qualify for rent deregulation. Section 431(c) of the 1938 Act, as previously stated, provides that the amendment to section 207(b)(2) does not apply with respect to mortgages insured before November 30, 1983. Consequently, the fact that a project may be transferred after that date will not except it from the prohibitory language of section 431(c) if the project was *insured* before November 30, 1983. In short, insofar as section 431 is concerned, deregulation of rents is applicable only to those projects *insured* on or after November 30, 1983. Moreover, the contract of mortgage insurance is unaffected by a TPA, and continues in force even though there has been a change in title to a project as a result of a TPA. In contrast, refinancing results in a retirement of the existing debt and the assumption of new indebtedness that is covered by a new contract of mortgage insurance, and thus qualifies a project for rent deregulation.

The commenter raised a second argument that the rule should deregulate projects that receive final TPA approval after November 30, 1983 on grounds that "section 431(a) refers to mortgagors approved by the Secretary, which is the status of all new mortgagors upon receipt" of approval of a TPA. The commenter thought that this issue would be settled by the Department's response to its question of whether Congress intended "to regulate the mortgagor or the property insured under the mortgage."

The Department's earlier response that it is the date of insurance that is dispositive of the issue of which projects can be deregulated, and not other transactions affecting the property, including matters related to title, is adopted here as the response to the commenter's additional argument.

With respect to the commenter's specific question, a full reading of section 207(b)(2), including that portion not amended by section 431, shows that Congress intended to regulate the property covered by the insured mortgage, as well as to regulate the mortgagor. However, it does not follow, and there is nothing in section 207(b)(2) or section 431(c) that would lead to the conclusion, that deregulation of a project's rents is related to the Secretary's regulation or approval of a mortgagor or its successors, and not, as section 431(c) provides, to the date of insurance of the mortgage given by such mortgagor or its successors.

For further clarification, the Department notes that section 207(b) provides:

> In addition to mortgages insured under section 203, the Secretary is authorized to insure mortgages . . . which cover property held by—(1) Federal or State instrumentalities, . . . or (2) any other mortgagor approved by the Secretary.

It is clear that the function of clause (2), on which the commenter relies for its proposition that Secretarial approval of a mortgagor after November 30, 1983 should qualify the mortgagor's project for the benefits of this rule, is only to define or describe which types of mortgages the Secretary is authorized to *insure*—here, a mortgage held by a "mortgagor approved by the Secretary." This clause is not, therefore, relevant to the issue of which projects qualify for rent deregulation.

Summary of the Regulatory Revisions

The regulatory revisions proposed in the October 10, 1984 rule making, and incorporated, along with other amendments, in this final rule, affect several provisions. Because of the technical complexity of these revisions, the following Part-by-Part summary provides a guide to the changes made by the final rule.

Part 207

As noted above, a new paragraph is added to § 207.19(e), deregulating rents and other charges for projects covered by mortgages insured on and after November 30, 1983. To make clear what provisions apply to projects insured before and on and after that date, § 207.19(e) has been reordered and is redesignated. A new paragraph (e)(1) (Applicability) is added as a guidepost for which provisions apply to which mortgages. The following derivation chart lists the provisions of § 207.19(e) in the final rule and their counterparts in the existing regulations.

24 CFR 207.19(e)

Final rule	Existing regulation
§ 207.19(e)(1) (Rents and charges—Applicability).	
§ 207.19(e)(2) (Rents and charges—mortgages insured before November 30, 1983).	§§ 207.19(e)(1)&(2).
§ 207.19(e)(2)(iii) (Special Allocations).	§ 207.19(e)(4).
§ 207.19(e)(3) (Effective date of rent adjustments—mortgages insured before November 30, 1983, and projects described in paragraphs (e)(5) (iii) and (iv)).	§ 207.19(e)(5).
§ 207.19(e)(4) (Refund of additional rentals—mortgages insured before November 30, 1983, and projects described in paragraphs (e)(5) (iii) and (iv)).	§ 207.19(e)(6).
§ 207.19(e)(5) (Rents and Charges—mortgages insured on or after November 30, 1983).	
§ 207.19(e)(6) (Reasonable and moderate rental charges—mortgages insured on or after November 30, 1983).	
§ 207.19(e)(7) (Certain refinanced projects).	
§ 207.19(e)(8) (Rent control—all mortgages).	§ 207.19(e)(3).

As paragraph (e)(1) of the final rule states, paragraphs (e)(2), (e)(3), and (e)(4) apply to mortgages insured before November 30, 1983. Paragraphs (e)(3) and (e)(4) also apply to projects described in paragraphs (e)(5) (iii) and (iv). These projects are referenced in paragraphs (e)(3) and (e)(4) to make clear that the requirements of these paragraphs apply to projects in which HUD continues to regulate rents to ensure compliance with the Internal Revenue Code or State law or exemption from State or local rent control, even if the projects would otherwise qualify to have their rents decontrolled. Paragraphs (e)(5) and (e)(6) apply to mortgages insured on or after November 30, 1983, and paragraphs (e)(7) and (e)(8) apply to all mortgages.

These provisions are largely unchanged from the existing and proposed regulations. One minor change was made to § 207.19(e)(2)(i) (now § 207.19(e)(2)(ii)(A)), which provides that, with respect to rent adjustments, consideration will be given to increases in operating costs occurring within 12 months of *the effective date of the rent increase*, instead of, as previously provided, within 12 months of the *date of filing of the application for a rent adjustment*. This change is consistent with HUD's present method of determining rent adjustments. Also, in § 207.19(e)(2)(ii)(B)(*2*) (formerly

§ 207.19(e)(ii)(B)), the term "licensed", used in describing a real estate appraiser, has been deleted, since real estate appraisers are not licensed.

Section 207.19(e)(2)(iii) continues without substantive change the proposed rule provision in § 207.19(e)(4) permitting project rents for unsubsidized units in insured projects with Section 8 Loan Management assistance to be determined under either of the section 207 rent regulation formulae.

New paragraph (e)(5) in § 207.19 (proposed § 207.19(e)(7)) effectively allows rents and charges in projects insured under section 207 of the NHA on or after November 30, 1983 to be deregulated. Paragraph (e)(6) details that "reasonable and moderate" rentals under section 207(b)(2) of the NHA are determinable by reference to market rentals in the area. As indicated above, it too applies, like paragraph (e)(5), only to projects with mortgages insured after November 30, 1983.

There are exceptions in paragraph (e)(5) to the mortgagor's right to determine rents and charges. The mortgagor is restricted in the charges for facilities or services that may be collected in a project constructed for occupancy exclusively by elderly or handicapped tenants. There is an absolute prohibition against the mortgagor's imposing a charge for perpetual or life care. The mortgagor may charge for facilities and services and rentals for units occupied by tenants assisted under a Section 8 Housing Assistance Payments (HAP) contract only as permitted by the HAP Contract and HUD's regulations and administrative instructions, but in no event may the mortgagor impose lesser charges for facilities and services on unassisted tenants than those imposed on assisted tenants.

These provisions continue to reflect the Department's obligation to control rents and charges for certain projects and tenants. The prohibition against the mortgagor's charging for life care was not specifically identified in the proposed rule; it is not a new prohibition, but one that HUD currently enforces. It is spelled out in the final rule because, in the textual revision to proposed § 207.19(e)(7)(i), the requirement of "the prior approval of the Commissioner" for charges was eliminated in favor of language permitting the imposition of charges by the mortgagor in accordance with "HUD's administrative instructions." The Department also believes that, because of the potential for abuse with respect to life care contracts, it was necessary specifically to identify this prohibition.

The linguistic change also reflects Departmental policy of deemphasizing, where applicable, the Commissioner's direct role in approving charges since, in this regard, the Commissioner's instructions offer adequate guidance to the mortgagor. The prohibition against charging unassisted tenants lower charges for facilities and services is intended to assure that the unassisted tenants carry their proportionate share of the costs of the project's furnishing these facilities and services.

In this final rule, new paragraphs (iii) and (iv) have been added to § 207.19(e)(5) (similar provisions, where applicable, also are included in the amendments to 24 CFR Parts 220, 221, 251, and 255). The addition of paragraph (iii) permits HUD to continue to regulate project rents where deregulation could jeopardize a project's tax-exempt status. HUD will regulate project rents, if necessary, in accordance with 24 CFR 207.19(e)(2)(ii) (A) or (B), at the option of the mortgagor.

New paragraph (iv) provides for continued HUD regulation of rents for a limited class of projects that otherwise qualify for deregulation, but that in the absence of HUD regulation would be subject to State or local rent control. Specifically, paragraph (iv) provides that HUD will approve rental adjustments where the following conditions apply:

(1) The firm commitment to insure the project mortgage under Part 207 was issued before the effective date of the deregulation of HUD rent control contained in this rule;

(2) When the mortgagor (or its predecessor in title) (A) obtained a firm commitment to insure the mortgage under Part 207 or (B) acquired the project subject to a mortgage insured under Part 207, the project would be (or would become upon completion) subject to regulation under a State or local rent control law, but for an exclusion contained in the State or local law based upon HUD regulation of the project rents; and

(3) The exclusion continues in effect, so that authorizing the mortgagor to determine rents would have the effect of subjecting the project to regulation under the State or local rent control law.

Rental charges would be determined under § 207.19(e)(2)(ii) (A) or (B), at the mortgagor's option—the same way that rent adjustments are made for other unsubsidized projects whose rents are regulated by HUD.

The new paragraph (iv) applies only to situations in which HUD decontrol of project rents would cause the projects to become subject to State or local rent control. The Department believes that continuation of HUD rent control for these projects is consistent with the mortgagor's expectation when it acquired its interest in the project. That is, the mortgagor may have relied on the exclusion of HUD-controlled projects from the ambit of local rent control laws when it committed to construct or purchase the project. From the mortgagor's standpoint, continued rent control by HUD represents a benefit on which it relied in acquiring its interest. HUD's unilateral termination of its control, where it has the effect of subjecting the project to State or local rent control, could unfairly deprive the mortgagor of the benefit of its bargain. To protect mortgagors' interest to the fullest extent possible, the rule makes clear that HUD will continue to control project rents, thereby continuing the exclusion from local rent control provided by the State or local law, and that the benefit of the exclusion remains part of what the mortgagor can sell if it sells the project.

This provision in the final rule is intended to protect mortgagors who may have acquired an interest in the property in reliance upon continued HUD control of the project rents. It is not designed to extend to situations where this reliance is lacking. Thus, the new paragraph (iv) does not cover projects for which a Part 207 insurance commitment is issued after the rule's effective date—the date on which Part 207 rents are removed from HUD control. In addition, it does not apply to projects that (1) were originally insured under Part 220 or 221* pursuant to commitments issued on or after June 1, 1983—the date on which HUD rent regulation ended under those Parts—but (2) are refinanced under Part 207 before the effective date of this rule. In this latter circumstance, the mortgagor could not have acted in reliance on HUD regulation of its project rents when the mortgage was originally insured, and ought not be able to use later HUD control of its rents because of an insured refinancing under Part 207 as grounds for invoking the special relief afforded by new paragraph (iv).

HUD control of project rents under paragraph (iv) would end, and the mortgagor would be free to determine rents and charges for facilities and services in accordance with $207.19(e)(5), if the State or local law no longer excludes from its provisions rents regulated by HUD. In other words, paragraph (iv) is intended to protect the mortgagor from a unilateral termination of a benefit by HUD, but is not intended to protect the mortgagor from the effects of a valid change of local law.

The rule provides for mandatory HUD rent regulation where the regulatory criteria are met, rather than leaving the decision to accept HUD control to the mortgagor. This obviates questions about whether HUD is in fact still "regulating" rents when the owner has an option to accept HUD control or not. (See *Rent Control Bd. of Cambridge* v. *Cambridge Tower Corp.*, 394 Mass. 809 (1958).) It should be noted that projects not qualifying for HUD control under the new paragraph (iv) may seek preemption of the State or local law, as provided in 24 CFR Part 246.

Provisions similar to § 207.19(e)(5)(iv) have been added to 24 CFR Parts 220, 221, and 255. The amendments to Part 220 and 221 specify that the firm commitment to insure must have been issued before June 1, 1983—the effective date of the regulation ending HUD control of rents under those programs. The amendment to Part 255 parallels the Part 207 provisions, since Part 255 coinsurance derives its authority from Part 207. No amendment is made to Part 251. That Part draws its insuring authority from Part 221, but was not added until October 9, 1984, some 15 months after the deregulation of Part 221 rents. Thus, the essential ingredient to continued HUD control of rents—mortgagor reliance on the existence of HUD control—is missing.

Inclusion in Parts 220 and 221 of provisions analogous to those in § 207.19(e)(5)(iv) is entirely consistent with HUD's intent in promulgating the 1983 rule that deregulated HUD control of rents in projects insured under those Parts. The 1983 rule did not specifically address its effects on contractual rent control provisions in existing Regulatory Agreements. HUD's general policy, however, is that amendments to regulations should not adversely affect the interests of contracting parties under outstanding contracts with the Secretary. See, e.g., 24 CFR 220.751 (incorporating by reference, *inter alia*, § 207.499) and 221.749. The published decontrol regulation itself did not specifically include any reference to this policy, in large part because it would be an extremely rare occurrence to find a mortgagor adversely affected by decontrol.

However, recognizing that there could be instances in which a mortgagor operating under an existing Regulatory Agreement might be adversely affected by immediate and unilateral HUD decontrol, HUD provided, in its administrative instructions implementing the regulatory change, that decontrol of rents currently regulated pursuant to Regulatory Agreements would become effective only upon execution of an amendment to the Regulatory Agreement so providing. See, HUD Notice H–83–27. In this manner, the mortgagor would have the opportunity to determine for itself whether its interests were adversely affected by HUD decontrol, and, if it so determined, to preserve the *status quo* under the Regulatory Agreement by not requesting any amendment thereof. HUD did not intend to look behind the mortgagor's conclusion that decontrol would adversely affect its interests; the mortgagor's conclusion, as evidenced by its election not to request an amendment to its Regulatory Agreement, would be conclusive. As noted above, the final rule does not permit mortgagors to choose HUD rent control or not, at their option; mortgagors that meet the regulatory criteria must have their project rents regulated by HUD, in accordance with the rent control provisions for the Part under which the mortgage is insured.

Proposed § 207.19(e)(7)(iii) has been redesignated as § 207.19(e)(7) and captioned, "Certain refinanced projects". Its removal as a subparagraph under proposed paragraph (e)(7) clarifies that the projects covered by it are not limited to those with mortgages insured on or after November 30, 1983, but also includes projects with mortgages insured before that date. The final rule also makes substantive changes to the new paragraph (e)(7). The rents in covered projects will be determined in accordance with § 221.530 or § 236.55, whichever is appropriate, instead of in accordance with § 207.19(e)(2)(i), as provided in the proposed rule. This change is consistent with current Departmental policy with respect to these projects. Also, approval of the Commissioner is no longer required before the mortgagor could impose charges for facilities or services offered by these projects. Paragraph (e)(7) now provides that these charges are to be imposed only as permitted by HUD's administrative instructions. Here too, the change is consistent with the Department's liberalizing of its control over charges, by allowing the mortgagor to set the charges consistent with HUD instructions, but without HUD's advance approval.

Section 207.19(e)(8), specifying how HUD will determine project rents after State or local rent controls have been preexempted, is unchanged from the proposed rule.

Part 220

The final rule amends proposed § 220.511(c)(1) to state that the mortgagor may charge for facilities or services in Section 8 projects only as premitted by the HAP Contract, applicable regulations, and HUD's administrative instructions. As under the Part 207 revisions, the Commissioner's advance approval would no longer be necessary before the mortgagor may impose these charges. Also, as in the Part 207 amendment, the mortgagor is prohibited from imposing higher charges on the assisted tenants for the facilities or services than are imposed on the unassisted tenants.

Section 220.511(c)(2) is amended in this rule, although its proposed amendment was not published in the predecessor rule. The amendment is insubstantial; it is principally a stylistic one intended to harmonize the language of § 221.511(c)(2) with parallel provisions in the final rule. See, e.g., § 221.531(a)(3). The amendment also corrects the inadvertent omission of State Agency projects assisted under 24 CFR Part 883 from those subject to § 220.511(c)(2).

Section 220.511(c)(3) contains the substance of the proposed rule's deregulation of rents and other charges in insured projects receiving Section 8 Loan Management assistance. Sections 220.511(c) (4) and (5) contain provisions analogous to those in § 207.19(e)(5)(iii) and (iv) with respect to HUD regulation of rents in cases where HUD deregulation would jeopardize a project's tax exempt status or result in State or local control of the project's rents. Section 220.511(d) contains the provision in the proposed rule regarding HUD's mode of regulating rents after a preemption.

Part 221

The final rule contains an amendment to § 221.530(a) that was not published in the proposed rulemaking of October 10, 1984. New § 221.530(a)(1) is basically a restatement of existing § 221.530's general deregulation policy; however, the rule notes that exceptions to this policy would have to comport with HUD's administrative instructions. As noted earlier, the revision is a salutary one for mortgagors and HUD, since the elimination of the approval process reduces the administrative burdens for both mortgagors and HUD.

Paragraph (a)(2), a new addition in this final rule to § 221.530, details the factors that the Commissioner uses in determining rents in projects covered by Part 221 that are still subject to HUD regulation. Specifically, the provision states that the Commissioner will take into account the sum of the project's operating costs and debt service (as determined by HUD), and the owner's

return on investment, with adjustment for vacancies, the project's non-rental income, and other factors that the Commissioner deems appropriate. This provision simply reflects the current practice for HUD's determination of rents for covered projects.

The final rule adds a new § 221.530(a)(3), which contains the substance (as amended by the final rule) of present § 221.531(c). This change is designed to accomplish two things: first, to make clear that no section 221(d)(3) mortgagors—neither market-rate nor BMIR—have had their rents and other charges deregulated; and second, that all section 221(d)(4) mortgagors—not just "general mortgagors"—qualify for deregulation. Under the existing regulatory framework; these points were unclear.

With respect to section 221(d)(3) mortgagors, the statute is clear that project rents and other charges must be regulated

> . . . under Federal or State laws or by political subdivisions of States . . ., or by the Secretary under a regulatory agreement or otherwise. . . .

With respect to section 221(d)(4) projects, the existing rule inadvertently limited its deregulation provisions to "general mortgagors" by its placement in § 221.531. The new § 221.530(a)(3) clarifies that all section 221(d)(4) mortgagors are indeed deregulated.

The new § 221.530(a)(3) states the general rule, that rents and other charges are deregulated, subject to listed exceptions. The exceptions conform to analogous provisions in Part 207 or 220, as appropriate. The provision also contains the previously discussed guidance regarding the manner in which rents are determined following preemption of State and local rent controls.

Part 236

The final rule contains an amendment (not in the proposed rule) to 24 CFR 236.55(a) specifying how HUD determines maximum rentals for section 236 projects. This addition is analogous to the rent determination provision added in § 221.530(a)(2), and (like that provision) merely reflects HUD's current practice in making rent determinations for covered section 236 projects.

Parts 251 and 255

The final rule also amends 24 CFR Parts 251 and 255. These authorities provide for coinsurance for the new construction or substantial rehabilitation of multifamily projects (Part 251) and the purchase or refinancing of existing projects (Part 255). They use sections 221 and 207 of the NHA, respectively, as their insuring authorities.

The final rule makes a number of changes in §§ 251.703 and 255.703 that were not contained in the proposed rule. Paragraph (a) of these sections adds the Section 8 Moderate Rehabilitation program to the list of Section 8 authorities that have their rents and other charges determined in accordance with HUD requirements. The Moderate Rehabilitation program is used in connection with projects coinsured under Parts 251 and 255, and its inclusion in the final rule conforms to the existing practice with respect to coinsured projects using the program. Paragraph (a) of each section also contains language limiting rents for units occupied by Section 8 tenants to levels charged for unassisted units (without HUD's approval), and prohibiting the imposition of lower facility and service charges on unassisted tenants. These provisions correspond to changes made in Parts 207, 220, and 221, and reflect current HUD practice.

Paragraph (c) of § 251.703 and paragraph (d) of § 255.703 require that requests for rent increases be submitted on a form prescribed by HUD. This is a minor change to conform to HUD practice. Paragraph (d) of § 251.703 prohibits mortgagors from charging tenants of elderly or handicapped projects for life care. As noted earlier, this provision reflects current HUD requirements. (No similar change is made in § 255.703, since projects exclusively for the elderly or handicapped may not be coinsured under Part 255.)

The provisions of paragraph (e) of § 251.703 and paragraph (c)(1) of § 255.703 parallel those of § 207.19(e)(5)(iii), relating to continued HUD rent control to ensure the tax-exempt status of the obligations issued to finance the project. Section 255.703(c)(2) tracks the provisions of § 207.19(e)(5)(iv), requiring continued HUD rent control to avoid imposition of State or local controls. As noted above, Part 251 does not contain an analogous provision. Paragraph (f) of § 251.703 and paragraph (e) of § 255.703 contain provisions similar to those in Parts 207, 220, and 221, specifying how HUD will determine rents when the mortgagor requests preemption.

Part 246

As a consequence of the deregulation of rents instituted by this rule, along with the deregulation already effected by the final rule of April 19, 1983 (48 FR 16670), projects that are partially assisted under Section 8 may qualify not only for Federal rent deregulation but also for automatic preemption of State of local rent control laws. Thus, unassisted tenants could be subject to wholly unregulated rental charges, without the opportunity to comment on the need for, or propriety of, preemption of local controls.

The final rule remedies that situation by making clear that the preemption of rent controls for units that house unassisted tenants in partially assisted projects is subject to 24 CFR Part 246, Subpart B. This subpart governs preemption actions in unassisted projects, and provides for preemption on a case-by-case basis, only after tenant comment and a showing that failure to preempt would jeopardize HUD's financial interest in the project. The final rule contains a number of technical revisions to the proposed rule, designed to make clear that the automatic preemption provisions of Subpart C continue to apply to assisted units and to fully subsidized projects.

Other Findings

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410.

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

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule exercises the Department's discretionary authority to decontrol rents. The rule will eliminate cash deficiencies for some small entities but

will not result in additional costs to any small entities.

The information collection requirements contained in this rule were submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520) and have been assigned OMB Control Numbers 2502–0314 and 2502–0324.

This rule was listed as sequence number 867 in the Department's Semiannual Agenda of Regulations published on April 21, 1986 (51 FR 14036, 14060) under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program numbers are 14.134 and 14.149.

List of Subjects

24 CFR Part 207

Mortgage insurance, Rental housing, Manufactured home parks.

24 CFR Part 220

Home improvement, Mortgage insurance, Urban renewal, Rental housing, Loan programs-housing and community development, Projects.

24 CFR Part 221

Condominiums, Low and moderate income housing, Mortgage insurance, Displaced families, Single Family Housing, Projects, Cooperatives.

24 CFR Part 236

Low and moderate income housing, Mortgage insurance, Rent subsidies, Taxes, Utilities, Projects.

24 CFR Part 246 (formerly Part 403)

Intergovernmental review, low and moderate income housing, Mortgages, Rent subsidies, Rent control.

24 CFR Part 251

Mortgage insurance Coinsurance of multifamily mortgages

24 CFR Part 255

Mortgage insurance.

Accordingly, 24 CFR Parts 207, 220, 221, 236, 246, 251, and 255 are amended as follows:

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

1. The authority citation for 24 CFR Part 207 continues to read as follows:

Authority: Secs. 207, 211, National Housing Act (12 U.S.C. 1713, 1715(b)); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. In section 207.19, paragraph (e) is revised to read as follows:

§ 207.19 Required supervision of private mortgagors.

* * * * *

(e) (1) *Rents and Charges—Applicability.* Paragraphs (e)(2), (e)(3), and (e)(4) of this section apply to mortgages insured before November 30, 1983. Paragraphs (e)(3) and (e)(4) also apply to projects described in paragraphs (e)(5)(iii) and (iv) of this section. Paragraphs (e)(5) and (e)(6) of this section apply to mortgages insured on or after November 30, 1983. Paragraphs (e)(7) and (e)(8) of this section apply to mortgages insured both before and on or after November 30, 1983.

(2) *Rents and charges—mortgages insured before November 30, 1983.* The mortgagor may make no charges for the accommodations (rents), facilities, or services offered by a project insured before November 30, 1983 in excess of those that the Commissioner authorizes. In authorizing these charges and later rent adjustments, the Commissioner will give consideration to providing for rental income necessary to maintain the economic soundness of the project and a reasonable return on investment, consistent with reasonable rents to tenants. The determination will be made as follows:

(i) *Initial rent determination.* The Commissioner will set initial rents in the project before it opens for occupancy, based upon:

(A) A debt service factor determined by the Commissioner to cover debt service requirements and a rate of return to the mortgagor, multiplied by the sum of the Replacement Cost and working capital;

(B) Estimated project operating costs, including an allowance for management, using the latest available data from comparable properties; and

(C) Such additional factors as the Commissioner considers appropriate, such as local market conditions, vacancy rates, and use of commercial space.

(ii) *Rent adjustments.* After initial rents are determined, the Commissioner may approve rental adjustments in the amount provided in paragraph (e)(2)(ii)(A) or (e)(2)(ii)(B) of this section, at the option of the mortgagor:

(A) The sum of the most recent year's audited operating costs or, as appropriate, updated certified operating costs (taking into consideration reasonably anticipated increases in operating costs that will occur within 12 months of the anticipated effective date of the rent increase), and the amount derived under paragraph (e)(2)(i)(A) of this section; or

(B) The lesser of:

(*1*) The sum of the operating costs determined in accordance with paragraph (e)(2)(ii)(A) of this section and the amount derived by multiplying the debt service factor determined under paragraph (e)(2)(i)(A) of this section by the project's appraised market value as residential rental property at the time of the current application for rental adjustment; or

(*2*) Rents on comparable, conventionally financed projects in the same area, determined in accordance with procedures established by the Commissioner.

For purposes of paragraph (e)(2)(ii)(B)(*1*) of this section, the appraised market value shall be determined by a qualified real estate appraiser of the mortgagor's choice. The mortgagor must provide the information required under this paragraph (e) in a format required by HUD.

(iii) *Special Allocations.* Rent adjustments for projects with units assisted under Part 886 of this title (Section 8 Housing Assistance Payments Program—Special Allocations) shall be determined under paragraph (e)(2)(ii)(A) of this section, except that the mortgagor may, with HUD's prior approval, elect to have the rents determined under paragraph (e)(2)(ii)(B) of this section. However, if the mortgagor so elects, the rents for units occupied by assisted tenants shall be determined in accordance with the Housing Assistance Payments (HAP) contract, applicable regulations, and HUD's administrative instructions.

(3) *Effective date of rent adjustments—mortgages insured before November 30, 1983, and projects described in paragraphs (e)(5) (iii) and (iv) of this section.* Except for rents for projects described in paragraph (e)(2)(iii) of this section, no adjustment to maximum permissible rents may take effect before the end of 30 days after the mortgagor files the application for the adjustment with the appropriate HUD Field office. Rent adjustments are considered approved, unless the Commissioner disapproves them in writing. If the Commissioner does not approve the maximum permissible rents within this 30-day period, the mortgagor shall hold the additional rents received, as a result of the adjustment, in an escrow account under such terms as the Commissioner directs, or provide a letter of credit acceptable to the Commissioner sufficient to cover the additional rents collected, pending the Commissioner's approval or disapproval.

(4) *Refund of additional rents—mortgages insured before November 30,*

1983, and projects described in paragraphs (e)(5) (iii) and (iv) of this section. If the Commissioner disapproves all or part of the additional rents collected pursuant to paragraph (e)(3) of this section, the mortgagor shall promptly refund all disapproved amounts to the affected tenants.

(5) *Rents and charges—mortgages insured on or after November 30, 1983.* The mortgagor shall determine the charges for accommodations (rents), facilities, or services offered by a project insured on or after November 30, 1983, except as follows:

(i) For a project constructed for occupancy exclusively by elderly or handicapped tenants, the mortgagor may charge tenants for facilities or services offered by the project only as HUD's administrative instructions permit. The mortgagor may not charge for perpetual care or life care.

(ii) For units occupied by tenants assisted under a Section 8 HAP contract under Part 880 (Section 8 Housing Assistance Payments Program for New Construction), Part 881 (Section 8 Housing Assistance Payments Program for Substantial Rehabilitation), Part 883 (Section 8 Housing Assistance Payments Program—State Housing Agencies), or Part 886 (Section 8 Housing Assistance Payments Program—Special Allocations) of this title, the mortgagor may charge tenants for accommodations (rents), facilities, or services only as the HAP contract, applicable regulations, and HUD's administrative instructions permit. Rents for units occupied by assisted tenants may not exceed rents charged for comparable, unassisted units in the project without the prior approval of the Commissioner, and in no event may the mortgagor impose lesser charges for facilities or services on unassisted tenants than those imposed on assisted tenants.

(iii) The Commissioner will continue to approve rents for units in a project that are not occupied by tenants receiving Section 8 assistance if the mortgagor and the Commissioner determine that such approval is necessary for the project to comply with the requirements of the Internal Revenue Code or State law. If such a determination is made, the Commissioner will approve rents in the amount provided in paragraph (e)(2)(ii)(A) or (e)(2)(ii)(B) of this section, at the option of the mortgagor.

(iv) The Commissioner will approve rental adjustments, in the amount provided in paragraph (e)(2)(ii) (A) or (B) of this section, at the option of the mortgagor, if the Commissioner determines that the following conditions are applicable:

(A) The firm commitment to insure the mortgagor under this part was issued before June 4, 1986.

(B) At the time that the mortgagor (or its predecessor in title) (*1*) obtained a firm commitment to insure the mortgage under this part, or (*2*) acquired title to the project subject to a mortgage insured under this part, the project would be (or would become upon completion) subject to regulation under a State or local rent control law, but for an exclusion contained in the State or local law based upon regulation of the project rents by the Commissioner; and

(C) The exclusion continues in effect, so that authorizing the mortgagor to determine rents would have the effect of subjecting the project to regulation under the State or local rent control law.

This paragraph (iv) shall not apply to any mortgage insured under this Part, the proceeds of which were used to refinance a mortgage insured under 24 CFR Part 220 or 221 for which the firm commitment to insure under such Part 220 or 221 was issued on or after June 1, 1983.

(6) *Reasonable and moderate rental charges—mortgages insured on or after November 30, 1983.* With respect to projects on which rents are deregulated as provided in paragraph (5) of this section, "reasonable" and "moderate" rental charges for purposes of section 207(b)(2) of the National Housing Act are determinable by reference to market rentals in the area.

(7) *Certain refinanced projects.* Rents on refinanced projects insured under section 207 of the National Housing Act pursuant to section 223(f) of that Act that have a Rent Supplement contract under Part 215 of this title, or that receive assistance under Part 236 of this title, shall be determined in accordance with § 221.530(a)(2) or § 236.55, as appropriate. The mortgagor may charge tenants for facilities or services offered by the project only as HUD's administrative instructions permit.

(8) *Rent control—all mortgages.* Any State or local law, ordinance, or regulation regulating the rents of projects subject to this section may be preempted only as provided in Part 246 of this chapter. HUD will determine the maximum rents that may be charged following any such preemption action using the method outlined in paragraph (e)(2)(ii)(A) of this section.

(Approved by OMB under control numbers 2502–0314 and 2502–0324)

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

3. The authority citation for 24 CFR Part 220 continues to read as follows:

Authority: Secs. 207, 211, 220, National Housing Act (12 U.S.C. 1713, 1715b, 1715k); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

4. Section 220.511 is revised to read as follows:

§ 220.511 Supervision of mortgagors.

(a) All of the provisions of § 207.19 of this chapter apply, except that: (1) § 207.19(e) shall not apply, except as specifically referenced in this section; and (2) in the case of a mortgage covering property on which there is located a dwelling or dwellings designed principally for residential use for two to 11 families, § 207.19(d), relating to labor standards and prevailing wage requirements, shall not apply.

(b) Except as otherwise provided in paragraphs (c) and (d) of this section, the mortgagor shall determine the charges for accommodations (rents), facilities, or services offered by the project.

(c) (1) For units occupied by tenants assisted under the programs referred to in paragraphs (c)(2) and (c)(3) of this section, the mortgagor may charge for facilities and services only as the Housing Assistance Payments (HAP) contract, applicable regulations, and HUD's administrative instructions permit. The mortgagor may not impose lesser charges for facilities or services on unassisted tenants than those imposed on assisted tenants.

(2) Rent adjustments for units occupied by tenants assisted under a Section 8 HAP contract Part 880 (Section 8 Housing Assistance Payments Program for New Construction), Part 881 (Section 8 Housing Assistance Payments Program for Substantial Rehabilitation), or Part 883 (Section 8 Housing Assistance Payments Program—State Housing Agencies) of this title shall be determined in accordance with the HAP contract, applicable regulations, and HUD's administrative instructions, and shall not, without the prior approval of the Commissioner, exceed rents charged for comparable, unassisted units in the project.

(3) Rent adjustments for projects with units assisted under Part 886 of this title (Section 8 Housing Assistance Payments Program—Special Allocations) shall be determined under § 207.19(e)(2)(ii)(A) of this chapter, or the mortgagor may, with the prior approval of the Commissioner, determine the rents, except that the

rents for units occupied by assisted tenants shall be determined in accordance with the HAP Contract, applicable regulations, and HUD's administrative instructions.

(4) The Commissioner will approve rents for units in a project not occupied by tenants receiving Section 8 assistance if the mortgagor and the Commissioner determine that such approval is necessary for the project to comply with the requirements of the Internal Revenue Code or State law. If such a determination is made, the Commissioner will approve rents in the amount provided in § 207.19(e)(2)(ii) (A) or (B) of this chapter, at the option of the mortgagor.

(5) The Commissioner will approve rental adjustments, in the amount provided in § 207.19(e)(2)(ii) (A) or (B) of this chapter, at the election of the mortgagor, if the Commissioner determines that the following conditions are applicable:

(i) The firm commitment to insure the mortgage under this part was issued before June 1, 1983;

(ii) At the time that the mortgagor (or its predecessor in title) (A) obtained a firm commitment to insure the mortgage under this part, or (B) acquired title to the project subject to a mortgage insured under this part, the project would be (or would become upon completion) subject to regulation under a State or local rent control law, but for an exclusion contained in the State or local law based upon regulation of the project rents by the Commissioner; and

(iii) The exclusion continues in effect, so that authorizing the mortgagor to determine rents would have the effect of subjecting the project to regulation under the State or local rent control law.

(d) Any State or local law, ordinance, or regulation regulating the rents of projects subject to paragraph (b) or (c) of this section may be preempted only as provided in Part 246 of this chapter. HUD will determine the maximum rents that may be charged following any such preemption action using the method outlined in § 207.19(e)(2)(ii)(A) of this chapter.

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

5. The authority citation for 24 CFR Part 221 continues to read as follows:

Authority: Secs. 211, 221, National Housing Act (12 U.S.C. 1715b, 1715l); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

6. In § 221.530, paragraph (a) is revised to read as follows:

§ 221.530 Supervision applicable to all mortgagors.

(a) (1) Except as otherwise provided in paragraph (a)(3) of this section, the mortgagor shall make no charges for accommodations (rents), facilities, or services offered by the project except as HUD's administrative instructions authorize.

(2) On the basis of information that the mortgagor provides on a form prescribed by the Commissioner, the Commissioner will determine the rents for projects (other than those referred to in paragraph (a)(3) of this section), using the sum of the project's operating costs and debt service (as calculated by the Commissioner), and the owner's return on investment, with adjustments for vacancies, the project's non-rental income, and other factors that the Commissioner deems to be appropriate.

(3) Mortgagors with mortgages insured under section 221(d)(4) of the National Housing Act shall determine the charges for accommodations (rents), facilities, or services offered by the project, except as follows:

(i) For a project constructed for occupancy exclusively by elderly or handicapped tenants, the mortgagor may charge tenants for facilities or services offered by the project only as HUD's administrative instructions permit. The mortgagor may not charge for perpetual care or life care.

(ii) For units occupied by tenants assisted under the programs referred to in paragraphs (a)(3) (iii) and (iv) of this section, the mortgagor may charge for facilities and services offered by the project only as the Housing Assistance Payments (HAP) contract, applicable regulations, and HUD's administrative instructions permit. The mortgagor may not impose lesser charges for facilities and services on unassisted tenants than those imposed on assisted tenants.

(iii) Rent adjustments for units occupied by tenants assisted under a section 8 Housing Assistance Payments (HAP) Contract under Part 880 (Section 8 Housing Assistance Payments Program for New Construction), Part 881 (Section 8 Housing Assistance Payment Program for Substantial Rehabilitation), or Part 883 (Section 8 Housing Assistance Payments Program—State Housing Agencies) of this title shall be determined in accordance with the HAP contract, applicable regulations, and HUD's administrative instructions, and shall not, without the prior approval of the Commissioner, exceed rents charged for comparable, unassisted units in the project.

(iv) Rent adjustments for projects with units assisted under Part 886 of this title (Section 8 Housing Assistance Payments Program—Special Allocations) shall be determined under paragraph (a)(2) of this section, or the mortgagor may, with the prior approval of the Commissioner, determine the rents, except that the rents for units occupied by assisted tenants shall be determined in accordance with the HAP Contract, applicable regulations, and HUD's administrative instructions.

(v) The Commissioner will approve rents for units in a project not occupied by tenants receiving section 8 assistance if the mortgagor and the Commissioner determine that such approval is necessary for the project to comply with the requirements of the Internal Revenue Code or State law. If such a determination is made, the Commissioner will approve rents in the amount provided in § 207.19(e)(2)(ii) (A) or (B) of this chapter, at the option of the mortgagor.

(vi) The Commissioner will approve rental adjustments, in the amount provided in § 207.19(e)(2)(ii) (A) or (B) of this chapter, at the election of the mortgagor, if the Commissioner determines that the following conditions are applicable:

(A) The firm commitment to insure the mortgage under this part was issued before June 1, 1983;

(B) At the time that the mortgagor (or its predecessor in title) (*1*) obtained a firm commitment to insure the mortgage under this part, or (*2*) acquired title to the project subject to a mortgage insured under this part, the project would be (or would become upon completion) subject to regulation under a State or local rent control law, but for an exclusion contained in the State or local law based upon regulation of the project rents by the Commissioner; and

(C) The exclusion continues in effect, so that authorizing the mortgagor to determine rents would have the effect of subjecting the project to regulation under the State or local rent control law.

(vii) Any State or local law, ordinance, or regulation regulating the rents of projects subject to this paragraph (a) may be preempted only as provided in Part 246 of this chapter. HUD will determine the maximum rents that may be charged following any such preemption action using the method outlined in § 207.19(e)(2)(ii)(A) of this chapter.

(Approved by OMB under control number 2502–0324)

§ 221.531 [Amended]

7. Section 221.531(c) is removed and reserved.

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

8. The authority citation for 24 CFR Part 236 continues to read as follows:

Authority: Secs. 211, 236, National Housing Act (12 U.S.C. 1715b, 1715z–1); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

9. In § 236.55, paragraph (a) is revised to read as follows:

§ 236.55 Rental charges.

(a) *Approved rental charges.* The Commissioner will establish, and the mortgagor will maintain, a Basic Rent and Market Rent for each dwelling unit. On the basis of information that the mortgagor provides on a form prescribed by the Commissioner, the Commissioner will determine the rents for the project, using the sum of the project's operating costs and debt service (as calculated by the Commissioner), and the owner's return on investment, with adjustments for vacancies, the project's non-rental income, and other factors that the Commissioner deems appropriate.

* * * * *

(Approved by OMB under control number 2502–0324)

PART 246—LOCAL RENT CONTROL

10. The authority citation for 24 CFR Part 246 is revised to read as set forth below and any authority citation following any section in Part 246 is removed:

Authority: Sec. 211, National Housing Act (12 U.S.C. 1715b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

11. Section 246.20 is revised to read as follows:

§ 246.20 Applicability.

This subpart applies to all projects with mortgages insured or held by HUD that receive a subsidy in the form of (a) interest reduction payments under section 236 of the National Housing Act; (b) below-market interest rates under sections 221(d) (3) and (5) of the National Housing Act; (c) direct loans at below-market interest rates under section 202 of the Housing Act of 1959; (d) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965; (e) housing assistance payments under 24 CFR Part 886, Subpart A (Section 8 Loan Management Set Aside), for projects that converted their rent supplement contracts under section 101 of the Housing and Urban Development Act of 1965 to such assistance for the term of the HAP contract; or (f) housing assistance payments pursuant to a contract covering all the units in the project under section 8 of the United States Housing Act of 1937 or section 23 of that Act, as in effect before January 1, 1975. This subpart also applies to projects with mortgages insured or held by HUD that receive housing assistance payments pursuant to a contract covering fewer than all units in the project, but only with respect to those units occupied by tenants receiving housing assistance thereunder.

PART 251—COINSURANCE FOR THE CONSTRUCTION OR SUBSTANTIAL REHABILITATION OF MULTIFAMILY HOUSING PROJECTS

12. The authority citation for 24 CFR Part 251 is revised to read as set forth below and any authority citation following any section in Part 251 is removed:

Authority: Secs. 211, 244, National Housing Act (12 U.S.C. 1715b, 1715z(9)); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

13. Section 251.703 is revised to read as follows:

§ 251.703 Rents and charges.

(a) For units occupied by tenants assisted under a Section 8 Housing Assistance Payments (HAP) Contract under Part 880 (Section 8 Housing Assistance Payments Program for New Construction), Part 881 (Section 8 Housing Assistance Payments Program for Substantial Rehabilitation), Part 882, Subpart E (Section 8 Moderate Rehabilitation), Part 883 (Section 8 Housing Assistance Payments Program—State Housing Agencies) or Part 886 (Section 8 Housing Assistance Payments Program—Special Allocations) of this title, the Commissioner will determine the rents and charges for facilities and services in accordance with the HAP Contract, HUD's regulations, and administrative instructions governing the program under which the unit is receiving assistance. The Mortgagor may not charge rents for units occupied by Section 8 assisted tenants that exceed rents charged for comparable, unassisted units in the project without the prior approval of the Commissioner, and the Mortgagor may not impose lesser charges for facilities and services on unassisted tenants than those imposed on assisted tenants.

(b) For units (other than those governed by paragraph (a) of this section) in projects with mortgages coinsured under section 221(d)(3) of the National Housing Act, the Mortgagor may collect unit rents and other charges only in amounts less than or equal to those approved by the lender. In determining maximum allowable rents and charges and in acting upon applications for changes, the lender must adhere to standards that the Commissioner establishes. These standards are designed to set rents at a level needed to maintain the economic soundness of the project and to provide a reasonable return to the Mortgagor and reasonable rents to tenants.

(c) Any requests for rent increases must be submitted and processed on a form that the Commissioner prescribes.

(d) If the mortgage is coinsured under section 221(d)(4) of the National Housing Act, and the lender does not elect to regulate rents pursuant to paragraph (e) of this section, the Mortgagor will determine the rents for all units, except for those that are occupied by tenants receiving Section 8 assistance. For a project not constructed for occupancy exclusively by the elderly or handicapped, the Mortgagor may also determine the charges for facilities or services. For a project constructed for occupancy exclusively by the elderly or handicapped, the Mortgagor may charge for facilities or services offered by the project only after obtaining any lender approval that the Commissioner's administrative instructions require. These charges must be reasonable in amount, and may not exceed any amounts approved by the lender. The mortgagor may not charge for perpetual care or life care.

(e) For any mortgage co-insured under section 221(d)(4) of the National Housing Act, the lender may, subject to the Commissioner's administrative instructions, regulate rents and charges for any units not occupied by Section 8-assisted tenants, if the lender determines (under standards established by the Commissioner) that such regulation is necessary to comply with the requirements of the Internal Revenue Code or State law.

(f) Any State or local law, ordinance or regulation regulating the rents of projects subject to this part may be preempted only as provided in Part 246, Subpart B of this chapter. HUD will determine the maximum rents that may be charged following any such preemption action using the method outlined in § 207.19(e)(2)(ii)(A) of this chapter.

(Approved by OMB under control number 2502–0314)

PART 255—COINSURANCE FOR PRIVATE MORTGAGE LENDERS

14. The authority citation for 24 CFR Part 255 is revised to read as set forth below and any authority citation following any section in Part 255 is removed:

Authority: Secs. 211, 244, National Housing Act (12 U.S.C. 1715b, 1715z(9)); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

15. Section 255.703 is revised to read as follows:

§ 255.703 Rents and charges.

(a) For units occupied by tenants assisted under a Section 8 Housing Assistance Payments (HAP) Contract under Part 880 (Section 8 Housing Assistance Payments Program for New Construction), Part 881 (Section 8 Housing Assistance Payments Program for Substantial Rehabilitation), Part 882, Subpart E (Section 8 Moderate Rehabilitation), Part 883 (Section 8 Housing Assistance Payments Program—State Housing Agencies), or Part 886 (Section 8 Housing Assistance Payments Program—Special Allocations) of this title, the Commissioner will determine rents and charges for facilities and services in accordance with the HAP Contract, HUD's regulations, and administrative instructions governing the program under which the unit is receiving assistance. The Mortgagor may not charge rents for units occupied by Section 8-assisted tenants that exceed rents charged for comparable, unassisted units in the project without the prior approval of the Commissioner, and the Mortgagor may not impose lesser charges for facilities and services on unassisted tenants than those imposed on assisted tenants.

(b) For units (other than those governed by paragraph (a) of this section) in projects with mortgages coinsured before November 30, 1983, the Mortgagor may collect unit rents and other charges only in amounts less than or equal to those that the lender approves. In determining maximum allowable rents and charges and in acting upon applications for changes, the lender must adhere to standards established by the Commissioner. These standards are designed to set rents at a level needed to maintain the economic soundness of the project and to provide a reasonable return to the Mortgagor and reasonable rents to tenants.

(c) For any mortgage coinsured on or after November 30, 1983, the Mortgagor will determine rents and charges for facilities and services for all units (except those occupied by tenants receiving Section 8 assistance) except as follows:

(1) For any mortgage co-insured on or after November 30, 1983, the lender may, subject to the Commissioner's administrative instructions, regulate rents and charges for any units not occupied by Section 8-assisted tenants, if the lender determines (under standards established by the Commissioner) that such regulation is necessary to comply with the requirements of the Internal Revenue Code or State law.

(2) The Commissioner (through the lender) will approve rental adjustments, in the amount provided in § 207.19(e)(2)(ii) (A) or (B) of this chapter, at the election of the mortgagor, if the Commissioner determines that the following conditions are applicable:

(i) The firm commitment to insure the mortgage under this part was issued before June 4, 1986;

(ii) At the time that the mortgagor (or its predecessor in title) (A) obtained a firm commitment to insure the mortgage under this part, or (B) acquired title to the project subject to a mortgage insured under this part, the project would be (or would become upon completion) subject to regulation under a State or local rent control law, but for an exclusion contained in the State or local law based upon regulation of the project rents by the Commissioner; and

(iii) The exclusion continues in effect, so that authorizing the mortgagor to determine rents would have the effect of subjecting the project to regulation under the State or local rent control law.

This paragraph (c)(2) shall not apply to any mortgage coinsured pursuant to this Part, the proceeds of which were used to refinance a mortgage insured under 24 CFR Part 220 or 221 for which the firm commitment to insure under such Part 220 or 221 was issued on or after June 1, 1983.

(d) Any requests for rent increases must be submitted and processed on a form that the Commissioner prescribes.

(e) Any State or local law, ordinance or regulation regulating the rents of projects subject to this part may be preempted only as provided in Part 246, Subpart B of this chapter. HUD will determine the maximum rents that may be charged following any such preemption action using the method outlined in § 207.19(e)(2)(ii)(A) of this chapter.

(Approved by OMB under control number 2502-0314)

Dated: May 27, 1986.

Silvio J. DeBartolomeis,

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

[FR Doc. 86-12594 Filed 6-3-86; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8088]

Income Taxes; Temporary Regulations Under Section 338, Stock Acquisitions, Statements of Elections and Due Dates

Correction

In FR Doc. 86-10998, beginning on page 17929, in the issue of Friday, May 16, 1986, make the following corrections:

1. On page 17931, first column, second complete paragraph, ninth line, "and" should read "any".

2. On page 17932, second column, § 1.338-1T(m), in the fifth line, before "July" insert "December 9, 1985, and on or before".

3. On page 17933, second column, in § 1.338-1T(m)(7)(iii)(B), tenth line, the date should read "November 3, 1986".

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 10-86]

Exemption of Records Systems Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: On December 17, 1985, the United States Marshals Service (USMS), Department of Justice, issued proposed regulations to exempt four systems of records from certain provisions of the Privacy Act.

Specifically, the USMS proposed to exempt the Threat Analysis Information System (JUSTICE/USM-009) from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e)(4) (G) and (H), (e)(5), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). These exemptions are necessary because adherence to these provisions of the Act would present a serious impediment to security measures necessary for the fulfillment of

law enforcement and the protection of participants in the judicial process, including but not limited to judges, witnesses, U.S. Attorneys, etc. For example, persons who have directly threatened or pose violent threat to USMS protectees could learn that countermeasures to specific threat situations are being developed and implemented. The exemptions will preclude such knowledge and thereby deny threat sources the opportunity to circumvent law enforcement and security efforts.

The USMS also proposed to exempt from subsections (c)(3) and (d) of the Privacy Act a system entitled "Judicial Facility Security Index System (JUSTICE/USM–10)" pursuant to 5 U.S.C. 552a(k)(5). This exemption is necessary to protect the identity of confidential sources.

Finally, the USMS also proposed to exempt from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e)(4) (G) and (H), (e)(5), (e)(8), (f), and (g) of the Privacy Act a system entitled "U.S. Marshals Service Freedom of Information/Privacy Act (FOIA/PA) Files (JUSTICE/USM–012)" and from subsections (c) (3) and (4), (d), (e) (2) and (3), (e)(4) (G) and (H), (e)(8), (f), and (g) of the Privacy Act a system entitled "U.S. Marshals Service Administrative Proceedings, Claims and Civil Litigation Files (JUSTICE/USM–013)." The exemptions are needed to protect the integrity of civil litigation, criminal investigatory information, the privacy of third parties and identity of confidential sources.

DATE: This rule will be effective June 4, 1986.

ADDRESS: J. Michael Clark, Assistant Director, General Services Staff, Justice Management Division, Room 9002, Department of Justice, 601 D Street, NW., Washington, DC 20530.

FOR FURTHER INFORMATION CONTACT: J. Michael Clark (202) 272–6474.

SUPPLEMENTARY INFORMATION: No comments were received regarding the proposed regulations published on December 17, 1985.

List of Subjects in 28 CFR Part 16

Administrative practice and procedure, Courts, Freedom of Information, Privacy, and the Sunshine Act.

This order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, it is hereby stated that the order will not have a "significant economic impact on a substantial number of small entities."

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order 793–78, the regulations published in the **Federal Register** on December 17, 1985 (50 FR 51411) are adopted without change as set forth below.

Dated: May 20, 1986.

Harry H. Flickinger,

Acting Assistant Attorney General for Administration.

PART 16—[AMENDED]

1. The authority for Part 16 continues to read as follows:

Authority: 28 U.S.C. 509, 510; 5 U.S.C. 301, 552, 552a; 31 U.S.C. 483a unless otherwise noted.

2. Section 16.101 is amended by redesignating existing paragraph (g) as paragraph (o), by revising the last sentence of newly redesignated paragraph (o), and by adding new paragraphs (g) through (n).

§ 16.101 Exemption of U.S. Marshals Service Systems—Limited access, as indicated.

* * * * *

(g) The following system of records is exempt from 5 U.S.C. 552a(c) (3) and (4), (d), (e)(1), (2) and (3), (e)(4) (G) and (H), (e)(5), (e)(8), (f) and (g):

(1) U.S. Marshals Service Threat Analysis Information System (JUSTICE/USM–009).

These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2).

(h) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because to release the disclosure accounting would permit a person to determine whether he or she has been identified as a specific threat to USMS protectees and to determine the need for countermeasures to USMS protective activities and thereby present a serious impediment to law enforcement.

(2) From subsection (c)(4) because it is inapplicable since an exemption is being claimed for subsection (d).

(3) From subsection (d) because to permit access to records would inform a person of the nature and scope of information obtained as to his or her threat-related activities and of the identity of confidential sources, and afford the person sufficient information to develop countermeasures to thwart protective arrangements and endanger lives of USMS protectees, informants, etc. To permit amendment of the records would interfere with ongoing criminal law enforcement and impose an impossible administrative burden requiring criminal investigations to be continuously reinvestigated.

(4) From subsections (e) (1) and (5) because the collection of investigatory information used to assess the existence, extent and likelihood of a threat situation necessarily includes material from which it is impossible to identify and segregate information which may not be important to the conduct of a thorough assessment. It is often impossible to determine in advance if all information collected is accurate, relevent, timely and complete but, in the interests of developing effective protective measures, it is necessary that the U.S. Marshals Service retain this information in order to establish patterns of activity to aid in accurately assessing threat situations. The restrictions of subsections (e) (1) and (5) would impede the protective responsibilities of the Service and could result in death or serious injury to Marshals Service protectees.

(5) From subsection (e)(2) because to collect information from the subject individual would serve notice that he or she is identified as a specific threat to USMS protectees and would enable the subject individual to develop countermeasures to protective activities and thereby present a serious impediment to law enforcement.

(6) From subsection (e)(3) because to inform individuals as required by this subsection would enable the subject individual to develop countermeasures to USMS protective arrangements or identify confidential sources and thereby present a serious impediment to law enforcement.

(7) From subsections (e)(4) (G) and (H) because they are inapplicable since an exemption is being claimed for subsections (d) and (f) of the Act.

(8) From subsection (e)(8) because to serve notice would give persons sufficient warning to develop countermeasures to protective arrangements and thereby present a serious impediment to law enforcement through compromise of protective procedures, etc.

(9) From subsection (f) because this system of records is exempt from the provisions of subsection (d).

(10) From subsection (g) because it is inapplicable since an exemption is being claimed for subsections (d) and (f).

(i) The following system of records is exempt from 5 U.S.C. 552a(c) (3) and (d):

(1) Judicial Facility Security Index System (JUSTICE/USM–010)

These exemptions apply only to the extent that information in this system is exempt pursuant to 5 U.S.C. 552a(k)(5).

(j) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) only to the extent that release of the disclosure accounting would reveal the identity of a confidential source.

(2) From subsection (d) only to the extent that access to information would reveal the identity of a confidential source.

(k) The following system of records is exempt from 5 U.S.C. 552a(c) (3) and (4), (d), (e)(1), (2) and (3), (e)(4) (G) and (H), (e)(5), (e)(8), (f) and (g):

(1) U.S. Marshals Service Freedom of Information/Privacy Act (FOIA/PA) Files (JUSTICE/USM–012)

These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a (j)(2), (k)(2) and (k)(5).

(l) Because this system contains Department of Justice civil and criminal law enforcement, investigatory records, exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because to release the disclosure accounting would permit the subject of an investigation to obtain valuable information concerning the existence and nature of the investigation and present a serious impediment to law enforcement.

(2) From subsection (c)(4) because that portion of this system which consists of investigatory records compiled for law enforcement purposes is being exempted from the provisions of subsection (d), rendering this provision not applicable.

(3) From subsection (d) because to permit access to investigatory records would reveal the identity of confidential sources and impede ongoing investigative or law enforcement activities by the premature disclosure of information related to those efforts. To permit amendment of the records would interfere with ongoing criminal law enforcement and impose an impossible administrative burden by requiring criminal investigations to be continuously reinvestigated.

(4) From subsections (e) (1) and (5) because it is often impossible to determine in advance if investigatory records contained in this system are accurate, relevant, timely and complete but, in the interests of effective law enforcement, it is necessary to retain this information to aid in establishing patterns of activity and provide leads in criminal investigations.

(5) From subsection (e)(2) because to collect information from the subject individual would serve notice that he or she is the subject of criminal investigative or law enforcement activity and thereby present a serious impediment to law enforcement.

(6) From subsection (e)(3) because to inform individuals as required by this subsection would enable the subject individual to identify confidential sources, reveal the existence of an investigation, and compromise law enforcement efforts.

(7) From subsections (e)(4) (G) and (H) because they are inapplicable since an exemption is being claimed for subsections (d) and (f) for investigatory records contained in this system.

(8) From subsection (e)(8) because to serve notice would give persons sufficient warning to evade law enforcement efforts.

(9) From subsection (f) because investigatory records contained in this system are exempt from the provisions of subsection (d).

(10) From subsection (g) because it is inapplicable since an exemption is being claimed for subsections (d) and (f).

(m) The following system of records is exempt from 5 U.S.C. 552a(c) (3) and (4), (d), (e) (2) and (3), (e)(4) (G) and (H), (e)(8), (f) and (g):

(1) U.S. Marshals Service Administrative Proceedings, Claims and Civil Litigation Files (JUSTICE/USM–013).

These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2) or (k)(5).

(n) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because to release the disclosure accounting for disclosures pursuant to the routine uses published for this system would permit the subject of a criminal or civil case or matter under investigation, or a case or matter in litigation, or under regulatory or administrative review or action, to obtain valuable information concerning the nature of that investigation, case or matter, and present a serious impediment to law enforcement or civil legal activities, or reveal a confidential source.

(2) From subsection (c)(4) because the exemption claimed for subsection (d) will make this section inapplicable.

(3) From subsection (d) because to permit access to records contained in this system would provide information concerning litigation strategy, or case development, and/or reveal the nature of the criminal or civil case or matter under investigation or administrative review, or in litigation, and present a serious impediment to law enforcement or civil legal activities, or reveal a confidential source.

(4) From subsection (e)(2) because effective legal representation, defense, or claim adjudication necessitates collecting information from all individuals having knowledge of the criminal or civil case or matter. To collect information primarily from the subject individual would present a serious impediment to law enforcement or civil legal activities.

(5) From subsection (e)(3) because to inform the individuals as required by this subsection would permit the subject of a criminal or civil matter under investigation or administrative review to compromise that investigation or administrative review and thereby impede law enforcement efforts or civil legal activities.

(6) From subsections (e)(4) (G) and (H) because these provisions are inapplicable since this system is exempt from subsections (d) and (f) of the Act.

(7) From subsection (e)(8) because to serve notice would give persons sufficient warning to compromise a criminal or civil investigation or administrative review and thereby impede law enforcement of civil legal activities.

(8) From subsection (f) because this system of records is exempt from the provisions of subsection (d).

(9) From subsection (g) because it is inapplicable since an exemption is claimed for subsections (d) and (f).

(o) * * * The decisions to release information from these systems will be made on a case-by-case basis.

[FR Doc. 88–12522 Filed 6–3–86; 8:45 am]

BILLING CODE 4410–04–M

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28 CFR Part 16

[AAG/A Order No. 11–86]

Exemption of Records Systems Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: On December 17, 1985, the United States Marshals Service (USMS), Department of Justice, issued proposed regulations to exempt a system of records entitled "Warrant Information System, JUSTICE/USM–007" from subsections (e)(1) and (e)(5) of the Privacy Act. These exemptions are necessary because the relevancy, necessity, accuracy, timeliness and completeness provisions of subsections (e)(1) and (e)(5) would present a serious impediment to law enforcement in that it is impossible to determine in advance what information collected in the course of a criminal investigation will be

important or crucial to the apprehension of Federal fugitives or to the law enforcement activities of other agencies. These exemptions will permit the USMS to retain seemingly irrelevant, untimely or inaccurate information which, with the passage of time, would gain new significance in the criminal investigation. In addition, because a new paragraph has been added to exempt the system from the additional subsections (e)(1) and (e)(5), the USMS is also republishing existing paragraphs which reflect existing exemptions from other subsections. The existing paragraphs are being republished only to accomplish paragraph redesignation and clarity in Title 28, Part 16, of the Code of Federal Regulations. Their republication has no effect on the public because such republication does not effect any new exemptions.

DATE: This rule will be effective June 4, 1986.

ADDRESS: J. Michael Clark, Assistant Director, General Services Staff, Justice Management Division, United States Department of Justice, Room 9002, 601 D Street, NW., Washington, DC 20530.

FOR FURTHER INFORMATION CONTACT: J. Michael Clark (202–272–6474).

SUPPLEMENTARY INFORMATION: No comments were received regarding the proposed regulations published on December 17, 1985.

List of Subjects in 28 CFR Part 16

Administrative practice and procedure, Courts, Freedom of Information, Privacy, and Sunshine Acts.

This order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Felxibility Act, 5 U.S.C. 601–612, it is hereby stated that the order will not have a "significant economic impact on a substantial number of small entities."

Pursuant to authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by the Attorney General Order No. 793–78, the proposed regulations published in the Federal Register on December 17, 1985 (50 FR 51413) are adopted without change as set forth below.

Dated: May 20, 1986.

Harry H. Flickinger,

Acting Assistant Attorney General for Administration.

PART 16—[AMENDED]

1. The authority for Part 16 continues to read as follows:

Authority: 28 U.S.C. 509, 510; 5 U.S.C. 301, 552, 552a; 31 U.S.C. 483a unless otherwise noted.

2. Section 16.101 is amended by revising the introductory text of paragraph (a); by redesignating paragraphs (b)(4) through (b)(9) as paragraphs (b)(5) through (b)(10); by adding a new paragraph (b)(4); and by revising paragraphs (d) (5) through (7) and (d)(9) and paragraphs (f)(4) through (f)(9).

§ 16.101 Exemption of U.S. Marshals Service Systems—Limited Access, as indicated.

(a) The following system of records is exempt from 5 U.S.C. 552(a)(c) (3) and (4), (d), (e) (1), (2) and (3), (e)(4) (G) and (H), (e)(5), (e)(8), (f) and (g):

* * * * *

(b) * * *

(4) From subsections (e)(1) and (e)(5) because the requirements of these subsections would present a serious impediment to law enforcement in that it is impossible to determine in advance what information collected during an investigation will be important or crucial to the apprehension of Federal fugitives. In the interest of effective law enforcement, it is appropriate in a thorough investigation to retain seemingly irrelevant, untimely, or inaccurate information which, with the passage of time, would aid in establishing patterns of activity and provide investigative leads toward fugitive apprehension and assist in law enforcement activities of other agencies.

* * * * *

(d) * * *

(5) From subsection (e)(3) for the reason stated in (b)(6) of this section.

(6) From subsection (e)(4) (G) and (H) for the reason stated in (b)(7) of this section.

(7) From subsection (e)(8) for the reason stated in (b)(8) of this section.

* * * * *

(9) From subsection (g) for the reason stated in (b)(10) of this section.

* * * * *

(f) * * *

(4) From subsection (e)(2) because the requirement that information be collected to the greatest extent practicable from the subject individual would present a serious inpediment to law enforcement because the subject of the investigation or prosecution would be placed on notice as to the existence of the investigation and would therefore be able to compromise the investigation and avoid detection or apprehension.

(5) From subsection (e)(3) for the reason stated in (b)(6) of this section.

(6) From subsections (e)(4) (G) and (H) for the reason stated in (b)(7) of this section.

(7) From subsection (e)(8) because the individual notice requirement of this subsection would present a serious impediment to law enforcement in that the subject of the investigation would be alerted as to the existence of the investigation and therefore be able to compromise the investigation and avoid detection, subpoena, etc.

(8) From subsection (f) because procedures for notice to an individual pursuant to subsection (f)(1) as to the existence of records dealing with investigations of criminal or civil law violations would enable the individual to compromise the investigation and evade detection or apprehension. Since an exemption is being claimed for subsection (d) of the Act, the rules required pursuant to subsections (f)(2) through (f)(5) are not applicable to this system.

(9) From subsection (g) for the reason stated in (b)(10) of this section.

* * * * *

[FR Doc. 86–12523 Filed 6–3–86; 8:45 am]

BILLING CODE 4410–04–M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 806b

Privacy Act Program

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is revising Part 806b—Privacy Act Program. This revision simplifies procedures for answering Privacy Act requests, restores the distinction between Freedom of Information (FOIA) and Privacy Act requests and deletes two exemptions. It implements 5 U.S.C. 552a (Pub. L. 93–579), and DOD Directive 5400.

EFFECTIVE DATE: June 4, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Updike, Department of the Air Force, HQ USAF/DAQD, Washington, D.C. 20330, telephone (202) 694–3488.

SUPPLEMENTARY INFORMATION: Because this regulation implements a higher authority directive it was not published as proposed for public comments. It is published as a final rule for information purposes. The Department of the Air Force has determined that this regulation is not a major rule as defined by Executive Order 12291; is not subject

to the relevant provisions of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354); and does not contain reporting or recordkeeping requirements under the criteria of the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

List of Subjects in 32 CFR Part 806b

Privacy, Records.

Title 32 CFR Part 806b is revised to read as follows:

PART 806b—AIR FORCE PRIVACY ACT PROGRAM

Sec.

806b.0. Purpose.

Subpart A—The Privacy Act Program

806b.1. Air Force Policy.
806b.2. Terms defined.
806b.3. Access authorities.
806b.4. Judicial sanctions.

Subpart B—Collecting Personal Information

806b.5. Privacy Act Statements (PAS).

Subpart C—Maintaining Systems of Records

806b.6. Air Force standards.
806b.7. Personal notes.

Subpart D—Providing Information

806b.8. Access by subjects of records.
806b.9. Disclosures to third parties and organizations.

Subpart E—Privacy Act Exemptions

806b.10. Use of exemptions.
806b.11. General Exemptions.
806b.12. Specific exemptions.
806b.13. General and specific exemptions.

Authority: 5 U.S.C. 552a, Pub. L. 93-579.

§ 806b.0 Purpose.

This part sets policies and outlines procedures that govern collecting, safeguarding, maintaining, using, accessing, amending, and disseminating personal information kept by the Department of the Air Force in systems of records. This part applies to all Air Force activities, including the Reserve Components, except for the Office of the Chief, National Guard Bureau; Air National Guard technicians; and Army-Air Force Exchange Service activities, including Motion Picture Service activities. It does not apply to civilian employee records maintained by Air Force activities which are covered by the Office of Personnel Management systems of records. Such records are subject to Parts 293, 294, and 297 of Office of Personnel Management regulations and the Federal Personnel Manual and Air Force supplements.

Subpart A—The Privacy Act Program

§ 806b.1 Air Force policy.

Air Force policy is to:

(a) Protect personal privacy as required by the Privacy Act of 1974. The Privacy Act and this part apply only to information in systems of records on living U.S. citizens and aliens admitted as permanent residents of the United States.

(b) Collect, maintain, and use information in such systems only to support programs authorized by law or Executive order.

(c) Ensure that records in these systems are timely, accurate, complete, and relevant, amending on request any record which does not meet these requirements.

(d) Let individuals know about and see or get copies of their own records in systems unless the Secretary of the Air Force (SAF) has approved an exemption, or the records were created in anticipation of civil action or proceeding.

(e) Safeguard records in systems.

(f) Provide a review of decisions that deny individuals access to or amendment of their records.

(g) Keep records the minimum time required to protect the rights and provide for the needs of the individual and the U.S. Government.

§ 806b.2. Terms defined:

(a) *Access.* The process of letting individuals see or get copies of their records from a system of records.

(b) *Agency.* The Department of Defense (DOD) for disclosures from systems of records. Any record may be disclosed to any component for a use compatible with the purpose for which the record was created. The Air Force is an agency for all other actions under the Privacy Act including access and amendment requests and appeals.

(c) *Confidential source.* Any person or organization that has given information under an:

(1) Expressed promise to withhold their identity; or

(2) Implied promise of confidentiality made before September 27, 1975.

(d) *Confidentiality.* A promise to withhold the identity of a source or the information provided. The information must be for use in an exempt system. This promise must be expressed and recorded.

(e) *Disclosure.* Giving information from a system, by any means, to anyone other than the subject.

(f) *Individual.* A living U.S. citizen or a permanent resident alien. The deceased, non-resident aliens, businesses, and third parties have no rights under the Privacy Act. However, a parent or guardian may exercise Privacy Act rights for a minor or incompetent person.

(g) *Maintain.* To collect, keep, use, or disseminate records.

(h) *Minor.* Anyone under the age of majority according to the law of the state where the records are located. If there is no state law, a minor is anyone under the age of 18. Military members and married persons are not minors.

(i) *Official use.* Any action by a Department of Defense member or employee to perform a mission or function prescribed or authorized by law or regulation.

(j) *Personal information.* All information about an individual except for matters of public record. Some examples of personal information are all medical files, financial records except for gross pay, criminal records except the findings of a court-martial, and details on a person's private life. Information about an individual's official duties is normally not personal.

(k) *Privacy Act request.* A request by an individual about the existence of, access to, or amendment of, a record about him or her that is in a system of records. The request must show dependence on the Privacy Act.

(l) *Record.* Any item, collection, or grouping of information about an individual.

(m) *Routine use.* Any disclosure outside of Department of Defense from a system for a use that is compatible with the purpose for which the record was created. Routine uses must be shown in the systems notice. These notices are published in the **Federal Register** and AFP 12-36, Privacy Act Systems of Records.

(n) *Statistical records.* A record kept only for statistical or reporting purposes. It is not used for making judgments about persons. Individual identity must not be discoverable using routine statistical or data manipulation methods.

(o) *System manager.* The official who initiates a system of records and issues policies and procedures for operating and safeguarding a system. Local systems managers operate such systems or are responsible for a segment of a decentralized system.

(p) *System of records.* Any group of records from which personal information is retrieved by name or personal identifier (See paragraph (l) of this section.) A record in a system of records must contain two elements, a personal identifier and at least one item of personal information. This identifier is some name, number, or symbol which is unique to the individual. The most often used personal identifiers in the Air Force are name and Social Security number (SSN). If a retrieval is possible

but not actually done, or if it depends on memory, the group is not a system of records. However, creating a retrieval or cross index, arranged by personal identifier for randomly filed records, makes that collection a system.

(q) *Workday or day.* A duty day, not including Saturdays, Sundays, and Federal holidays.

§ 806b.3 Access authorities.

The system manager, or individual or position designated in the system notice to receive requests is the access authority.

§ 806b.4 Judicial sanctions.

The Privacy Act has both civil remedies and criminal penalties for violations.

(a) *Civil remedies.* An individual can file a civil suit against the Air Force for failing to comply with the Privacy Act.

(b) *Criminal penalties.* Personnel may be found guilty of a misdemeanor and fined not more than $5,000 for willfully:

(1) Maintaining a system without meeting the public notice requirements.

(2) Disclosing information from a system to someone who is not entitled to have it knowing that disclosure is prohibited.

(3) Obtaining another's record from a system under false pretenses.

Subpart B—Collecting Personal Information

§ 806b.5 Privacy Act Statements (PAS).

Give PASs to individuals you ask to provide information about themselves which will go into a system of records. Do this regardless of how you collect or record the answers. You may read the statement or display a sign in area where people are often asked for the same type of information. However, a printed copy must be given out if the subject asks for one. A PAS is not required if the information will not go into a system of records or if it will go into a SAF exempted criminal investigative system. A PAS must show:

(a) The citation and title of the law or Executive Order that authorizes the program the system supports and the Air Force or lower level standard publications which covers the system. All systems of records must be governed by a standard publication.

(b) The principal purposes for the system. The reasons why the Air Force needs the information.

(c) The routine uses of the information. What disclosures, if any, will be made outside of DOD.

(d) Whether furnishing the information is mandatory or voluntary. An answer is mandatory only if the information is essential to an Air Force mission, and if failure to answer could make the person liable to some specific penalty.

(e) What will happen to an individual who does not respond. PASs are not to be signed and the language in them must be nonthreatening. These statements may be printed in simple paragraph form without separation of the five parts.

Subpart C—Maintaining Systems of Records

§ 806b.6 Air Force standards.

Records on individuals must be as accurate, relevant, timely, and complete as is reasonably necessary to make fair and informed decisions about them. Systems of records must be:

(a) Authorized by law or Executive Order.

(b) Controlled by an Air Force or lower echelon directive.

(c) Needed to carry out an Air Force mission or function.

(d) Described in a notice published in the **Federal Register.**

§ 806b.7 Personal notes.

Personal notes which are maintained on individuals as memory aids in the performance of supervisory or other official functions are not subject to the notice, access, or amendment provisions of the Privacy Act if both of the following conditions are met.

(a) The notes remain under the control of the originator and are never made available to any other person in the course of official business.

(b) The notes are not required by any Air Force directive, and they may be retained or disposed of as the originator sees fit.

Subpart D—Providing Information

§ 806b.8 Access by subjects of records.

Individuals may ask if the Air Force has any records on them. The Privacy Act gives rights of access and amendment for records in a system of records.

(a) *Privacy Act requests.* To be considered under the Privacy Act, a request must:

(1) Come from the subject of a record in a system of records, or from a designated agent or guardian. The subject must be a U.S. citizen or permanent resident alien.

(2) Cite the Privacy Act or at least show an awareness of the law and its requirement to provide an individual access to his or her records. For example it could be addressed to the Privacy Act officer or the system manager or cite the Privacy Act.

(3) Reasonably describe the records sought. The request does not have to name the system, but it should be fairly specific. Do not accept blanket requests for "all records about me." Instead, refer the individual to AFP 12–36 or the **Federal Register** and ask the requester to identify at least the types of records sought.

Note: Privacy Act requests are personal and not official business. Requests received on official letterhead, except for those from an area defense counsel, should be returned. No one may be penalized or harassed for exercising their rights under the Privacy Act. The Air Force will provide all reasonable aid to individuals exercising their rights.

(4) Requests which do not cite or refer to the Privacy Act, or are for information which is not in a system of records, are not processed under this part.

(b) *FOIA requests.* Request made under the FOIA or Part 806 of this chapter are processed as FOIA requests. Privacy Act exemptions must not be used to deny records under the FOIA. FOIA exemptions cannot be used to deny anyone any record which would be available under the Privacy Act. No person will be denied access to a record for failure to cite the proper act. FOIA requests must not be listed on the annual Privacy Act report.

(c) *Privacy Act requests for investigative records.* Requests for investigative records subject to the (j)(2) general exemption will be processed under both acts. Tell the individual in writing what records are exempt under the Privacy Act and that you are providing records, if any, which would be available under the FOIA. Clearly explain the reasons for this action in your reply.

(d) *Access requests that cite both the Privacy Act and the FOIA.* Use the act that gives the most information. This may mean processing part of the request under one act and part under another. Explain in your reply which act you are using in each case and why.

(e) *Functional requests.* Other directives give individuals access to records. If a person asks for his or her records and does not cite, or reasonably imply, the Privacy Act or the FOIA, and another directive authorizes the release of the records, use that directive as the releasing authority. Apply the fee schedule in Part 813 of this chapter.

(f) *Processing access requests*—(1) *Verifying identity.* Local system managers must verify the identity of all requests unless the record sought is available to anyone under the FOIA. Individuals do not have to state a reason for the request, nor can the request be denied if that person does not

give his or her SSN, unless disclosure of the SSN is required by Federal Statute or by a regulation adopted before January 1, 1975.

(2) *Notifying the requester.* Once the requester's identity is verified:

(i) Tell the individual if there is a record in a system of records about him or her, and when and where it may be reviewed. If possible, this should be done within 10 workdays from the date the request was received.

(ii) Let the subject see the record, or obtain one copy, unless the system is exempt and listed in Section 806b.13. Usually this should be done within 30 workdays from the date the request was received.

(A) If the requester wants to bring another person, the local system manager may ask for written consent for the other individual to be present during any review of the record.

(B) Do not create a new record simply to fulfill a request. The record must exist at the time of the request. However, do not deny a record just because it is not readily available in a convenient form. Information on magnetic or computer tape should be given in a format the requester can understand.

(iii) If you cannot answer the request in 10 workdays, tell the requester why in a letter and give an approximate completion date. That date should be no more than 20 workdays after the first Air Force office received the request. Send a copy of this letter to HQ USAF/DAQD through Privacy Act channels.

(3) *Fees.* When providing copies of records under the Privacy Act, charge only for the direct cost for reproduction.

(i) Use the following fee schedule:

Office copy (per page), 10 cents.
Microform media (paper copy) (per image), 25 cents.
Microfiche (per fiche), 95 cents.

(ii) Do not charge fees for:

(A) Searching records.

(B) Reproducing a document for the convenience of the Air Force.

(C) Reproducing a record only in order to let a requester review it. If he or she wants a personal copy, use the fees in paragraph (f)(3)(i) of this section.

(iii) Waive the fee, if the total amount is less than $30. Do not waive the fee when a previous waiver has been granted and subsequent requests appear to be an extension or duplication of the original request.

(iv) Locally determine fees for reproducing photographs or nonpaper material other than microform.

(4) *Denying access.* If the record should not be released, the local system manager sends a copy of the request, a copy of the record (or records), and the reasons for recommending denial (including the exemption being applied) to the denial authority through the local Privacy Act officer and the MAJCOM or SOA Privacy Act officer. Staff Judge Advocate (SJA) coordination is required. This should be done within 5 workdays from the date the request was received.

(i) *Record evaluation.* A record may not be withheld just because it is in an exempt system. Before recommending denial, the local system manager must determine that:

(A) The system is covered by an exemption approved by SAF and listed in § 806b.13.

(B) Each document is covered by the exemption, because all parts of a system are not automatically exempt.

(C) No nonexempt parts can be reasonably segregated.

(ii) *Medical records.* If a practitioner believes that access to a medical record by the subject could harm that person's mental or physical health, ask the requester to name a practitioner to receive the record. If this requirement poses a hardship on the individual, offer the service of a military practitioner other than the one who provided treatment. If the individual refuses to name a recipient, the record will not be released. This is not a denial under the Privacy Act and is not appealable.

(iii) *Third party information.* Third party information may not be deleted from a record when the subject requests access to the record unless there is an established exemption published in § 806b.13. This is because all information in a file must be presumed to pertain to the subject of the file. However, personal data such as SSNs and home addresses of third parties usually do not pertain to the subject of the record and, therefore, need not be released. This is not a denial under the Privacy Act and cannot be appealed.

(iv) *Information compiled for litigation.* Records in a system compiled in connection with a civil action or other proceeding may be withheld. This includes any action where judicial or administrative adjudicatory proceedings may reasonably be anticipated. Attorney work products prepared in support of such proceedings are not usually released under the Privacy Act at any point before, during, or after termination of the action or proceeding.

(v) *Denial authority action.* (A) The MAJCOM or SOA Privacy Act officer reviews the proposed denial, asks for written advice from the servicing SJA and the office responsible for the program under which the record was created, and makes a recommendation to the denial authority.

(B) The denial authority sends the requester a letter stating whether or not access will be granted. If the denial authority decides to grant access, he or she instructs the local system manager to release the record. If the denial authority denies access, he or she must tell the requester why, and that the decision may be appealed to SAF not later than 60 calendar days after receipt of the denial letter. Tell the requester to resubmit the original request and send any supporting material to the denial authority for forwarding to HQ USAF/DAQD for processing. The requester should be cautioned that failure to follow this procedure may delay the appeal.

(g) *Amendment requests.* Individuals may ask the Air Force to amend records about them that are in a system of records. The request must seek to change, delete, or add material to make a record accurate, timely, relevant, or complete. Requests for amendment of a record that is subjective, or involves a matter of opinion or interpretation will not be processed under this part. Return such a request and tell the individual to submit it either to the Air Force Board for the Correction of Military Records according to Part 865 Subpart A of this chapter, to follow grievance procedures in AFR 40–771. Coordinate these returns with the director of personnel. Record correction requests which have been denied by the Air Force Board for the Correction of Military Records, acting for the Secretary of the Air Force, are not subject to further consideration under this part.

(1) Requests for minor corrections may be made orally. All others must be written.

(2) Local system managers routinely correct any record if the requester can show it is factually wrong. After verifying identity, the local system manager makes the change, notifies all known recipients of the record, and informs the individual when the correction is made.

(3) If the local system manager decides not to amend or partially amend the record, he or she sends a copy of the request, a copy of the record (or records), and the reasons for this action to the denial authority through the base and the MAJCOM or SOA Privacy Act officers. SJA coordination is required. This must be done within 5 workdays from receipt of the request.

(i) The MAJCOM or SOA Privacy Act officer reviews the proposed denial, asks for written advice from the servicing SJA and the office responsible for the program under which the record

was created and makes recommendation to the denial authority.

(ii) The denial authority sends the requester a letter stating whether or not the amendment or partial amendment will be granted. If the denial authority decides to amend or partially amend the record, he or she tells the local system manager to amend the record and notify all subsequent recipients of the change. If the denial authority denies the amendment request, he or she must tell the requester why, and that the decision may be appealed to SAF not later than 60 calendar days after receipt of the denial letter. The requester is told to resubmit the original request and to send any supporting material to the denial authority for forwarding to HQ USAF/DAQD for processing. The requester should be cautioned that failure to follow this procedure may delay the appeal.

(h) *Appeals of denials to grant access or to amend records*— (1) *Request for Secretarial review.* An individual may request a review of the denial by writing to SAF not later than 60 calendar days after the denial is received. The request should be addressed to SAF/AA, and sent back to the denial authority for forwarding to HQ USAF/DAQD for processing. The denial authority sends a complete file arranged as follows:

(i) The request for review.

(ii) The original request for access or amendment.

(iii) The original denial.

(iv) A copy of the record or portions in question.

(v) Any internal records or coordination actions that relate to the denial.

(vi) Denial authority comments on the appellant's arguments.

(vii) A legal review prepared by the SJA servicing the denial authority.

(2) *Responsibilities for Review.* (i) HQ USAF/DAQD reviews the denial and makes a recommendation to the Office of the Vice Chief of Staff (HQ USAF/CV). HQ USAF/JACM coordination is required.

(ii) HQ USAF/CV decides whether to direct the denial authority to grant access or to amend the record. If HQ USAF/CV decides to uphold a denial, this recommendation is passed to SAF/AA through the Office of the General Counsel (SAF/GC) for final action.

(iii) SAF/AA considers the recommendation to uphold a denial, decides to grant or deny the appeal, and notifies both the individual and the denial authority of the decision. If SAF/AA upholds a denial to amend a record, the individual must be told of his or her right to send a statement of disagreement to the system manager.

(3) *Requests for Secretarial review.* These requests must be completed within 30 workdays after the date HQ USAF/DAQD received the appeal.

Note: Appeals for denial of access to law enforcement records subject to the (j)(2) exemption are processed under this part and Part 806 of this chapter since the original action should have been taken under both.

(i) *Statements of disagreement.* If an individual submits a statement of disagreement with a SAF/AA decision not to amend his or her record, the local system manager:

(1) Flags the record so that the disagreement may be seen by anyone who discloses or gains access to the record.

(2) Files the statement with the record. If this is not possible, the local system manager maintains it to allow ready retrieval when the disputed portion of the record is used.

(3) Tells previous recipients that the record has been disputed and, if they can be identified, gives them a copy of the statement.

(4) Lets subsequent users know that the record is disputed and gives them a copy of the statement along with the record. The system manager may include a brief summary of the reasons for not amending the record. Summaries are limited to the reasons SAF/AA gave to the individual. The summary is treated as a part of the individual's record, but is not subject to the amendment procedures.

§ 806b.9 Disclosures to third parties and organizations.

The fact that the Air Force tells an individual why the information is collected and how it will be used does not imply consent for release. When deciding to release information as authorized in paragraph (a) through (c) of this section, first consider the consequences of that disclosure. Before releasing any information, make a reasonable effort to ensure that it is accurate.

(a) *With consent of the subject.* You may disclose information from a system of records if the subject of the record asks you to do so or has given prior written consent. Make sure that no law or directive prohibits release. See AFR 11–24 on release of individual home telephone numbers and home addresses from unit locators.

(b) *Without consent of the subject.* An individual's records may be disclosed without his or her consent to:

(1) DOD officials and employees who need the record to perform their duties when the use is compatible with the purpose for which the record is maintained.

(2) The public, as required by the FOIA. See part 806 of this chapter.

(i) Some examples of information that may normally be released for individual military personnel without an unwarranted invasion of privacy are: Name; grade; marital status; number and sex of dependents; date of rank; gross pay (base pay and entitlements); present and past duty assignments and future assignments that are firm (except overseas); office and unit address and phone number; source of commission; professional miltiary education, civilian educational degrees and major areas of study, school, and year of graduation; promotion sequence number; awards and decorations; duty status at any given time; official photograph without the identification frame; and home of record, without street address. Lists of names, home and duty addresses, and telephone numbers of military members must not be provided in any form for solicitation regardless of the intent of the solicitation unless otherwise provided for by law or this part. See Federal Personnel Manual Supplement 990–1, part 294, on release of civilian personnel information.

(ii) A balancing test may be used to decide whether disclosure would be a clearly unwarranted invasion of individual privacy. Weigh the right of the subject to a reasonable expectation of privacy verus the public right to know. Consider the nature of the information to be disclosed. Do individuals usually expect this information to be kept private? Are the identities of the subject and the recipient already in the public eye? What is likely to happen to the individual as a result of the disclosure? How old is the information; is it still relevant? To what degree is the information already in the public domain?

(iii) Information may be released if the balancing test described above weighs in favor of disclosure. For example, home addresses may be disclosed to a requester who wants to enforce a court order for alimony or child support payments, or to local and state tax authorities to enforce tax laws.

(iv) Individuals must be allowed to decide if they wish their home addresses and phone numbers included in base directories.

(3) Agencies outside DOD for a routine use that has been listed in the notice describing the system of records published in the **Federal Register.** The routine use must be compatible with the purpose for which the information was collected.

(4) The Bureau of the Census to plan or carry out a census or survey under Title 13, U.S.C.

(5) A recipient for statistical research or reporting. The recipient must give advance written assurance that the record will be used solely as a statistical research or reporting record. The record must not be used, in whole or part, to make any decisions about the individual's rights, benefits, or entitlements. It must be sent in a form in which the identity of the individual cannot be found out through usual research methods.

(6) The National Archives of the United States as a record with enough value to warrant permanent retention, or for evaluation by the Archivist of the United States to see if the record has such value. However, records sent to Federal Archives and Records Centers for storage stay under Air Force control. These transfers are not disclosures under this section and do not need an accounting.

(7) A Federal, state, or local agency outside DOD for a civil or criminal law enforcement activity authorized by law. The head of the agency or a designee must send a written request to the system manager. The request must specify the record or part needed and the law enforcement purpose for which it is wanted. A record may also be disclosed to a law enforcement agency if a criminal violation is suspected. This disclosure is a routine use for all Air Force systems of records and has been published in the Federal Register.

(8) Another individual or agency under compelling circumstances that affect the health or safety of an individual. The individual whose records are disclosed does not have to be the one in danger. For example, records on several individuals could be disclosed to identify individuals injured in an accident. When an individual record is disclosed in this way, the subject must be sent a notification of disclosure to the last known address.

(9) Either House of Congress (a congressional committee or subcommittee) for matters within their jurisdictions.

(10) A congressional office acting for a constituent who is the record subject. This disclosure is authorized by a published blanket routine use.

(11) The Comptroller General or any authorized representatives on business of the General Accounting Office.

(12) A court of competent jurisdiction that has ordered the disclosure of the record. When a record is disclosed, reasonable efforts must be made to notify the individual to whom the record pertains, if the legal process is a matter of public record.

(13) A consumer credit agency according to the Debt Collection Act. This provision applies to the Air Force Accounting and Finance Center only.

(14) A contractor who is operating a system of records under a contract to perform an Air Force function. In this case, the contractor is considered an employee of the Air Force for Privacy Act purposes, and the system of records is considered an Air Force system. Disclosure of records to the contractor does not need the subject's consent nor does it require an accounting. Records maintained by the contractor for the management of contractor employees are not subject to the Privacy Act.

(c) *Medical records of minors.* The medical records of minors may be disclosed to the parents or legal guardians of the minor. However, the following conditions apply:

(1) The law of the state in which the records are located may protect certain types of medical records that deal with drug or alcohol abuse treatment, abortion, and birth control advice or devices. Such laws must be observed. Medical records custodians in the United States must be knowledgeable of local laws and coordinate any proposed local policies with their servicing SJA.

(2) Parents or guardians are not allowed to see the medical records of a minor when all four of the following conditions apply:

(i) The minor was between 15 and 17 years of age at the time he or she sought or consented to the treatment.

(ii) The treatment was sought in a program authorized by regulations or law to offer confidentiality of treatment records as a part of the program.

(iii) The minor specifically requested or indicated that he or she wished his or her treatment record to be handled with confidence and not released to a parent or guardian.

(iv) The parent or guardian seeking access does not have the written authorization of the minor or a valid court order for access.

Subpart E—Privacy Act Exemptions

§ 806b.10 Use of Exemptions.

SAF can exempt systems of records from parts of the Privacy Act. The two kinds of exemption are: General and specific. The general exemption frees systems from most parts of the Privacy Act; the specific from only a few parts.

§ 806b.11 General Exemptions.

(a) SAF has approved a general exemption for investigative systems used by activities whose principal function is criminal law enforcement. These include the SJA, and investigative and correctional activities. All records in such a system come under the exemption which will be observed and cannot be waived. This exemption is in subparagraph (j)(2) of the Privacy Act. It only applies to systems used to:

(1) Identify criminals and alleged criminals, with identity; arrests; type and disposition of charges; sentences, confinement and release records; and parole and probation status.

(2) Support criminal investigations (including efforts to prevent, reduce, or control crime) and reports of informants and investigators that identify an individual.

(3) Reports on an individual, compiled at any stage of the law enforcement process.

(b) The Air Force observes only subsections (b); (c)(1) and (2); (e)(4)(A) through (F); (e)(6), (7), (9), (10), and (11); and (i) of the Privacy Act.

§ 806b.12 Specific exemptions.

(a) SAF has approved specific exemptions for all classified and a few other systems. These exemptions must be observed and cannot be waived. The Privacy Act citation appears in parentheses after each type below.

(1) Classified information in any system of records. Before denying access, make sure that the record is currently and properly classified and cannot be declassified ((k)(1)).

(2) Law enforcement records (other than those covered by the general exemption). However, the Air Force must allow access to any record which was used to deny someone a right, privilege or benefit, unless doing so would reveal a confidential source ((k)(2)).

(3) Statistical records required by law. The data must be used only as statistics and not to make decisions on the rights, benefits, or entitlements of individuals ((k)(4)).

(4) Data to determine suitability, eligibility, or qualifications for Federal service or contracts, or access to classified information. The Air Force can withhold this if access would reveal a confidential source ((k)(5)).

(5) Qualification tests for appointment or promotion in the federal service. The Air Force may withhold these if access would compromise the objectivity of the tests ((k)(6)).

(6) Information to determine promotability in the Armed Forces. The Air Force may withhold this if access would reveal a confidential source ((k)(7)).

(b) A specific exemption may free a system from any of the following parts of the Privacy Act: subsections (c)(3); (d); (e)(1); (e)(4) (G), (H), and (I); and (f).

§ 806b.13. General and specific exemptions.

(a) *General exemption.* The following systems of records are exempt under 5 U.S.C. 552a(j)(2):

(1) Counter Intelligence Operations and Collection Records, F124 AF A.

(2) Criminal Records, F124 AF C.

(3) Incident Investigation Files, F125 AF SP E.

(4) Investigative Support Records, F124 AF D.

(5) Correction and Rehabilitation Records, F125 AF A (that portion maintained by the 3320th Correction and Rehabilitation Squadron, but only for the period the individual is confined or in rehabilitation at an Air Force or Federal correctional facility).

(6) Management Information and Research System (MIRS), F125 ATC A (but only for the period the individual is confined or in rehabilitation at an Air Force or Federal correctional facility).

(b) *Specific exemptions.* The following systems of records are subject to the specific exemptions shown:

(1) *Classified records.*

(i) *Exemption.* All records in any systems of records that are properly classified according to Executive Orders 11652, 12065 or 12356, are exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4)(G), (H), and (I); and (f), regardless of whether the entire system is otherwise exempt or not.

(ii) *Authority.* 5 U.S.C. 552a(k)(1).

(2) *Admissions and Registrar Records (F053 AFA C).*

(i) *Exemption.* Parts of this system of records (Liaison Officer Evaluation and Selection Panel Candidate Evaluation) are exempt from 5 U.S.C. 52a(d), (e)(4)(H), and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To ensure the frankness of information used to determine whether cadets are qualified for graduation and commissioning as officers in the Air Force.

(3) *Air Force Personnel Test 851, Test Answer Cards (F035 MPC R).*

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f).

(ii) *Authority.* 5 U.S.C. 552a(k)(6).

(iii) *Reasons.* To protect the objectivity of the promotion testing system by keeping the test questions and answers in confidence.

(4) *Cadet Personnel Management System (F035 AFA A).*

(i) *Exemption.* Parts of this system are exempt from 5 U.S.C. 552a(d), (e)(4)(H), and (f), but only insofar as disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To maintain the candor and integrity of comments needed to evaluate an Air Force Academy cadet for commissioning in the Air Force.

(5) *Cadet Records (F045 ATC C).*

(i) *Exemption.* Portions of this system (Detachment Professional Officer Course (POC) Selection Rating Sheets; Air Force Reserve Officer Training Corps (AFROTC) Form 0–24–Disenrollment Review; Memoranda for Record and Staff Papers with Staff Advice, Opinions, or Suggestions) are exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G) and (H), and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect the identity of a confidential source who furnishes information necessary to make determinations about the qualifications, eligibility, and suitability of cadets for graduation and commissioning in the Air Force.

(6) *Child Advocacy Case Files (F168 AF SG B).*

(i) *Exemption.* Parts of this system are exempt from 5 U.S.C. 552a(c)(3) and (d), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k) (2) and (5).

(iii) *Reasons.* To encourage those who know of child abuse or neglect to come forward by protecting their identities, and to protect the integrity of ongoing and civil law investigations of criminal and civil law violations. Giving subjects access to their files could result in them concealing, altering, or fabricating evidence; could hamper the identification of offenders and alleged offenders; and could jeopardize the safety and well-being of parents and their children.

(7) *Effectiveness/Performance Reporting Systems (F035 AF MP A).*

(i) *Exemption.* The parts of this system that have completed AF Forms 705, Lieutenant Colonel Promotion Recommendation Report; and AF Forms 706, Colonel Promotion Recommendation Report; are exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To ensure that selection boards have candid evaluations of officers being considered for promotion to the grades of Colonel and Brigadier General.

(8) *Equal Opportunity in Off-Base Housing (F030 AF LE A).*

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f).

(ii) *Authority.* 5 U.S.C. 552a(k)(2).

(iii) *Reasons.* To enforce civil laws, court orders, and the activities of the Departments of Housing and Urban Development and Justice.

(9) *Files on General Officers and Colonels Assigned to General Officer Positions (F035 MP A).*

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To protect the integrity of information used in the Reserve Initial Brigadier General Screening Board, the release of which would compromise the selection process.

(10) *General Officer Personnel Data System (F035 AF MP P).*

(i) *Exemption.* The parts of this system that have completed AF Forms 78, Air Force General Officer Effectiveness Report, are exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To ensure selection boards get candid evaluations of officers being considered for promotion to Major General, Lieutenant General, and General.

(11) *Historical Airman Promotion Master Test File (F035 MPC L).*

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f).

(ii) *Authority.* 5 U.S.C. 552a(k)(6).

(iii) *Reasons.* To protect the integrity, objectivity, and equity of the promotion testing system by keeping test questions and answers in confidence.

(12) *Inspector General Records (F120 AF IG B).*

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f). However, if a person is denied any right, privilege, or benefit, he or she would otherwise be entitled to as a result of keeping this material, it must be released, unless doing so would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(2).

(iii) *Reasons.* Granting individuals access to information collected while an Inspector General inquiry is in progress could interfere with the just, thorough, and timely resolution of the complaint or inquiry and could possibly enable individuals to conceal wrong doing or mislead the inquiring officer. Disclosure might also subject sources, witnesses, and their families to harassment or intimidation.

(13) *Investigative Applicant Processing Records (F124 AFOSI B).*

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect those who gave information in confidence during Air Force Office of Special Investigations (AFOSI) applicant inquiries. Fear of harassment could cause sources not to make frank and open responses about applicant qualifications. This could compromise the integrity of the AFOSI personnel program that relies on selecting only qualified people.

(14) *Master Cadet Personnel Record (Active/Historical) (F035 AFB B).*

(i) *Exemptions.* Parts of these systems are exempt from 5 U.S.C. 552a(d), (e)(4)(H), and (f), but only to the extent that they would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To maintain the candor and integrity of comments needed to evaluate a cadet for commissioning in the Air Force.

(15) *Sensitive Compartmented Information Personnel Records (F205 AFIS A).*

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(a)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a (k)(2) and (k)(5).

(iii) *Reasons.* To protect the identity of sources to whom proper promises of confidentiality have been made during investigations. Without these promises, sources will often be unwilling to provide information essential in adjudicating access in a fair and impartial manner.

(16) *Security and Related Investigative Records (F124 AFB).*

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect the identity of those who give information in confidence for personnel security and related investigations. Fear of harassment could cause sources to refuse to give this information in the frank and open way needed to pinpoint those areas in an investigation that should be expanded to resolve charges of questionable conduct.

(17) *Special Security Case Files (F205 AFSCO A).*

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d), (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect the identity of those who give information in confidence for personnel security and related investigations. Fear of harassment could cause sources to refuse to give this information in the frank and open way needed to pinpoint those areas in an investigation that should be expanded to resolve charges of questionable conduct.

(18) *Special Security Files (F205 AF SP A).*

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(ii) *Reasons.* To protect the identity of those who give information in confidence for personnel security and related investigations. Fear of harassment could cause them to refuse to give this information in the frank and open way needed to pinpoint areas in an investigation that should be expanded to resolve charges of questionable conduct.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86-12519 Filed 6-3-86; 8:45 am]

BILLING CODE 3910-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3025-3]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: USEPA is approving a site-specific revision to the Illinois State Implementation Plan (SIP) for Carbon Monoxide (CO). This final rulemaking incorporates a January 24, 1985, Opinion and Order of the Illinois Pollution Control Board (PCB), PCB 84-147, into the SIP. This order grants Anderson Clayton Foods, Inc. (ACF) a variance from 35 Illinois Administrative Code 216.121, which governs CO emissions from the Fluidized Bed Combuster (FBC) retrofitted boiler at ACF's Jacksonville, Illinois, facility. This action is taken in response to a March 27, 1985, request from the State of Illinois.

USEPA proposed to approve this site-specific SIP revision on November 15, 1985 (50 FR 47234). No public comments were received on the proposed approval.

EFFECTIVE DATE: This final rulemaking becomes effective on July 7, 1986.

ADDRESSES: Copies of the SIP revision and other materials relating to this rulemaking are available at the following addresses for review: (it is recommended that you telephone Uylaine E. McMahan, at (312) 886-6031, before visiting the Region V Office.)

U.S. Environmental Protection Agency (5AR-26), Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, DC 20460

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706

Copies of ths revision to the Illinois SIP are available for inspection at: The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, DC

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

SUPPLEMENTARY INFORMATION: On March 27, 1985, the Illinois Environmental Protection Agency,

(IEPA) submitted a variance from 35 Illinois Administrative Code 216.121 [1] for a FBC retrofitted boiler at ACF's facility in Jacksonvile, Illinois, as a final revision to its CO SIP. Jacksonville is located in an area that is classified as attainment with respect to the National Ambient Air Quality Standard (NAAQS) for CO.

The variance will allow the existing boiler, that will be retrofitted with FBC, to emit up to 400 parts per million (ppm) of CO, until January 24, 1988. Because the FBC boiler is a major new source in an attainment area, it must meet the best available control technology (BACT) requirement of the Prevention of Significant Deterioration (PSD) regulations. Under the existing federally approved CO SIP, a new source is required to meet a limit of 200 ppm. In today's rulemaking, USEPA's final finding is limited to determining that the CO NAAQS will not be violated by this variance. In this notice, USEPA makes no finding regarding the 400 ppm emission limit in relation to the BACT requirement.

The IPCB granted ACF a variance from 35 Illinois Administrative Code 216.121 which allows a temporary CO limit of 400 ppm until January 23, 1988. ACF's FCC boiler, is subject to the following operating conditions:

1. CO emissions during the period of the variance must be kept to a level below 400 parts per million.

2. ACF is required to develop and implement a program to study and evaluate any technical advances in the control of CO in fluidized bed combusters.

3. ACF is required to develop and evaluate the operation characteristics of their fluidized bed combuster.

4. ACF is required to submit to IEPA every 6 months, a written report describing the progress of the programs required by conditions 3, 4 and 5.

5. Within 45 days of the date of this Order, ACF shall execute a Certificate of Acceptance and Agreement to be bound to all terms and conditions of this variance.

USEPA reviewed the air quality analysis section of ACF's preconstruction permit application that was completed as part of the PSD requirements. The details of this analysis are contained in the March 27, 1985, State submittal. The predicted CO impact is well below the maximum 1-hour and 8-hour secondary NAAQS.

ACF's retrofitted FBC boiler will not have a significant impact on CO air quality in Jacksonville and, therefore, will not interfere with attainment and maintenance of the CO NAAQS. USEPA proposed to approve this site-specific SIP revision on November 15, 1985 (50 FR 47234). No public comments were received to the proposed approval. USEPA is, therefore, approving PCB 84–147 as revision to the Illinois CO SIP.

However, USEPA is not affirming the 400 ppm emission limit for CO as BACT for FBC boilers. The final approval of this SIP revision does not in any way eliminate the requirements for ACF to comply with the PSD regulations or any other applicable new source regulation.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Petitions for judicial review of this action under section 307(b)(1) of the Act must be filed in the United States Court of Appeals for the appropriate Circuit by August 4, 1986. This action may not be challenged later in proceedings to enforce its requirements (See section 307(b)(2) of the Act).

List of Subjects in 40 CFR Part 52

Incorporation by Reference, Air pollution control, Carbon monoxide, Intergovernmental relations.

Dated: May 27, 1986.

Lee M. Thomas,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Illinois—Subpart O

Title 40 of the Code of Federal Regulations, Chapter I, Part 52, is amended as follows:

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.720 is amended by adding new paragraph (c)(66) as follows:

§ 52.720 Identification of Plan.

* * * * *

(c) * * *

(66) On March 27, 1985, the Illinois Environmental Protection Agency (IEPA) submitted a site-specific revision to its Carbon Monoxide State Implementation Plan for Anderson Clayton Foods, Inc. (ACF), a variance from 35 Illinois Administrative Code (IAC) 216.121 which governs Carbon Monoxide emissions from the Fluidized Bed Combuster retrofitted boiler at ACF's Jacksonville, Illinois facility. IAC 216.121 was incorporated in the Illinois SIP on May 31, 1972 (37 FR 10862), as Illinois Pollution Control Board Rule 206(a).

(i) Incorporation by reference.

(A) Illinois Pollution Control Board Opinion and Order of the Board, PCB 84–147, which was adopted on January 24, 1985.

[FR Doc. 86–12437 Filed 6–3–86; 8:45am]

BILLING CODE 6560–50–M

[1] IAC 216.121 was incorporated in the Illinois SIP as Illinois Pollution Control Board Rule 206(a) on May 31, 1972 (37 FR 10862). This Rule was subsequently recodified as part of the Illinois Administrative Code. In a subsequent **Federal Register** notice, USEPA will propose to incorporate the recodification of the SIP.

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40 CFR Parts 52 and 81

[FRL–3025–4]

Approval and Promulgation of State Implementation Plan and Designation of Areas for Air Quality Planning Purposes; State of Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: By this Notice, EPA approves the redesignation of the Medford-Ashland, Oregon "nonattainment" area to "attainment" for the primary ozone (O_3) standard and approves an air quality maintenance strategy as a revision to the Oregon State Implementation Plan (SIP). The redesignation request is based on supporting documentation prepared and submitted by the Oregon Department of Environmental Quality (ODEQ) pursuant to section 107(d) of the Clean Air Act. Air quality data and emission reductions achieved through implementation of control strategy measures support this redesignation.

EFFECTIVE DATE: August 4, 1986.

ADDRESSES: Copies of the materials submitted to EPA may be examined during normal business hours at:

Public Information, Reference Unit, Environmental Protection Agency, 401 M Street SW, Washington, DC 20460

Air Programs Branch (10A–85–8), Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101

State of Oregon, Department of Environmental Quality, Yeon Building, 522 SW. Fifth, Portland, OR 97204

Office of the Federal Register, Room 8401, 1100 L Street, NW., Washington, DC

FOR FURTHER INFORMATION CONTACT: Richard F. White, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone No. (206) 442–4232, (FTS) 399–4232.

SUPPLEMENTARY INFORMATION:

I. Background

On March 3, 1978 (43 FR 8962), EPA designated, pursuant to the requirements of section 107(d) of the Clean Air Act, all areas of the country as "attainment," "nonattainment," or "unclassifiable" in terms of meeting National Ambient Air Quality Standards (NAAQS). At that time, the Medford-Ashland, AQMA, encompassing a portion of Jackson County, Oregon, was designated "nonattainment" for primary O_3 standards in 40 CFR Part 81, § 81.338.

EPA approved, with conditions, the Medford-Ashland, O_3 SIP on June 24, 1980 (45 FR 42265). These conditions were satisfied by ODEQ and removed by EPA on November 5, 1981 (46 FR 54939). On March 11, 1982 (47 FR 10534), EPA approved additional revisions to the O_3 SIP.

ODEQ held a public hearing in Medford, Oregon, on December 4, 1984, to obtain public comment on the redesignation proposal. The proposal was then adopted by the Oregon Environmental Quality Commission on January 25, 1985. ODEQ submitted the redesignation request to EPA on February 28, 1985. The submittal included documentation of attainment for the O_3 standard based on both emission reductions, air quality improvement, and O_3 and precursor modeling.

On January 24, 1986 (51 FR 3219), EPA published a proposed rulemaking for approval of the redesignation request and the attendant plan to maintain the O_3 standard in the Medford-Ashland AQMA. The proposal contained a technical evaluation of the attainment and maintenance demonstrations, covering air quality data, emission reductions, VOC regulations, emission projections, and the use of a growth cushion, which will eliminate the necessity of case-by-case air quality analyses for new or modified major stationary sources subject to the ODEQ PSD rules.

No comments were received during the 30-day public comment period, which ended on February 24, 1986.

II. EPA Final Action

EPA is redesignating the Medford-Ashland, Oregon, O_3 nonattainment area to attainment for the primary O_3 standard and is approving the O_3 maintenance plan.

Under 5 U.S.C. 605(b), I certify that this SIP approval will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2)).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Reporting and record-keeping requirements.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks and wilderness areas.

Dated: May 28, 1986.

Lee M. Thomas,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Oregon was approved by the Director of the Office of Federal Register on July 1, 1982.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40 Code of Federal Regulations is amended as follows:

Subpart MM—Oregon

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1970 is amended by adding paragraph (c)(77) as follows:

§ 52.1970 Identifcation of Plan.

* * * * *

(c) * * *

(77) On February 28, 1985, the Director of the Oregon Department of Environmental Quality submitted (1) a request to EPA to redesignate the Medford-Ashland Air Quality Maintenance Area (AQMA) from nonattainment to attainment for the primary O_3 standard and (2) a plan to maintain that standard.

(i) Incorporation by reference:

(A) Letter of February 28, 1985, from Oregon State Department of Environmental Quality to EPA Region 10.

(B) Oregon Administrative Rules, Chapter 340, Division 20, Section 4.8 "Medford-Ashland Air Quality Maintenance Area Plan for Maintenance of Ozone Standard," adopted by the Oregon Environmental Quality Commission on January 25, 1985.

PART 81—[AMENDED]

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart C—Section 107 Attainment Status Designations

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 407(d), 7501(2) and 7601(a).

2. In § 81.338 the attainment status designation table for ozone is revised to read as follows:

§ 81.338 Ozone.

OREGON—OZONE

Designated area	Does not meet primary standard	Cannot be classified as or is better than national standard
Portland-Vancouver AQMA (Oregon portion).	X	
Medford-Ashland AQMA		X
Salem	X	
Eugene-Springfield AQMA		X
Remainder of State		X

[FR Doc. 86-12441 Filed 6-3-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 60

[AD-FRL-3008-6]

Standards of Performance for New Stationary Sources; Addition of Alternative Procedure to Method 1 of Appendix A; Measurement Location

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: An alternative, site location procedure addition to Method 1 was proposed in the **Federal Register** on May 10, 1985 (50 FR 19725). This action promulgates the addition of this alternative procedure. The alternative procedure applies to the determination of the acceptability of measurement locations that do not meet minimum criteria now in Method 1. The alternative is the application of a directional flow-sensing probe to determine pitch and yaw angles at a measurement location less than 2 equivalent diameters downstream or less than ½ an equivalent diameter upstream from a flow disturbance.

The intended effect of the addition of the alternative procedure is to allow the evaluation of the acceptability of measurement locations that do not otherwise meet the minimum criteria in Method 1. With the addition of the alternative procedure, source owners may choose to use an existing

measurement location, if the criteria in the alternative procedure are met, instead of installing new ports and access equipment at another location.

EFFECTIVE DATE: June 4, 1986.

Under section 307(b)(1) of the Clean Air Act, judicial review of the actions taken by this notice is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Docket.* A docket, number A–84–50, containing information considered by EPA in development of the promulgated standards, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (LE–131), West Tower Lobby, Gallery 1, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Peter R. Westlin or Mr. Roger T. Shigehara, Emission Measurement Branch, Emission Standards and Engineering Division (MD–19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–2237.

SUPPLEMENTARY INFORMATION:

I. The Rulemaking

The alternative procedure defines the directional probe equipment and the procedure. Also included are the acceptance criteria for the measured results and calibration procedures. In addition, as a result of the review of the effects of nonparallel gas flow on the measurement of mass concentrations, the Agency has determined that the acceptable limit for rotation angle should be increased from 10° to 20° in Section 2.4—Verification of Absence of Cyclonic Flow.

This rulemaking does not impose emission measurement requirements beyond those specified in the current regulations, nor does it change any emission standard. Rather, this rulemaking provides a usable alternative procedure for determining the acceptability of a measurement location not meeting the other specifications in Method 1.

II. Public Participation

A public hearing was scheduled for June 27, 1985, at 10:00, but was not held because no one requested to speak. The public comment period was from May 10 to July 1, 1985. The comments have been carefully considered and, where determined to be appropriate by the Administrator, changes have been made to the proposed rulemaking.

III. Significant Comments and Changes to the Proposed Rulemaking

One comment letter was received from a State regulatory agency. The major comments and the Agency's responses are summarized below.

The commenter believes that source owners and testing groups will use the alternative procedure to select sampling sites that are less than ideal. The commenter suggested that the method specify that the alternative procedure be used to determine the accepatability of an alternative site only when a measurement site meeting the other criteria in Method 1 is not available.

Method 1 includes guidelines and other criteria for determining the acceptability of a particular measurement location based on position relative to other process and structural features. The alternative procedure is intended to provide an evaluation technique for determining the acceptability of a measurement location not meeting any of the other guideline criteria. There is no indication that a measurement location found acceptable using the alternative procedure would be more or less acceptable for particulate or velocity testing purposes than a location meeting other Method 1 criteria. The addition of the wording suggested by the commenter is unnecessary.

The alternative procedure provides a direct measurement of the angle of nonaxial flow. With the limits specified in the alternative procedure, one can estimate the effect of the nonaxial flow on the particulate concentration measurement. The Agency has determined that the maximum potential bias in the particulate concentration measurement resulting from nonaxial flow is about 10 percent. This degree of bias is within acceptable limits for particulate sampling. Note that the method recognizes this degree of bias is possible at any measurement location regardless of whether that location meets the original Method 1 location criteria of the specification of the alternative procedure.

The commenter mentioned that considerable time and money could be wasted if a measurement location is found unacceptable and no other measurement location is available while the test group is on site.

The commenter is correct if impractical application of the alternative procedure is made. It would be more efficient and practical to determine the acceptability of a measurement location before a field test crew is on the site ready to conduct the test.

The commenter questioned the background and the availability of data used in support of the alternative procedure.

The Agency has included reports of field tests using the alternative procedure in the docket. These reports describe the method development work and field test data gathered using the procedure. References added to Method 1 present the titles and other necessary information about the sources of the materials.

The commenter referred to revisions to Method 1 promulgated on September 30, 1983 (48 FR 43035), that reduced the required maximum number of traverse points from 48 to 24 and suggested that Tables 1–1 and 1–2 should be returned to their earlier forms. This change is necessary according to the commenter to specify the location of traverse points required for the alternative procedure.

Tables 1–1 and 1–2 were not changed in the September 30, 1983, revision. The tables remain adequate in their present form as they provide information about locating the 40 points for circular ducts or 42 points for rectangular ducts as required for the alternative procedure.

IV. Administrative

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to identify readily and locate documents so that they can effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated standards and EPA responses to significant comments, the contents of the docket, except for interagency review materials, will serve as the record in case of judicial review [Section 307(d)(7)(A)].

Under Executive Order 12291, EPA is required to judge whether a regulation is a "major rule" and, therefore, subject to the requirements of a regulatory impact analysis. The Agency has determined that this regulation would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be a "major rule." The revisions to Method 1 do not add any requirements to the testing of new

sources, but, instead, provide an alternative procedure that may allow the use of an existing measurement location that does not otherwise meet Method 1 criteria. This alternative procedure may save the expense of preparing a new measurement location. The Agency has, therefore, concluded that this regulation is not a "major rule" under Executive Order 12291.

The Regulatory Flexibility Act of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of a regulatory flexibility analysis (RFA) in those instances where small business impacts are possible. Because these standards impose no adverse economic impacts, an RFA has not been conducted.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the promulgated rule will have no economic impact on small entities because no additional testing costs will be incurred.

List of Subjects in 40 CFR Part 60

Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, and Incorporation by reference.

Dated: May 29, 1986.

Lee M. Thomas,

Administrator.

PART 60—[AMENDED]

Appendix A of 40 CFR Part 60 is amended by amending Method 1 as follows:

1. The authority citation for Part 60 continues to read as follows:

Authority: Sections 101, 111, 114, 116, 301 Clean Air Act as amended (42 U.S.C. 7401, 7411, 7414, 7416, 7601).

2. By amending Section 2.1 of Section 2 by adding a second paragraph as follows:

2. *Procedure*

2.1 * * *

An alternative procedure is available for determining the acceptability of a measurement location not meeting the criteria above. This precedure, determination of gas flow angles at the sampling points and comparing the results with acceptability criteria, is described in Section 2.5.

3. By amending Section 2.4 of Section 2 by changing in the last sentence of the second paragraph the value "10°" to "20°", and by adding a third paragraph as follows:

2.4 * * *

The alternative procedure described in Section 2.5 may be used to determine the rotation angles in lieu of the procedure described above. The limit of acceptability for the average value of α would remain 20°.

4. By adding a new Section 2.5 to Section 2 as follows:

2.5 Alternative Measurement Site Selection Procedure. This alternative applies to sources where measurement locations are less than 2 equivalent stack or duct diameters downstream or less than ½ duct diameter upstream from a flow disturbance. The alternative should be limited to ducts larger than 24 in. in diameter where blockage and wall effects are minimal. A directional flow-sensing probe is used to measure pitch and yaw angles of the gas flow at 40 or more traverse points; the resultant angle is calculated and compared with acceptable criteria for mean and standard deviation.

Note.—Both the pitch and yaw angles are measured from a line passing through the traverse point and parallel to the stack axis. The pitch angle is the angle of the gas flow component in the plane that INCLUDES the traverse line and is parallel to the stack axis. The yaw angle is the angle of the gas flow component in the plane PERPENDICULAR to the traverse line at the traverse point and is measured from the line passing through the traverse point and parallel to the stack axis.

2.5.1 Apparatus.

2.5.1.1 Directional Probe. Any directional probe, such as United Sensor Type DA Three-Dimensional Directional Probe, capable of measuring both the pitch and yaw angles of gas flows is acceptable. (**Note:** Mention of trade name or specific products does not constitute endorsement by the U.S. Environmental Protection Agency.) Assign an identification number to the directional probe, and permanently mark or engrave the number on the body of the probe. The pressure holes of directional probes are susceptible to plugging when used in particulate-laden gas streams. Therefore, a system for cleaning the pressure holes by "back-purging" with pressurized air is required.

2.5.1.2 Differential Pressure Gauges. Inclined manometers, U-tube manometers, or other differential pressure gauges (e.g., magnehelic gauges) that meet the specifications described in Method 2, § 2.2.

Note.—If the differential pressure gauge produces both negative and positive readings, then both negative and positive pressure readings shall be calibrated at a minimum of three points as specified in Method 2, § 2.2.

2.5.2 Traverse Points. Use a minimum of 40 traverse points for circular ducts and 42 points for rectangular ducts for the gas flow angle determinations. Follow § 2.3 and Table 1–1 or 1–2 for the location and layout of the traverse points. If the measurement location is determined to be acceptable according to the criteria in this alternative procedure, use the same traverse point number and locations for sampling and velocity measurements.

2.5.3 Measurement Procedure.

2.5.3.1 Prepare the directional probe and differential pressure gauges as recommended by the manufacturer. Capillary tubing or surge tanks may be used to dampen pressure fluctuations. It is recommended, but not required, that a pretest leak check be conducted. To perform a leak check, pressurize or use suction on the impact opening until a reading of at least 7.6 cm (3 in.) H_2O registers on the differential pressure gauge, then plug the impact opening. The pressure of a leak-free system will remain stable for at least 15 seconds.

2.5.3.2 Level and zero the manometers. Since the manometer level and zero may drift because of vibrations and temperature changes, periodically check the level and zero during the traverse.

2.5.3.3 Position the probe at the appropriate locations in the gas stream, and rotate until zero deflection is indicated for the yaw angle pressure gauge. Determine and record the yaw angle. Record the pressure gauge readings for the pitch angle, and determine the pitch angle from the calibration curve. Repeat this procedure for each traverse point. Complete a "back-purge" of the pressure lines and the impact openings prior to measurements of each traverse point.

A post-test check as described in § 2.5.3.1 is required. If the criteria for a leak-free system are not met, repair the equipment, and repeat the flow angle measurements.

2.5.4 Calculate the resultant angle at each traverse point, the average resultant angle, and the standard deviation using the following equations. Complete the calculations retaining at least one extra significant figure beyond that of the acquired data. Round the values after the final calculations.

2.5.4.1 Calculate the resultant angle at each traverse point:

$$R_i = \text{arc cosine } [(\text{cosine } Y_i)(\text{cosine } P_i)] \quad \text{Eq. 1–2}$$

Where:

R_i = Resultant angle at traverse point i, degree.

Y_i = Yaw angle at traverse point i, degree.

P_i = Pitch angle at traverse point i, degree.

2.5.4.2 Calculate the average resultant for the measurements:

$$\bar{R} = \frac{\Sigma R_i}{n} \quad \text{Eq. 1–3}$$

where:

$\bar{R}$ = Average resultant angle, degree.

n = Total number of traverse points.

2.5.4.3 Calculate the standard deviations:

$$S_d = \sqrt{\frac{\sum_{i=1}^{n} (R_i - \bar{R})^2}{(n-1)}} \quad \text{Eq. 1–4}$$

Where:

S_d = Standard deviation, degree.

2.5.5 The measurement location is acceptable if $\bar{R} < 20°$ and $S_d < 10°$.

2.5.6 Calibration. Use a flow system as described in Sections 4.1.2.1 and 4.1.2.2 of Method 2. In addition, the flow system shall have the capacity to generate two test-section velocities: one between 365 and 730 m/min (1200 and 2400 ft/min) and one between 730 and 1100 m/min (2400 and 3600 ft/min).

2.5.6.1 Cut two entry ports in the test section. The axes through the entry ports shall be perpendicular to each other and intersect in the centroid of the test section. The ports should be elongated slots parallel to the axis of the test section and of sufficient length to allow measurement of pitch angles while maintaining the pitot head position at the test-section centroid. To facilitate alignment of the directional probe during calibration, the test section should be constructed of plexiglass or some other transparent material. All calibration measurements should be made at the same point in the test section, preferably at the centroid of the test-section.

2.5.6.2 To ensure that the gas flow is parallel to the central axis of the test section, follow the procedure in Section 2.4 for cyclonic flow determination to measure the gas flow angles at the centroid of the test section from two test ports located 90° apart. The gas flow angle measured in each port must be ± 2° of 0°. Straightening vanes should be installed, if necessary, to meet this criterion.

2.5.6.3 Pitch Angle Calibration. Perform a calibration traverse according to the manufacturer's recommended protocol in 5° increments for angles from −60° to +60° at one velocity in each of the two ranges specified above. Average the pressure ratio values obtained for each angle in the two flow ranges, and plot a calibration curve with the average values of the pressure ratio (or other suitable measurement factor as recommended by the manufacturer) versus the pitch angle. Draw a smooth line through the data points. Plot also the data values for each traverse point. Determine the differences between the measured data values and the angle from the calibration curve at the same pressure ratio. The difference at each comparison must be within 2° for angles between 0° and 40° and within 3° for angles between 40° and 60°.

2.5.6.4 Yaw Angle Calibration. Mark the three-dimensional probe to allow the determination of the yaw position of the probe. This is usually a line extending the length of the probe and aligned with the impact opening. To determine the accuracy of measurements of the yaw angle, only the zero or null position need be calilbrated as follows. Place the directional probe in the test section, and rotate the probe until the zero position is found. With a protractor or other angle measuring device, measure the angle indicated by the yaw angle indicator on the three-demensional probe. This should be within 2° of 0°. Repeat this measurement for any other points along the length of the pitot where yaw angle measurements could be read in order to account for variations in the pitot markings used to indicate pitot head positions.

5. By adding Citations 13, 14, and 15 to Section 3, as follows:

3. Bibliography.

* * * * *

13. Smith, W.S. and D.J. Grove. A Proposed Extension of EPA Method 1 Criteria. "Pollution Engineering." *XV*(8):36-37. August 1983.

14. Gerhart, P.M. and M.J. Dorsey. Investigation of Field Test Procedures for Large Fans. University of Akron. Akron, Ohio. (EPRI Contract CS-1651). Final Report (RP-1649-5) December 1980.

15. Smith, W.S. and D.J. Grove. A New Look at Isokinetic Sampling—Theory and Applications. "Source Evaluation Society Newsletter." *VIII*(3):19-24. August 1983.

[FR Doc. 86-12539 Filed 6-3-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 86-263]

Amendment of Part 0 to Delegate Authority to EICs To Grant Emergency Exemptions to Vessels

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the rules to delegate authority to the Engineers-in-Charge of the Commission's field offices to grant emergency exemptions from certain vessel equipment requirements of the Communications Act, the Great Lakes Agreement and the Safety Convention. The Commission initiated this action to improve the convenience and efficiency of emergency exemption procedures.

EFFECTIVE DATE: June 30, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Robert DeYoung, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

Order

Adopted: May 20, 1986.
Released: May 22, 1986.

In the Matter of Amendment of Part 0 of the rules to delegate authority to EICs to grant emergency exemptions to vessels.

By the Commission.

1. We have determined to delegate authority to grant emergency exemptions from certain vessel equipment requirements contained in the Communications Act of 1934, as amended, 47 U.S.C. 151 *et seq.* (Act), the Great Lakes Radio Agreement, T.I.A.S. 7837, amended T.I.A.S. 9352 (GLA) or the International Convention for the Safety of Life at Sea, T.I.A.S. 9700 (Safety Convention) to the Engineers-in-Charge (EICs) of Commission field offices. This authority will be in addition to that already delegated to the Chief, Private Radio Bureau (Bureau). See § 0.331 of the rules, 47 CFR 0.331.

2. The emergency exemption process begins when the ship station licensee contacts the Bureau for an exemption from a particular statutory or treaty requirement. Typically, a station has failed the mandatory annual or periodic inspection because equipment required by the Act, the GLA or the Safety Convention is not functioning properly. The vessel cannot sail unless the licensee receives an emergency exemption from the statutory or treaty requirement in lieu of the required safety certificate. Unlike a standard exemption, which is usually granted for one year, an emergency exemption is temporary and expedient in nature. Typically an emergency exemption is granted for a single voyage to permit the ship to sail to another port for repair. In accordance with the Act, the GLA or the Safety Convention, emergency exemptions are granted only after it has been determined that the route and conditions of the proposed voyage, including other available communications equipment, render the failed equipment unnecessary for safety purposes during the exempted voyage.

3. The present procedure may consume several hours from the time the licensee contacts the Bureau to the time the exemption is sent. This is so because frequently the exemption requires coordination between the Bureau, the licensee and the FCC field office which conducted the inspection. This coordination is frequently complicated by differing time zones and sailing schedules.

4. It would be more convenient for the public and the Commission to also provide authority to grant such emergency exemptions to the EICs at field offices. EICs are near the vessel's location and are familiar with the functions of each piece of equipment. They are qualified to determine whether the lack of such equipment for the term of the exemption would pose a danger to life or property on a particular voyage. Furthermore, they are capable of recommending alternative measures within established paramenters which might satisfactorily function in lieu of the missing equipment.

5. Authority and parameters for exemptions are set forth in Title III, Parts II and III of the Act, Chapters I and IV of the Safety Convention, and Article IX of the GLA. The Commission's rules currently delegate exemption authority to the Chief, Private Radio Bureau. In cases of emergency, § 83.60(a) permits the owner, operator or master of a vessel to file an informal request for exemption for Title III, Part II or III of the Act, or from the Safety Convention or from the GLA. Joint authority to act on these requests in both the Private

Radio Bureau and the Field Operations Bureau will provide greater flexibility and expedition in processing them. This will be accomplished by amending § 0.314 of the rules to delegate this authority to the EICs. In order to ensure consistent policies, we are also amending § 0.332 of the rules to provide for coordination between the affected Bureau Chief regarding these emergency exemption actions.

6. For the reasons described above, we are amending the rules to delegate authority to grant emergency exemptions to EICs in addition to the authority already delegated to the Chief, Private Radio Bureau. Authority for this action is contained in sections 4(1) and 303 (r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(1) and 303(r). Because these rule amendments involve Commission organization, the public notice, comment and effective date provisions of the Administrative Procedure Act, 5 U.S.C. 553, and of § 1.412 of the Commission's rules do not apply. See § 1.412(b)(5) of the rules, 47 CFR 1.412(b)(5).

7. Accordingly, It Is Ordered, That Part 0 of the Commission's rules is amended as set forth below effective June 30, 1986.

8. For further information regarding matters covered in this document, contract Robert DeYoung at (202) 632-7175.

List of Subjects in 47 CFR Part 0

Authority delegations.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Part 0 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for Part 0 continues to read as follows:

Authority: Sec 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, unless otherwise noted.

2. Section 0.314 is amended by removing and reserving paragraph (o) and adding a new paragraph (e)(3) to read as follows:

§ 0.314 Additional authority delegated.

* * * * *

(e) * * *

(3) Grant emergency exemption requests, extensions or waivers of inspection to ships in accordance with applicable provisions of the Communications Act, the Safety Convention, the Great Lakes Agreement or the Commission's rules.

* * * * *

3. Section 0.332 is amended by adding a new paragraph (i) to read as follows:

§ 0.332 Actions taken under delegated authority.

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(1) Requests for emergency ship exemptions-Chief, Field Operations Bureau.

[FR Doc. 86-12325 Filed 6-3-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 1

[MM Docket No. 85-313; RM-5037; FCC 86-181]

Modification of FM Broadcast Licenses to Higher Class Co-channel or Adjacent Channels

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action amends the Commission's Rules to provide for modification of FM licenses (and permits) to higher class channels on existing or adjacent frequencies in the course of rule making proceedings amending the FM Table of Allotments. This action is taken in response to a petition filed by Fuller-Jeffrey Group.

EFFECTIVE DATE: July 7, 1986.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Joel Rosenberg, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 85-313. adopted April 15, 1986, and released April 29, 1986.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW, Suite 1440, Washington, DC. 20037.

Summary of Report and Order

1. The Commission amended § 1.420(g) of its Rules to provide a new procedure whereby the Commission may modify the licenses or permits of FM stations in the course of rule making proceedings amending the FM Table of Allotments, § 73.202(b) of the Rules, where the modifications would occur on mutually exclusive higher class adjacent or co-channels. Such modifications would be made regardless of the availability of additional equivalent higher class channels. In those circumstances, the Commission would not entertain the filing of expressions of interest by other parties.

2. This proceeding was commenced in response to a petition filed by Fuller-Jeffrey Group whose request was premised on recent Commission action in MM Docket No. 83-1148, *Amendment of the Commission's Rules Regarding Modification of FM and Television Station Licenses*, 98 F.C.C. 2d 916 (1984), *recon. denied*, FCC 86-32, Mimeo No. 36378, released January 17, 1986. In that proceeding the Commission added a new § 1.420(g) to its Rules, whereby the authorizations of FM stations seeking to upgrade to newly allotted superior class channels (e.g., from Class A to Class C) could be modified in rule making proceedings, provided at least one additional equivalent channel is available to accommodate others expressing interest in proposed channels. Fuller-Jeffrey proposed that the authorizations be modified in certain circumstances where equivalent channels are not available. Such circumstances would exist where a licensee seeks higher class use of its existing channel or of a mutually exclusive adjacent channel (e.g., a Class A licensee seeks to operate a Class C station, moving from Channel 241A to Channel 241C or to Channel 243C).

3. Commenters expressed nearly unanimous support for the proposal. They noted Commission policy favoring upgrades and public interest benefits from improving the ability of stations to increase service areas without fear of costly and time-consuming comparative license proceedings. They indicated that both Commission and licensee resources are wasted when requested upgrades are withdrawn in the face of other interests. Some contended that additional equivalent channels are not always available and that problems can arise where such channels are said to be not equivalent due to factors such as site restrictions. Other commenters claimed that the proposal is analogous to Commission preferences to daytime-only AM stations seeking full-time FM facilities or that precluding lower class FM stations from competing in nearby larger communities is not conducive to promoting a competitive merketplace environment.

4. The Commission concluded that existing procedures discourage expansion of FM service and thereby

deprive the public of significant benefits. Despite Commission action encouraging FM stations to upgrade their facilities, where no additional equivalent superior channels are available to accommodate other interests, licensees seeking to enhance service on co- or adjacent channels generally withdraw their requests rather than risk loss of existing authorizations and the expenses and delays associated with comparative license proceedings. When allotment proceedings are thereby terminated, Commission, licensee, and public resources are wasted, and spectrum is underutilized due to the incompatibility between petitioners' existing channels and the proposed channels. In light of this, the Commission believes that it makes no policy sense to provide for competing applications.

5. The Commission has legal authority to adopt and to implement the new procedure. Section 316 of the Communications Act of 1934, as amended, authorizes it to modify station licenses in order to promote the public interest, convenience, and necessity. The Commission believes that modifications to superior adjacent or co-channels make possible the expeditious provision of expanded radio service which would otherwise remain unrealized. The Commission does not believe that the Supreme Court's ruling in *Ashbacker Radio Corp.* v. *U.S.*, 326 U.S. 327 (1945), is controlling where such upgrades are sought. This is so, because the proposed channels, being precluded by existing operations, are, in effect, unavailable for application by others. Further, the Commission may promulgate rules limiting eligibility to apply for newly allotted channels where it determines that such a limitation promotes the public interest. *See: U.S.* v. *Storer*, 351 U.S. 192 (156).

6. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 604, a final regulatory flexibility analysis has been prepared. It is available for public viewing as part of the full text of this decision, which may be obtained from the Commission or its copy contractor.

7. The Rule contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modifed form, information collection and/or record keeping, labeling, disclosure, or record retention requirements and will not increase or decrease burden hours imposed on the public.

Ordering Clauses

Accordingly, it is ordered, that, under the authority contained in sections 1, 2, 4 (i) and (j), 303(r), 316, and 403 of the Communications Act of 1934, as amended, Part 1 of the Commission's Rules and Regulations is amended, effective July 7, 1986, as shown at the end of this document.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

Part 1 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 1—ADMINISTRATIVE PRACTICE AND PROCEDURE

8. The authority citation for Part 1 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303.

Section 1.420 is amended by revising paragraph (g) as follows:

§ 1.420 Additional Procedures in Proceedings for Amendment of the FM, Television or Air-Ground Table of Assignments.

* * * * *

(g) The Commission may modify the license or permit of an FM station to another class of channel or of a UHF TV station to a VHF channel in the same community in the course of the rule making proceeding to amend § 73.202(b), § 73.504(a) or § 73.606(b) if any of the following conditions are met:

(1) There is no other timely filed expression of interest, or

(2) If another interest in the proposed channel is timely filed an additional equivalent class of channel is also allotted, assigned or available for application, or

(3) With respect to FM, the modification of license or permit would occur on a mutually exclusive higher class adjacent or co-channel.

William J. Tricarico,

Secretary.

[FR Doc. 86-12483 Filed 6-3-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 79-219; RM-3099; RM-3273]

Deregulation of Radio; Program Record Keeping Obligation

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action was taken in response to the decisions of the United States Court of Appeals vacating the Commission's *Second Report and Order* in this proceeding and remanding the case for further proceedings. A new program record keeping obligation for commerical radio licensees was developed to accommodate the court's concern for the proper functioning of the petition to deny process and the FCC's own information needs. Such licensees will be obliged, each quarter, to list those programs aired during the preceding quarter which, in the licensee's judgment, provided the station's most significant treatment of issues of concern to the broadcaster's community.

EFFECTIVE DATE: June 27, 1986.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Freda Lippert Thyden, (202) 632-7792.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order*, BC Docket 79-219, FCC 86-222, adopted May 1, 1986 and released May 27, 1986.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 "M" Street, Northwest, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 "M" Street, Northwest, Suite 140, Washington, DC 20037.

Summary of Memorandum Opinion and Order

1. On December 20, 1985, the Court of Appeals for the District of Columbia Circuit vacated the Commission's *Second Report and Order* in this proceeding and remanded the case to the Commission for further proceedings. The court found that the record keeping requirements adopted in the *Second Report and Order*—an illustrative issues/programs list documenting at least 5 to 10 issues addressed each quarter—did not further the FCC's stated regulatory goal of relying on effective public participation in the license renewal process. The court further concluded that an adequate explanation had not been given by the Commission for its rejection of an alternative record keeping requirement suggested by a commenter during an earlier stage of the proceeding. Under this alternative approach, commercial radio licensees would record all programming that afforded "significant treatment" to issues facing their communities.

2. By this *Memorandum Opinion and Order*, the FCC adopted a modified form of the "significant treatment"

alternative. Under the revised rule, a commercial radio licensee is obliged, each quarter, to list those programs aired during the preceding quarter which, in the licensee's judgment, provided the station's most significant treatment of issues of concern to the broadcaster's community. This program record keeping obligation accommodates the court's concern for the proper functioning of the petition to deny process and the FCC's own information needs. This requirement has been narrowly tailored to meet our regulatory needs and, therefore, is minimally burdensome to licensees. While it is a flexible technique for providing reliable programming information and is intended to vest maximum discretion in licensees to determine appropriate amounts and types of issue programming, the FCC noted its continued belief that a licensee that documents significant programming directed to 10 community issues during each quarter would likely be able to demonstrate compliance with its issue-responsive programming obligation.

Ordering Clauses

3. Authority for the action taken herein is contained in Section 4 (i) and (j) and 303 of the Communications Act of 1934, as amended.

4. Accordingly, it is ordered, that the Commission's Rules are amended, effective June 27, 1986, as set forth below.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Amendatory Section

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154 and 303.

47 CFR 73.3526 is amended by revising paragraph (a)(9), removing the Note after paragraph (a)(9), and revising paragraph (e) introductory text to read as follows:

§ 73.3526 Local public inspection file of commercial stations.

(a) * * *

(9) For commercial AM and FM broadcast stations, every three months a list of programs that have provided the station's most significant treatment of community issues during the preceding three month period. The list for each calendar quarter is to be filed by the tenth of the succeeding calendar quarter (*e.g.*, January 10 for the quarter October-December, April 10 for the quarter January-March, etc.). The list shall include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment. The description of the programs should include, but is not limited to, the time, date, duration and title of each program in which the issue was treated.

* * * * *

(e) *Period of Retention.* The records specified in paragraph (a)(4) of this section shall be retained for periods specified in § 73.1940 (2 years). The manual specified in paragraph (a)(6) of this section shall be retained indefinitely. The letters specified in paragraph (a)(7) of this section shall be retained for the period specified in §73.1202 (3 years). The "significant treatment of community issues" list specified in paragraphs (a)(8) and (9) of this section shall be retained for the term of license (5 and 7 years for TV and radio, respectively). The certification specified in paragraph (a)(10) of this section shall be retained for the period specified in § 73.3580 (for as long as the application to which it refers). The records specified in paragraphs (a)(1), (2), (3), and (5) of this section shall be retained, as follows:

* * * * *

William J. Tricarico,

Secretary.

[FR Doc. 86-12326 Filed 6-3-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 85-138; RM-4778]

Radio Broadcasting Services; Silver Springs, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document changes paragraph 4 of the *Report and Order* in this proceeding concerning an FM channel allotment in Silver Springs, FL (April 21, 1986, 51 FR 13512) to delete the window filing dates. The acceptance of applications for Channel 238A at Silver Springs, Florida, is conditioned on Station WNLT(FM), Channel 239, Clearwater, Florida, relocating its transmitter site. A filing window for Channel 238A at Silver Springs will be announced at a future date.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Erratum, MM Docket No. 85-318, released May 23, 1986.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Accordingly, MM Docket No. 85-138, RM 4778, published at 51 FR 13512, April 21, 1986 is corrected by removing paragraph 4.

Ralph Haller,

Acting Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-12327 Filed 6-3-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket 83-670]

Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In 1984, the Commission adopted a *Report and Order* in MM Docket No. 83-670, concerning deregulation of the nonentertainment programming and commercialization policies, ascertainment requirements, and program log requirements for commercial television stations. In response to this decision, the Commission received two petitions for reconsideration and/or clarification. This action is intended to reply to these petitions and to clarify that decision as requested.

EFFECTIVE DATE: June 27, 1986.

FOR FURTHER INFORMATION CONTACT: Freda Lippert Thyden, (202) 632-7792.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission *Memorandum Opinion and Order* in MM Docket No. 83-670, adopted May 1, 1986 and released May 28, 1986.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230),

1919 "M" Street, NW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 "M" Street, NW., Suite 140, Washington, DC 20037.

Summary of Memorandum Opinion and Order

1. In August 1984, the Commission adopted a *Report and Order* (*Report*) in MM Docket No. 83–670 (49 FR 33588, August 23, 1984), eliminating guidelines relating to nonentertainment programming and amounts of commercial matter presented by commercial television stations and deleting our rules relating to formalized community ascertainment and the maintenance of comprehensive program logs by such stations. Two petitions were filed requesting reconsideration and/or clarification of that decision. The summarized *Memorandum Opinion and Order* (*Order*) responds to these concerns, denies the petitions for reconsideration, and clarifies the decision adopted in the *Report*.

2. Specifically, the petitioners objected to: (1) Deletion of the nonentertainment programming guidelines, (2) elimination of formal ascertainment requirements, (3) deletion of the commercial guidelines, (4) elimination of the requirement for comprehensive program logs in favor of quarterly "issues/programs" lists, and (5) the amount of notice provided to support the action in the *Report* eliminating the long form audit.

3. The *Order* rejects the arguments against elimination of the nonentertainment programming guidelines as unpersuasive and repetitive. The FCC re-emphasizes that all licensees remain individually responsible for contributing to the overall discussion of issues confronting the community and that fully adequate means remain available to bring to its attention the failings of any particular licensee. Petitioners also requested clarification or expressed concern on several issues relating to this point. In reply, the *Order* underscores that the decision in the *Report* in no way diminished the obligation of broadcasters to address the special needs of the child audience. It also clarifies that generally, where a station relies on the programming of another market station, that programming must actually be broadcast. Finally, the *Order* reaffirms the obligation of licensees to meet the needs of minority audiences, but also confirms the Commission's determination that in doing so, a broadcaster may look to other market stations and need not program in direct proportion to the size of the minority audience.

4. Petitioners also argued against elimination of the formal ascertainment requirements, maintaining that ascertainment is required by the Communications Act. The *Order* reiterates the *Report*'s finding that ascertainment is not statutorily compelled. The FCC acted within its allowable discretion in determining that, under current marketplace conditions, ascertainment is no longer a necessary or appropriate device to assure programming in the public interest. The focus of FCC inquiry is now upon the responsiveness of licensee programming, not upon the methodology utilized by a licensee to determine the issues addressed.

5. In response to petitioners' concerns about the deletion of commercial guidelines, the *Order* again states that marketplace forces are sufficient to determine appropriate levels of commercialization. The *Order* clarifies the FCC's intention in eliminating the commercialization guidelines to remove all quantitative commercial time limits from TV licensees, including those announced in prior policy pronouncements regarding the quantity of advertising in children's programming. It emphasized, however, that other protective mechanisms related to commercialization practices in children's programming, such as the bar to host selling and the requirement for adequate separation of program and commercial material, remain FCC policies.

6. The *Order* rejects the plea for retention of a comprehensive program logging system for television licensees because the petitioners did not present any new arguments to persuade the FCC to revisit the matter. However, with respect to revision of the existing illustrative issues/programs list requirement, the Court of Appeals recently vacated the Commission's decision in the *Second Report and Order* in the radio deregulation proceeding on the basis that amendment of the current program record keeping requirement is necessary. Therefore, the same modified program record keeping rule which has been adopted for radio licensees in response to the court's decision is adopted for television licensees as well. Under this rule, a television licensee would be required, each quarter, to list programs that provided the station's most significant treatment of community issues.

7. Finally, the *Order* rejects the contention of petitioners for reconsideration that the Commission's action deleting the "long" (audit) renewal form for television licensees was taken without sufficient notice. The Commission's reference (in the *Notice of Proposed Rule Making* in this Docket) to reassessing its "information needs" in light of its deregulation proposals provided adequate notice of the subject matter to sustain action upon the long form audit.

Ordering Clauses

8. Accordingly, it is ordered, That the Commission's Rules are amended effective June 27, 1986, as set forth below.

It is further ordered, That the petitions for reconsideration filed by Henry Geller and Donna Lampert, and by Telecommunications Research and Action Center, *et al.*, are denied.

9. Authority for the actions taken herein is contained in sections 4 (i) and (j) and 303 of the Communications Act of 1934, as amended.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Amendatory Section

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

10. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154 and 303.

11. 47 CFR 73.3526 is amended by revising paragraph (a)(8) to read as follows, and by removing the note after paragraph (a)(8).

§73.3526 Local public inspection file of commercial stations.

(a) * * *

(8) For commerical TV broadcast stations, every three months a list of programs that have provided the station's most significant treatment of community issues during the preceding three month period. The list for each calendar quarter is to be filed by the tenth day of the succeeding calendar quarter (*e.g.*, January 10 for the quarter October–December, April 10 for the quarter January–March, etc.). The list include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment. The description of the programs should include, but is not limited to, the time, date, duration and

title of each program in which the issue was treated.

* * * * *

William J. Tricarico,

Secretary.

[FR Doc. 86-12330 Filed 6-3-86; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 192 and 195

[Amdts. 192-52 and 195-38; Docket No. PS-87]

Transportation of Gas or Hazardous Liquids by Pipeline, Welding Requirements

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation.

ACTION: Final rule.

SUMMARY: These amendments generally conform requirements of Parts 192 and 195 for welding procedure qualification and performance and for welder qualification, with the exception of requirements for low stress welder qualification applicable only to Part 192. Welding procedure requirements are now identical, worded in performance language for both regulations. Requirements for qualification of welders are editorially conformed, retaining the incorporation by reference of section 3 of API Standard 1104 and section IX of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code.

EFFECTIVE DATE: July 7, 1986.

FOR FURTHER INFORMATION CONTACT: William A. Gloe, (202) 426-2082, regarding the content of this amendment, or the Dockets Branch, (202) 426-3148, regarding copies of the amendment or other information in this docket.

SUPPLEMENTARY INFORMATION:

Background

These amendments continue the process of conforming the welding requirements of 49 CFR Part 192 for gas pipelines with those for hazardous liquid pipelines under 49 CFR Part 195. As described in the Notice of Proposed Rulemaking (NPRM) (50 FR 49429, December 2, 1985), the two sets of requirements were developed separately at different times and as a result differ with each other in ways that cannot be explained on the basis of technical or safety differences between gas and liquid pipelines.

Based on prior petition by the industry and subsequent notice and comment, Part 195 was amended in 1984 (Amdt. 195-32, 49 FR 36859, September 20, 1984) to generally conform requirements for qualification of welders with those of Part 192. Both parts now require (except for welders who work on gas pipelines to be operated at a pressure that produces a hoop stress of less than 20 percent of the specified minimum yield strength of the pipe) that welders be qualified in accordance with either section 3 of API Standard 1104 or section IX of the ASME Boiler and Pressure Vessel Code. At the time of Amendment 195-32, other requirements relating to qualification of welders remaining in Part 192 but were not incorporated into Part 195 because the requirements were unnecessary for safety and could be misleading. As stated in the NPRM of this proceeding, paragraph (b) of § 192.227 exempted welders from separate qualification for differences in carbon and low alloy steels being welded when being qualified under the ASME Code. Because material, within broad limits, is not an essential variable for welder qualification, the paragraph is unnecessary and is deleted with this amendment.

Similarly, sections on preheating and stress relieving are deleted from Part 192 because, by specifying overly-liberal requirements, the sections did not regulate an actual safety hazard but instead created the impression that preheating and stress relieving may not be required when good engineering judgment would mandate that one or the other are necessary. Part 195 contains no separate requirements for preheating or stress relieving.

Qualification of welding procedures was discussed in detail in the NPRM preceding this amendment, and the difference between Parts 192 and 195 was pointed out regarding qualification of the welding procedure. Part 195 merely stated that the procedures must be tested and Part 192 required that the procedures must be qualified in accordance with API 1104 or the ASME Code. Because both of these industry standards require destructive testing of test weldments made to qualify the welding procedure, the requirement for destructive testing has been incorporated in both Parts 192 and 195. RSPA believes that there are two advantages, besides conformity between Parts 192 and 195, in incorporating this language. First, the language rules out qualification of welding procedures by various forms of nondestructive inspection, and second, the language allows qualification by more than one type of destructive testing, including tensile testing, nick-break, guided bend testing, as well as COD (crack opening displacement), CTOD (crack-tip opening displacement) and other forms or methods of destructive testing that may be fracture toughness or fracture mechanics oriented. Incorporated by reference of section 6 of API Standard 1104 for standards of acceptability of welds is not changed by this rulemaking for either Part 192 or Part 195.

The Proposal

The RSPA proposal published in the NPRM (Docket PS-87, Notice 1) is reproduced here for guidance in evaluating comments and arguments advanced in the next section of this preamble. As published on page 49431 of the **Federal Register** (50 FR 49429-49431, December 2, 1985), the proposal reads:

RSPA proposes to amend 49 CFR 192 and 195 as follows:

PART 192—[AMENDED]

1. The authority citation for Part 192 continues to read as follows:

Authority: 49 U.S.C. 1872; 49 U.S.C. 1804; 49 CFR 1.53, and Appendix A of Part 1.

§ 192.223 [Removed]

2. By deleting § 192.223 in its entirety.

3. By revising § 192.225 to read:

§ 192.225 Welding procedures.

(a) Welding must be performed by a qualified welder in accordance with established written welding procedures that have been tested and the quality of the test welds determined by destructive testing to meet the acceptability standards of this subpart.

(b) Each welding procedure must be recorded in detail, including the results of the qualifying tests. This record must be retained and followed whenever the procedure is used.

4. By deleting paragraph (b) of § 192.227, redesignating the existing paragraph (c) as (b), and by revising paragraph (a) to read:

§ 192.227 Qualification of welders.

(a) Except as provided in paragraph (b) of this section, each welder must be qualified in accordance with section 3 of API Standard 1104 or section IX of the ASME Boiler and Pressure Vessel Code. However, a welder qualified under an earlier edition than listed in Appendix A may weld but may not requalify under that earlier edition.

* * * * *

§ 192.237 [Removed]

5. By deleting § 192.237 in its entirety.

§ 192.239 [Removed]

6. By deleting § 192.239 in its entirety.

PART 195—[AMENDED]

7. The authority citation for Part 195 continues to read as follows:

Authority: 49 U.S.C. 2002; 49 CFR 1.53, and Appendix A of Part 1.

8. By revising § 195.214 to read:

§ 195.214 Welding: Procedures.

(a) Welding must be performed by a qualified welder in accordance with established written welding procedures that have been tested and the quality of the test welds determined by destructive testing to meet the acceptability standards of this subpart.

(b) Each welding procedure must be recorded in detail, including the results of the qualifying tests. This record must be retained and followed whenever the procedure is used.

§ 195.222 Welding: Qualification of welders.

9. By revising the title of § 195.222 to read as set forth above. In the preamble to the proposal, RSPA provided justification for deletion of §§ 192.223, 192.237, and 192.239 as duplicative and unnecessary for safety. Comments on the deletion of these sections as well as on the balance of the proposal are discussed below as they apply to each section.

Comments in Response to Notice 1

RSPA received a total of 17 comment letters on the NPRM, 10 from gas pipeline operators, 1 from a combined liquid and gas operator, 3 from trade organizations representing gas operators, 1 from a State Public Service Commission, and from the American Petroleum Institute (API) and the American Welding Institute (AWI). All supported the proposal to delete §§ 192.223, 192.237, and 192.239 from Part 192 as unnecessary, and generally agreed with the proposed conformity between Parts 192 and 195, except the State Public Service Commission and the Boston Gas Company. The State Public Service Commission interpreted the reference to section 2 of API Standard 1104 in the existing § 192.225 to mean that all of section 2, including the development and establishment of the welding procedure, is presently incorporated by reference. The interpretation is incorrect. Section 2 of API 1104 and section IX of the ADME Boiler and Pressure Vessel Code are referred to in § 192.225 only for qualification, or testing, and not for development and establishment of the written welding procedure. The section now reads, in part:

§ 192.225 Qualification of welding procedures.

(a) Each welding procedure must be qualified under section IX of the ASME Boiler and Pressure Vessel Code or section 2 of API Standard 1104, whichever is appropriate to the function of the weld, except that a welding procedure qualified under an earlier edition previously listed in Appendix A may continue to be used but may not be required under the earlier edition.

The requirement for "established written welding procedures" is presently in § 192.223(a) which, by containing no reference to industry or other standards, is and has been a performance requirement since issuance of the regulations. The same paragraph also requires that the procedures be "qualified" under § 192.225, which is simply a duplication of the requirements of § 192.225.

RSPA believes that the error in interpretation is a common one because of the use of the word "qualified" in association with section 2 of API 1104 without further definition of the limited meaning of that term. However, if a State regulation includes other requirements of API 1104 or of the ASME Code as mandatory, there is no conflict with the Federal regulations. The applicable Federal laws permit States to apply to intrastate pipelines additional or more stringent State regulations that are compatible with Federal regulations.

The Boston Gas Company stated that they were concerned about the deletion of § 192.223 and the revision of § 192.225, eliminating reference to the industry standards. Boston Gas expressed their concerns as:

It is our feeling that Parts 192.223, 192.225, and 192.227 should be retained. Subpart E has withstood the test of time. We do not believe it should be modified for the sake of alignment with another Part. We recommend that Part 195 be modified to be aligned with Part 192.

In the interest of assuring the Boston Gas Company that the requirements of Part 192 are not watered down to suit Part 195, all of the requirements of §§ 192.223 and 192.227 have been retained. Paragraph (a) of § 192.223 is relocated in § 192.225 and contains the same requirements. Paragraph (b) of § 192.223 is covered by incorporation by reference of section 3 of API 1104 and section IX of the ASME Code in § 192.227, and would be a duplication of the requirements of that section if retained. Section 192.227 remains as it is with the exceptions of reversal of order of reference to the industry standards to reflect the amount of usage on pipelines, and the deletion of paragraph (b), which, to the best of our knowledge, has never been invoked. Incorporation by reference of the industry standards for qualification of welding procedures under § 192.225 has been replaced by performance standards as explained in the NPRM. No effect on safety is anticipated from this change because essentially the same testing requirements, or their equivalents, will continue to be specified by operators to meet the acceptability standards of the regulations.

Therefore, with the exception of the two comments that RSPA believes are based on a misunderstanding, all commenters agreed with the intent of the rulemaking. Two others suggested further clarification by iterating the effect of the changes, and four additionally suggested a re-wording of the proposed §§ 192.225 and 195.214. These four are the API, AWI, the Northern Natural Gas Company, and the Interstate Natural Gas Association of America (INGAA) whose comments are discussed here because of the possible impact of the changes on the relatively large organizations. INGAA and Northern Natural recomended that these sections on qualification of welding procedures be limited to requirements on developing, documenting, and maintaining the procedures, and that the requirement for performance by qualified welders be moved to § 192.229, Limitations on welders. The API recommended that the word "acceptability" be deleted from the phrase "to meet the acceptability standards of this subpart," while INGAA would modify that phrase by changing the word "to" to "and." Both INGAA and the AWI recommended changing the wording of paragraph (b), INGAA again reflecting the intention to limit the requirements of the sections to that implied by the title. The AWI commented that both the original language and the proposed language cause problems in interpretation, defining the reasons as follows:

It is customary to make test weldments to qualify a welding procedure. The welding parameters of this test assembly, along with the destructive test results, are recorded and this record becomes the Procedure Qualification Record (PQR). In applying that procedure to a production weld, a Welding Procedure Specification (WPS) is written. The WPS includes tolerances and other variations from the PQR which are allowed by code rules or other engineering judgment. The "record" (PQR) is not the specific document used by the welder in making his production welds. The WPS is the document with instructions for the welder.

The AWI suggested a wording change to refer to the welding procedure specification as the document that must be followed whenever the procedure is used.

Considering that conformity between Parts 192 and 195 is an objective of this rulemaking and that most of the comments are directed at the proposed

§§ 192.255 and 195.214 as a result of conforming the two, and also incorporating the requirements of § 192.223, RSPA recognizes a possible impasse in resolving the differences between the various comments. Because more commenters addressed the changes to § 192.225 and because the existing title of the section is "Qualification of welding procedures," it appears that the intent to include the general provisions of §§ 192.223 and 195.214 may have been overlooked because of the similarity of the proposed title, "Welding procedures." As proposed, the section does cover aspects of welding performance that would not normally be in a section on welding procedures, offering a reasonable explanation for the INGAA and Northern Natural comments. In order to clarify that the section is intended to cover other aspects as well as welding procedures, RSPA has reconsidered the title and feels that the problems may be more appropriately resolved by using the title, "Welding: General" as presently for § 195.214. Therefore, this final rule contains the title "Welding: General" for both §§ 192.225 and 195.214. Thus, the general nature of § 192.223 is included, including performance of welding, and the general and performance nature of § 195.214 is also retained.

To address the API comment to delete the word "acceptability," RSPA is replacing the term "acceptability standards" with the word "requirements" as presently in § 195.214 and as commonly used to denote any mandatory rule. The basis for the API comment is that the word "acceptability" would likely lead the reader to section 6 of API 1104 because of the title of that section, "Standards of Acceptability—Nondestructive Testing." The intent of the proposed language for §§ 192.225 and 195.214 is to require destructive testing of test weldments to qualify the welding procedure such that the weld soundness as governed by the acceptability standards would be met in production welding as determined by nondestructive testing. Therefore, RSPA considers that meeting the acceptability standards (or, more broadly, "requirements" of the subpart) is an objective of establishment and qualification of the procedure as well as of qualification of the welder. The final rule is editorially changed to reflect this. There is no intent to require nondestructive testing as a part of welding procedure qualification. Hence, RSPA does not accept the INGAA recommendation to change the word "to" to "and." The final phrase is "to meet the requirements of this subpart," meaning to meet all that follows in the subpart, including the standards of acceptability.

Similarly, RSPA feels that no change is necessary to acknowledge the AWI comment because, although using different language, the AWI had demonstrated that it understands the requirement and has specified the means that the industry uses to implement the requirement. AWI suggested the following for §§ 192.255(b) and 195.214(b):

> Each welding procedure test must be recorded in detail, including the results of the qualifying test. A welding procedure specification shall be prepared using the qualifying test record as justification and shall be followed whenever the procedure is used.

Although informative with regard to the use of a welding procedure specification, this wording is unacceptable to RSPA because it omits the requirement to record the entire procedure, including all variables of the procedure, such as the welding process, the material, size, joint design, type, class of consumables, preheating, stress relieving, and other characteristics. RSPA does not limit recording of the procedure to the tests, although the qualifying tests must be included. Further, once a welding procedure is qualified (referred to by AWI as the Procedure Qualification Record), that procedure may not change in ways that have an effect on the welds produced. Tolerances in prescribing instructions for the welder, as pointed out by the AWI, are understandable. However, in terms of enforcement, when, for example, the welding procedure is established in a way that preheating may be necessary but may not be adequately prescribed in the welding procedure specification, RSPA will enforce the need for adequate preheating, especially in cases where an unusual number of related weld defects are occurring. The phrase "to meet the requirements of this subpart" also means that no cracks are permitted in pipeline girth welds, and that if cracks occur, the entire welds must be removed or must be repaired using detailed, welding procedures developed for that purpose (§§ 192.245 and 195.230).

Northern Natural suggested substituting performance standards for welder qualification as proposed for qualification of welding procedures. Northern Natural commented in part:

> The stated purpose of this NPRM was to ". . . conform the two" (Parts 192 and 195) "by using the same *performance language* . . ." (emphasis added). This has been completed in 192.225, Welding Procedures, by removing the references to API 1104 Section 2 and ASME Section IX for destructive testing of the test welds when qualifying a procedure. We suggest that similar action be taken in 192.227(a) for welder qualification, namely the statement of requirements in performance language and the deletion of specification references.

RSPA has several problems with the Northern Natural suggestion. First, we do not find the quoted language in the NPRM. Second, RSPA had no intention of substituting performance language for the existing welder qualification requirements. As the summary of the NPRM stated:

> MTB proposes to amend Parts 192 and 195 by generally conforming requirements for welding procedure qualification and for welder qualification. Identical performance standards are proposed for qualification of welding procedures under both regulations, except for retained provisions for low stress level gas pipelines in Part 192. Industry standards incorporated by reference would be retained for qualification of welders and for weld acceptability.

Although we recognize that removing reference to the industry standards for welder qualification could potentially provide greater flexibility, RSPA has not proposed to do this, having limited the proposal to conforming the two regulations with a minimal change in both. This rulemaking is complete with regard to conformity of the welding procedure qualification and welder qualification requirements of Parts 192 and 195. Further change would have to be based on supportable petition and demonstration of need. RSPA presently believes that qualification of welders in accordance with the industry standards is an essential part of pipeline safety. Petitions for change would have to present convincing arguments as to why this may not be so.

Advisory Committee Review

Section 4(b) of the Natural Gas Pipeline Safety Act of 1968, as amended (49 U.S.C. 1673(b)), and section 204(b) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2003(b)) require that each proposed amendment to a safety standard established under these statutes be submitted to a 15-member advisory committee for its consideration. The Technical Pipeline Safety Standards Committee, composed of persons knowledgeable about transportation of gas by pipeline, considered the proposed amendment to §§ 192.223, 192.225, 192.227, 192.237, and 192.239 in a meeting on December 10, 1985, in Washington, D.C. The Technical Hazardous Liquid Pipeline Safety Standards Committee considered the

proposed amendment to §§ 195.214 and 195.222 in a meeting on November 18, 1985, in Washington, D.C. Both committees found the proposed amendments to be technically feasible, reasonable, and practicable.

Classification

This final rule is considered to be nonmajor under Executive Order 12291 and is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary. The rule merely conforms the requirements of 49 CFR Parts 192 and 195 with regard to welding procedures and welder qualification.

Since the impact of this final rule is expected to be minimal, the agency certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects

49 CFR Part 192

Pipeline safety, Welding requirements, Incorporation by reference

49 CFR Part 195

Pipeline safety, Welding requirements, Incorporation by reference

In view of the foregoing, RSPA amends 49 CFR Parts 192 and 195 as follows:

1. The authority citation for Part 192 continues to read as follows:

Authority: 49 U.S.C. 1672; 49 U.S.C. 1804; 49 CFR 1.53, and Appendix A of Part 1.

§ 192.223 [Removed]

2. By removing § 192.223 in its entirety.

3. By revising § 192.225 to read:

§ 192.225 Welding—General.

(a) Welding must be performed by a qualified welder in accordance with welding procedures qualified to produce welds meeting the requirements of this subpart. The quality of the test welds used to qualify the procedure shall be determined by destructive testing.

(b) Each welding procedure must be recorded in detail, including the results of the qualifying tests. This record must be retained and followed whenever the procedure is used.

4. By removing paragraph (b) of § 192.227, redesignating the existing paragraph (c) as (b), and by revising paragraph (a) to read:

§ 192.227 Qualification of welders.

(a) Except as provided in paragraph (b) of this seciton, each welder must be qualified in accordance with section 3 of API Standard 1104 or section IX of the ASME Boiler and Pressure Vessel Code. However, a welder qualified under an earlier edition than listed in Appendix A may weld but may not requalify under that earlier edition.

* * * * *

§ 192.237 [Removed]

5. By removing § 192.237 in its entirety.

§ 192.239 [Removed]

6. By removing § 192.239 in its entirety.

7. The authority citation for Part 195 continues to read as follows:

Authority: 49 U.S.C. 2002; 49 CFR 1.53, and Appendix A of Part 1.

8. By revising § 195.214 to read:

§ 195.214 Welding: General.

(a) Welding must be performed by a qualified welder in accorcance with welding procedures qualified to produce welds meeting the requirements of this subpart. The quality of the test welds used to qualify the procedure shall be determined by destructive testing.

(b) Each welding procedure must be recorded in detail, including the results of the qualifying tests. This record must be retained and followed whenever the procedure is used.

9. By revising the title of § 195.222 to read:

§ 195.222 Welding: Qualification of welders.

Issued in Washington, DC, on May 29, 1986.

M. Cynthia Douglass,

Administrator, Research and Special Programs Administration.

[FR Doc. 86-12352 Filed 6-3-86; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 630

[Docket No. 60593-6093]

Foreign Fishing, and Atlantic Swordfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues a final rule to implement portions of the Fishery Management Plan for the Atlantic Swordfish Fishery (FMP). This rule (1) prohibits nighttime longlining during a closure, and (2) establishes a data collection program to monitor the fishery. The intended effect of the final rule is to maintain high landings in the form of larger fish that are preferred in the market, prevent growth overfishing, provide a buffer against possible recruitment overfishing, obtain the information necessary to monitor the fishery and refine the management regime, and minimize the impacts of foreign fishing on the domestic swordfish fishery.

EFFECTIVE DATE: June 29, 1986. This rule is being issued prior to approval by the Office of Management and Budget (OMB) of the information collection requirements in § 630.5 (b) and (c). When the OMB control number is received, a notice will be published in the **Federal Register** making these sections effective on date of filing for public inspection with the Office of the Federal Register.

ADDRESSES: A copy of the combined final regulatory flexibility analysis/regulatory impact review may be obtained from Donald W. Geagan, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, 813-893-3722.

SUPPLEMENTARY INFORMATION:

The South Atlantic Fishery Management Council (Council) prepared the Fishery Management Plan for Atlantic Swordfish in cooperation with the Caribbean, Gulf of Mexico, Mid-Atlantic, and New England Fishery Management Councils (Councils). The original Swordfish FMP submitted on April 29, 1985 was partially disapproved. The Council, on behalf of the Councils, resubmitted the disapproved measures. A notice of availability of the revised FMP was published in the **Federal Register** on March 21, 1986 (51 FR 9869). Proposed regulations to implement the resubmitted measures were published March 31, 1986 (51 FR 10890). The proposed rule presented supporting rationale for the resubmitted management measures and they are not repeated here.

Comments and Responses

Eleven comments were received addressing seven issues. The sources of the comments were a fishery management council, a foreign fishing association, two foreign governments, a commercial fisheries association, three conservation organizations, a commercial fisherman, an individual, the Department of State, the Office of Management and Budget, and the U.S. Coast Guard.

Prohibition of Imports During the Variable Season Closure (VSC)

A fishery management council and an environmental organization commented in favor of a prohibition on imports of western North Atlantic swordfish harvested during the VSC. They indicated that the prohibition is necessary to prevent a shift in effort from domestic to foreign fleets fishing the same stock which would undermine the effectiveness of the domestic closure. NOAA acknowledges the potential effect of increased foreign effort on the western North Atlantic stock during a VSC but believes there is substantial doubt that an import prohibition would effectively control foreign fishing effort. Foreign fleets could continue to fish and export to alternative markets or freeze fish and export after a closure. In either case, the burden of requiring all exporters to provide certificates of eligibility for every shipment of swordfish during a closure and the burden of Federal enforcement costs would be substantial even though little conservation benefits would be realized.

NOAA is also concerned about the enforceability of this import prohibition. Most of the major exporters have far ranging longline fleets. It would be virtually impossible to determine whether or not a given shipment of swordfish was harvested from the western Atlantic and during a specific VSC. The certificate of eligibility would, in effect, be an honor system with little or no means of verification. For these reasons, NOAA has disapproved the import prohibition.

A commercial fisherman stated that allowing imports of western North Atlantic swordfish during a closure would adversely affect domestic price structure and increase reliance on imports. Given the magnitude of total swordfish imports entering the United States (approximately nine million pounds in 1985), NOAA does not believe the relatively small portion controlled through the import prohibition during a VSC would be a significant factor in determining price or market dependence.

A commercial fishery organization opposed the import prohibition because adverse impacts on importers, distributors, and consumers were not adequately evaluated. Further, the measure creates a burden for importers and distributors yet there is no assurance foreign fleets would reduce effort on the affected stock, i.e. no management benefits. NOAA agrees and has deleted the measure from the final rule.

Prohibition of Nighttime Longlining During a VSC

A foreign fishing association, and a fishery agency of a foreign government objected to this measure citing the reduced foreign fishing effort, substantial existing restrictions, and the failure to provide a reasonable opportunity to fish for tuna. The DOS expressed reservation but, ultimately agreed to the measure with the understanding that its implementation would still provide a reasonable opportunity to fish for tuna. A fishery management council and an environmental organization supported the prohibition as being necessary to reduce mortality during a VSC and to be fair and equitable to domestic fishermen already subject to the restriction. NOAA has retained this measure but will consider its effect when it evaluates the desirability of continuing the plan and regulations after December 1987.

NOAA considers this measure to be a less burdensome alternative than a total prohibition of longlining. The measure acknowledges the minimal incidental catch of swordfish during daylight hours and specifically allows tuna longlining during those hours. Allowing "tuna" longlining at night would be equivalent to allowing a directed fishery for swordfish during the closure because of the demonstrated high swordfish catch during those hours. NOAA believes that this measure does provide a reasonable opportunity to fish for tuna because (1) it applies only during a small portion of the fishing year (only the VSC and only at night); (2) other fishing methods may be used during the brief time longlines are prohibited; and (3) foreign fishermen are afforded the same opportunity to fish for tuna as are domestic fishermen.

Highly migratory species of tuna are not subject to the exclusive management authority of the U.S. under the MFCMA. It is the position of the U.S. that these highly migratory species can only be managed pursuant to international agreements. Approval of the ban on nighttime longlining does not reflect departures from that position. NOAA will not approve any measure under the MFCMA that would not allow a foreign vessel a reasonable opportunity to fish for tuna in the FCZ.

Caps on Incidental Catch of Swordfish by Foreign Longlines and Squid Trawls

A fishery management council and an environmental organization commented in support of the caps on incidental catch. A foreign fishing association, a fishery agency of a foreign government, and the Department of State opposed this measure on the basis that foreign incidental catch has been reduced to insignificant levels, the specified caps are far below mortality levels that would significantly affect the stock or availability to U.S. fishermen, and the restriction would not provide a reasonable opportunity to fish for tuna.

Although this measure was to be held in reserve, Council intent was for the respective foreign fisheries to be closed for the remainder of the year when the caps were reached. NOAA concludes that the specified levels of incidental catch are well below levels that would be reasonably expected to have a perceptible impact on the swordfish stock or abundance within U.S. waters. Such restriction would not provide a reasonable opportunity to fish for tuna and would not be considered a necessary and appropriate management measure. NOAA has disapproved this provision and it has been deleted from the final rule.

Area I Closure to Foreign Longlining

NOAA has disapproved the area closure measure for the area from Key West, Florida to Cape Lookout, North Carolina out to 100 nautical miles, from June 1 to September 30 (currently not in effect). At the request of the Council, or based on information from other sources, the Regional Director was to implement a closure when the numbers or severity of gear conflicts between foreign and domestic vessels within a given fishing year or patterns of fishing by foreign vessels resulted in a reduction in domestic vessel efficiency or damage to the swordfish stock.

A foreign fishing association and a foreign fishery agency objected to the proposed closure as being unnecessary, overly restrictive, and an unreasonable deprivation of the opportunity to catch tuna. They also stated that the definition of gear conflict was too broad, open to abuse, and would tempt deliberate conflicts.

A fishery management council supported the measure. The DOS did not object to the closure, but expressed reservations about use of specific numbers of conflicts to trigger the closure, inclusion of preemption of fishing grounds in the definition of gear conflict, and lack of a provision for lifting the closure if conflicts and fishing effort returned to low levels.

This measure was disapproved because it was determined that it violated National Standard 6. The total number of foreign longline vessels permitted in the Atlantic FCZ bears no direct relationship with the severity of potential conflicts in Area I. The use of a specific number of conflicts to

implement the closure automatically lacks sufficient flexibility to allow a reasonable determination of the impact of those conflicts on the domestic fishery.

Prohibition of Drift Entanglement Nets

Three environmental organizations strongly supported implementation of this measure because of the nonselectivity of the gear and the significant incidental mortality of non-target species, such as seabirds, marine mammals, and sea turtles. A fishery management council, a commercial fisherman and one individual opposed the measure citing lack of scientific justification, natural limitations on the use of the gear, minimal incidental catch, and the small number of vessels using the gear. The east coast drift net fishery consists of approximately six vessels operating in the northeast that use the gear as a supplement to harpooning or longlining when sea conditions allow. There has been no significant expansion in use of the gear since its introduction on the east coast.

The Council recently compiled numerous reports and data regarding the effects of drift nets. Much of this information is based on the high seas drift net fisheries for salmon and squid in the Pacific Ocean. The Pacific fisheries have significant incidental catches of seabirds and porpoise, but the nature of the fisheries, including mesh size, length of gear, depth and area fished, differs substantially from the east coast drift net swordfish fishery.

The most applicable data are from the five observer trips aboard east coast swordfish drift net boats and the California swordfish drift net study. Reports from the observed trips revealed no mortality of marine mammals, endangered species, or billfish. The California study covered a four year period and involved observations of 355 sets by 79 different vessels. Incidental take included 97 sea lions, 7 whales, 2 dolphins, 2 seals and 2 turtles. The incidental take problem was resolved by establishing selective, time-area closures rather than a total prohibition of gear.

NOAA concludes that the best available scientific evidence does not support a prohibition on use of this gear. The information provided, particularly the California data, indicates a potential for incidental take, but a gear prohibition in the absence of more specific data on the east coast fishery is not warranted. NOAA will focus efforts on developing appropriate methods of collecting data so that the Council can further evaluate the effects of this gear. This measure has been disapproved and deleted from the final rule.

Mandatory Logbooks

One fishery management council expressed opposition to use of mandatory logbooks to collect effort data. NOAA disagrees with this commenter. Scientists on the Swordfish Working Panel and the Scientific and Statistical Committees of the Gulf of Mexico and South Atlantic Councils strongly supported the logbook concept. Assessment scientists have stressed the need for effort data to improve our understanding of the status of the swordfish stock. Data required are consisent with information normally recorded by most swordfish fishermen, thus the additional reporting burden should be minimal. This measure is implemented as proposed for a period of one year to establish the baseline data necessary for the best management of the fishery. NOAA will explore less burdensome methods of data collection during that initial period.

Mandatory Data Collection Using Onboard Technicians

The Council proposed an onboard technician program (3.0% sample) to collect biological samples (otoliths, fin spines, gonads) for age and sex analysis and to collect data on size selectivity of gear, incidental catch, and survival rates of released fish. It is generally agreed that these data cannot be obtained reliably without onboard technicians. The estimated cost of the program at the level the Council desires is $107,100–$142,800 per year. This program was proposed as mandatory under the original FMP but was disapproved principally because of insurance liability problems associated with mandatory technician coverage. The Council has revised the measure to be implemented as either mandatory or voluntary. The voluntary program has been approved, the mandatory option has been disapproved.

NOAA agrees with the concept of a voluntary onboard technician program. The intention is that the program be conducted in cooperation with the private sector on a voluntary basis to the extent funding from any source becomes available (i.e., 0–100%). The conduct of a voluntary program does not require implementing regulations, or necessarily require the expenditure of federal funds.

Changes From the Proposed Rule

The final rule differs from the proposed rule in the following respects, for the reasons discussed above and to clarify other minor aspects of the regulations:

Part 611

Paragraph 611.61(b)(4) has been removed.

Paragraph 611.61(g) has been removed.

Part 630

Section 630.2. The definition for "Gear conflict" is deleted.

Section 630.5. Paragraph (b) is revised by deleting reference to onboard technicians.

Paragraph (c) is revised by inserting the words "and are selected by the Center Director".

Paragraph (c)(2) is revised by adding "and official number".

Section 630.7. All Paragraphs are removed.

Section 630.21. In paragraph (c)(2) the first sentence is revised by substituting the words "South Atlantic Council, after consultation with the other four Councils," for the word "Councils".

Section 630.23. Paragraph (b) is deleted and the section remains as published in the final rule at 50 FR 33955, August 22, 1985.

Section 630.25. Section 630.25 is removed in its entirety.

Classification

The Regional Director determined that the approved portions of the FMP are necessary for the conservation and management of the Atlantic swordfish fishery and that they are consistent with the Magnuson Act and other applicable law.

The Council prepared a final environmental impact statement for the FMP; a notice of availability was published on August 9, 1985; 50 FR 32306.

The Council prepared a supplementary regulatory impact review. You may obtain a copy of this review from the Council at the address listed above.

The General Counsel of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities because the action proposed for implementation would effect only foreign fishermen. Domestic fishermen are already regulated by an equivalent restriction under the previously approved variable season closure program. In addition, the reporting burden under the mandatory logbook program will not be significant because the data required is already recorded by

most vessel captains. The burden is estimated to involve only 2.4 minutes per trip for transcribing the data to the logbook form. At an average of 100 trips per year, each vessel will incur a total annual burden of approximately 4 hours.

This rule contains a collection of information requirement subject to the Paperwork Reduction Act which has been submitted for approval by the Office of Management and Budget.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of all the affected States. This determination was submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act. The State agencies agreed with this determination.

List of Subjects

50 CFR Part 611

Fisheries, Foreign relations, Reporting and recordkeeping requirements.

50 CFR Part 630

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 30, 1986.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR Part 611 and 50 CFR Part 630 are amended as follows:

PART 611—[AMENDED]

1. The authority citation for 50 CFR Part 611 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 611.61 is amended by adding new paragraph (b)(4) to read as follows:

§ 611.61 Atlantic billfish and shark fishery.

* * * * *

(b) * * *

(4) Fishing with pelagic longlines is restricted to the hours 0500–1800, local time, in an area during the seasonal closure for that area as specified at 50 CFR 630.21.

* * * * *

PART 630—[AMENDED]

3. The authority citation for 50 CFR Part 630 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

4. Section 630.5 is amended by designating the existing text as paragraph (a) and adding new paragraphs (b) and (c) to read as follows:

§ 630.5 Reporting requirements.

* * * * *

(b) The owner or operator of a vessel of the United States who has a permit issued under § 630.4 to fish for or land swordfish with gear other than rod and reel in the Atlantic, Gulf of Mexico, and Caribbean, and is selected by the Center Director must—

(1) Advise the Center Director by telephone 10 days in advance of each trip of the following:

(i) Departure information (port, dock, date, and time), and

(ii) Expected landing information (port, dock, and date).

(c) Owners or operators of vessels of the United States who have been issued a permit under § 630.4 and are selected by the Center Director must maintain a daily fishing record on forms provided by the Center Director according to instructions. These forms must be submitted to the Center Director on a monthly basis. The following information must be included on the forms:

(1) Date of set;

(2) Vessel name and official number;

(3) Federal permit number;

(4) Set location (latitude and longitude);

(5) Miles of gear per set;

(6) Number of hooks per set;

(7) Number of hooks between floats;

(8) Number of lights or lightsticks per set;

(9) Length of gangions (leader) used;

(10) Length of drop lines from floats;

(11) Sea surface temperature;

(12) Number of fish retained (for each species listed on the form);

(13) Number of fish discarded (for each species listed on the form); and

(14) Signature of captain.

5. Section 630.21 is amended by adding text to paragraph (c), which had been *Reserved*, to read as follows:

§ 630.21 Seasonal closures.

* * * * *

(c) *Adjustments.* (1) The VSC will be reviewed annually to determine the need for adjustment to respond to new stock assessment data, to specific fishery practices, and to correct size composition of catch by month.

(2) On or about May 1 of each year the South Atlantic Council, after consultation with the other four Councils, will recommend to the Regional Director the modifications to the VSC to be implemented. If the Regional Director, after receiving the recommended modifications from the Council, concludes that such modifications are consistent with the objectives of the FMP, the Magnuson Act, and other applicable law, the Regional Director will recommend on or about May 15 of each year that the Secretary publish a preliminary notice of any modifications to the VSC in the Federal Register. The public may comment on the modifications for 15 days after the date of publication. After consideration of public comments the Secretary shall publish a final notice in the Federal Register of any changes in the modifications to the VSC.

[FR Doc. 86–12574 Filed 5–30–86; 4:57 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 51, No. 107
Wednesday, June 4, 1986

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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. 016CE, Notice No. 23-ACE-15]

Special Conditions; Fairchild Model SA227-AC Airplanes Incorporating Bendix EFS-10 Electronic Flight Instrument Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Special Conditions.

SUMMARY: This notice proposes special conditions for the Fairchild Aircraft Corporation Model SA227-AC airplanes incorporating a Bendix EFS-10 Electronic Flight Instrument System (EFIS). These airplanes will have novel and unusual design features when compared to the state of technology envisaged in the airworthiness standards of Part 23 of the Federal Aviation Regulations (FAR). These novel and unusual design features include the use of an electronic flight instrument system for which the applicable regulations do not contain adequate or appropriate airworthiness standards. This notice contains the additional airworthiness standards which the Administrator considers necessary to establish a level of safety equivalent to that provided by the airworthiness standards applicable to the Fairchild Aircraft Corporation Model SA227-AC airplanes.

DATE: Comments must be received on or before July 4, 1986.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE-7, Attention: Rules Docket Clerk, Docket No. 016CE, Room No. 1558, Federal Office Building, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 016CE. Comments may be inspected in the Rules Docket between 7:30 a.m. and 4:00 p.m., weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: David Warner, Aerospace Engineer, Regulations and Policy Office (ACE-110), Aircraft Certification Division, Central Region, Federal Aviation Administration, Room 1656, 601 East 12th Street, Federal Office Building, Kansas City, Missouri 64106; telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the promulgation of these special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking further rulemaking action on this proposal. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a pre-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 016CE." The postcard will be date stamped and returned to the commenter. The proposals contained in this notice may be changed in light of the comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Type Certification Basis

The type certification basis for the Fairchild Aircraft Corporation Model SA227-AC airplane is as follows: Part 23 of the Federal Aviation Regulations, effective February 1, 1965, as amended by Amendments 23-1 through 23-6; § 23.175(d) as amended by Amendment 23-14, effective December 20, 1973; Special Conditions outlined in FAA letters November 19, 1965, August 22, 1967, February 5, 1968, and April 4, 1968; Amendment B of SFAR No. 41, including paragraph 4(c) and the compartment interior requirements of § 25.853(a), (b), (b-1), (b-2), and (b-3) effective September 26, 1978; Part 36, Appendix F, effective December 1, 1969, as amended by Amendments 36-1 through 36-6; and the special conditions that may result from this proposal.

An "A" designation following the serial number signifies that the airplane is not eligible for SFAR 41 approval of weights greater than 12,500 pounds. Certification basis same as noted herein except omit SFAR 41 approval.

Background

On March 24, 1986, King Radio Corporation, 400 N. Rogers Road, Olathe, Kansas 66062, made application to the FAA for approval of installation of a Bendix EFS-10 Electronic Flight Instrument System (EFIS) on the Fairchild Aircraft Corporation Model SA227-AC airplanes. This installation incorporates an electronic attitude direction indicator (ADI) and an electronic horizontal situation indicator (HSI) in lieu of the traditional mechanical or electro-mechanical displays providing similar information to the flight crew.

Special conditions may be issued and amended, as necessary, as part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.101 do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane or installation. Special conditions, as appropriate, are issued in accordance with § 11.49, after public notice as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis, as provided by § 21.101(b)(2).

The proposed type design of the EFS-10 EFIS installation in the Fairchild Aircraft Corporation Model SA227-AC airplanes contains a number of novel or unusual design features not envisaged by the applicable airworthiness standards. Special conditions are considered necessary because the airworthiness standards of Part 23 do not contain adequate or appropriate safety standards for the novel or unusual design features of the EFS-10 EFIS installation in the Fairchild Aircraft Corporation Model SA227-AC airplanes.

King Radio Corporation has proposed cathode ray tube (CRT) electronic display units for primary attitude, heading and navigation cockpit displays. The cockpit instrument panel configuration would feature five EFIS

displays, an EADI and EHSI on the left and right instrument panels and a multifunction display in the center panel. All other displays; i.e. airspeed, altitude, vertical speed, etc., will be conventional instruments. An optional configuration would provide for an EADI and EHSI on the pilot's side, conventional instruments on the copilot's side, and a multi-function display in the center panel.

Emissive color on a CRT display will inevitably appear different than reflective colors on conventional electro-mechanical displays. Different intensities and color temperatures of ambient illumination will also affect the perceived colors. Therefore, display legibility mut be adequate for all cockpit lighting conditions including direct sunlight.

Features of this system are novel and unusual relative to the applicable airworthiness requirements. Current small airplane airworthiness requirements are based on "single fault" or "fail safe" concepts and, when promulgated, the FAA did not envision use of complex, safety-critical systems in small airplanes. The current small airplane requirements envisioned instruments that were single function; i.e., a failure would cause loss of only one instrument function, although several instrument functions may have been housed in a common case. Flight instruments for the pilot are required to be grouped in front of the pilot so deviation from looking forward along the airplane flight path is minimized when the pilot shifts from viewing the flight path to viewing the flight instruments.

For instrument flight, the airplane must be equipped with the minimum flight instruments listed in the operating rules. This minimum listing of instruments includes all instruments that have long been accepted as the minimum for continued safe flight after the failure of any *one* of the required instruments; i.e., airspeed, altitude, attitude, and turn and slip (needle and ball). Backup instruments for these instruments are not required by the small airplane airworthiness requirements because the FAA has long accepted that the small airplanes could be safely flown following a single instrument failure. The basic airman certification program for an IFR rating has long included the required demonstration of ability to fly the airplane safely following failure of any one of the previously cited instruments, and has not required as a basic IFR rating requirement that all IFR rated airmen must demonstrate abilities using other backup instruments.

A special condition is proposed which would allow installation of electronic displays that feature design characteristics where a single malfunction or failure could affect more than one primary instrument, display or system. The proposed special condition would also provide requirements to assure the reliability of system design functions that are determined to be essential for continued safe flight and landing of the airplane.

In installations where electronic displays take the place of traditional instruments, the reliability must not be less than that of the traditional instruments. This is in regard to the collective reliability of the traditional instruments rather than the reliability of a single traditional instrument. For this reason, the proposed special condition includes requirements for identifying complex, safety critical systems, and defines requirements needed for their certification.

The proposed special condition requires a detailed examination of each item of equipment/component of the electronic display system and the system installation to determine if the airplane is dependent upon its function for continued safe flight and landing, or if its failure would significantly reduce the capability of the airplane or the ability of the crew to cope with these adverse operating conditions. Each component of the installation identified by such an examination as being critical to the safe operation of the airplane would be required to meet the proposed special condition.

The proposed special condition also requires that components of system(s) whose function is required and that requires a power supply, be considered an "essential load" on the power supply. The power source(s) and its distribution system must be able to supply power to the electronic display system(s) as stated in the proposed special condition since the operational reliability of the electronic display system(s) is dependent on the airplane electrical source.

The present § 23.1309 has been used as a means of evaluating systems since being incorporated into Part 23 by Amendment 23–14, effective December 20, 1973. The "single fault" or "fail safe" concept of § 23.1309, along with experience based on service-proven designs and good engineering judgement have been used to successfully evaluate most airplane systems and equipment. However, the FAA is finding it difficult to apply the "single fault" concept as a means of determining the effect or likelihood of certain failure conditions to complex systems like those proposed for the EFS–10 EFIS installation. Therefore, the FAA considers it necessasry to include the proposed system analysis requirements in the certification based in lieu of including present § 23.1309. This will allow the use of the latest available "rational method" of safety analysis of the systems to assure a level of safety intended in the applicable requirements.

The development of rational methods for safety assessment of systems is based on the premise that an inverse relationship exists between the probability of a failure condition and its effect on the airplane. That is, the more serious the effect, the lower the probability must be that the related failure condition will occur.

Use of these rational methods for safety assessment of systems do not mandate use of numerical analysis. An applicant may use numerical analysis to assist in showing compliance, but, in many cases, adequate data is not available for preparing a stand-alone numerical analysis for showing compliance. Therefore, in small airplane certification, a rational analysis based on identification of failure modes and their consequences is frequently better substantiation of compliance with the various required levels of system reliability than a numerical analysis alone.

The availability of this "rational method" of safety analysis of systems, along with the difficulty in applying the existing "singly fault" or "fail safe" concept, has prompted the FAA to propose this special condition, because the Fairchild Aircraft Corporation Model SA227–AC airplanes incorporating the EFS–10 EFIS installation are proposed to have electronic displays where use of the single fault criterion is an unnecessary burden. The proposed special condition would require that a safety evaluation of the systems be made and specifies a level of safety in qualitative terms.

If it is determined that the airplane includes systems that perform more critical functions, it will be necesary to show that those systems meet more stringent requirements. Systems that perform a function that is needed for continued safety of flight and landing of the airplane, whose failure would be catastrophic, would be required to meet requirements that establish either that there will be no failures of that system, or that a failure is extremely improbable.

The special condition also requires that the occurrence of systems failures which would significantly reduce the airplane's capability, or the ability of the crew to cope with adverse operating conditions, and thereby be potentially catastrophic, be improbable. It is recognized that any system(s) failure will reduce the airplane's crew's capability by some degree, but that reduction may not be of the degree as to lead to potentially catastrophic results.

The proposed special condition provides reliability requirements which are based on the criticality of the system's function and will provide the standards needed for certification of complex safety-critical systems being proposed for installation in the Fairchild Aircraft Corporation Model SA227–AC airplanes.

The Fairchild Aircraft Corporation Model SA227–AC airplanes incorporating the EFS–10–EFIS installation may have both digital and analog instrumentation cues for the pilot. While a digital indication does show exact numbers, it may not provide adequate sensory cues to the pilot as to whether the numbers are increasing or decreasing, or a sense of how fast they are changing. A digital indication may not show the normal operating range or operational limits. Human factor authorities agree that such digital indications are not equivalent to an analog instrument which inherently provides usable sensory cues. Therefore, the proposed special condition includes requirements for sensory cues.

The FAA has considered the features proposed by King Radio Corporation for the EFS–10 installation in the Fairchild Aircraft Corporation Model SA227–AC airplanes and has concluded that, notwithstanding the existing requirements applicable to these airplanes which did not envision the use of such complex or critical systems, special conditions should be promulgated for the affected systems, in addition to the applicable requirements, that will provide the necessary level of safety. Accordingly, a special condition is proposed.

List of Subjects in 14 CFR Part 21

Aviation safety, Aircraft, Air transportation, Safety.

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958; as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.49.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration proposes the following special conditions as a part of the type certification basis for the Fairchild Aircraft Corporation Model SA227–AC airplanes when equipped with the Bendix EFS–10 Electronic Flight Instrument System:

1. In addition to the applicable airworthiness requirements, and requirements to the contrary, for instruments, systems, and installations whose design incorporates: Electronic displays that feature design characteristics where a single malfunction or failure could affect more than one primary instrument display or system; and/or system design functions that are determined to be essential for continued safe flight and landing of the airplane. The following special condition applies:

(a) Systems and associated components must be examined separately and in relation to other airplane systems to determine if the airplane is dependent upon its functions for continued safe flight and landing, and if its failure would significantly reduce the capability of the airplane or the ability of the crew to cope with adverse operating conditions. Each item of equipment, each system, and each installation identified by this examination, upon which the airplane is dependent for continued safe flight and landing, or whose failure would significantly reduce the capability of the airplane or the ability of the crew to cope with adverse operating conditions, must be designed and examined to comply with the following additional requirements:

(1) There must be no single failure or probable combination of failures under any anticipated operating condition which would prevent the continued safe flight and landing of the airplane or which would significantly reduce the capability of the airplane or the crew to cope with adverse operating conditions.

(2) Warning information must be provided to alert the crew to unsafe system operating conditions, and to enable them to take appropriate corrective action. This warning information must not tend to initiate crew action which would create additional hazards.

(3) Compliance with the requirements of this special condition must be shown by analysis and, where necessary, by appropriate ground, flight, or simulator tests. The analysis must consider:

(i) Modes of failure, including malfunctions and damage from foreseeable sources;

(ii) Consequence of a single failure or probable combination of failures (latent or undetected);

(iii) Appropriate levels of reliability as determined by the severity of consequence;

(iv) The resulting effects on the airplane and occupants, considering the stage of flight and operating conditions; and

(v) The crew warning cues, corrective action required, and the capability of detecting faults.

(4) If numerical analysis is used to support the engineering examination:

(i) The occurrence of any failure condition which would prevent the continued safe flight and landing of the airplane must be shown to be extremely improbable; and

(ii) The occurrence of any other failure condition which would significantly reduce the capability of the airplane or the ability of the crew to cope with adverse operating conditions must be shown to be improbable.

(b) Each item of equipment of each system, and each installation whose functioning is essential for safe operation and that requires a power supply is an "essential load" on the power supply. The power sources and its distribution system must be able to supply the following power loads in probable operating combinations and for probable durations:

(1) Loads connected to the power distribution system with the system functioning normally.

(2) Essential equipment of each system (loads) after failure of:

(i) Any one engine on the airplane, or

(ii) Any power converter, or energy storage device, or

(iii) Essential loads for which an alternate source of power is required by this special condition, after any failure or malfunction in any one power supply system, distribution system, or other utilization system.

(c) In determining compliance with paragraph (b)(2) of this special condition, the power loads may be assumed to be reduced or shed under a monitoring procedure consistent with safety.

(d) In showing compliance with this section with regard to the electrical power system and to equipment design and installation, critical environmental and atmospheric conditions must be considered. For electrical generation, distribution, and utilization equipment required by or used in complying with this special condition, the ability to provide continuous, safe service under foreseeable environmental and atmospheric conditions may be shown

by tests, design analysis, or reference to previous comparable service experience on other airplanes.

(e) Electronic display units, including those incorporating more than one function, may be installed in lieu of mechanical or electro-mechanical instruments if:

(1) The display units:

(i) Are easily legible under all lighting conditions encountered in the cockpit, including direct sunlight,

(ii) In any normal mode of operation do not inhibit the primary display of attitude,

(iii) Incorporate sensory cues for the pilot that are equivalent to those in the instrument being replaced by the electronic display units, and

(iv) Incorporate visual displays of instrument markings, required by §§ 23.1541 through 23.1553 or visual displays that alert the pilot to abnormal operational values, or approaches to unsafe values, of any parameter required to be displayed by Part 23/SFAR 41 requirements.

(2) The display units, including their systems and installations, must be designed so that one display of information essential to continued safe flight and landing will remain available to the pilot, without need for immediate action by any crew member for continued safe operation, after any single failure or probable combination of failures.

Issued in Kansas City, Missouri, on May 23, 1986.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86-12481 Filed 6-3-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-NM-114-AD]

Airworthiness Directives: Boeing Model 707/720 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes an amendment to an existing airworthiness directive (AD) applicable to Boeing Model 707/720 airplanes. The existing AD requires inspection and repair, as necessary, of Significant Structural Details (SSD) as described in the manufacturer's Supplemental Structural Inspection Document (SSID). Since the issuance of the AD, the manufacturer has revised the 707/720 Supplemental Structural Inspection Document to expand the sample size and revise certain inspection thresholds; this amendment would incorporate those revisions. This action is necessary to improve the information provided by the SSID program for identification and evaluation of unsafe conditions.

DATE: Comments must be received on or before July 28, 1986.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-114-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. The information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Carlton A. Holmes, Airframe Branch, ANM-120S; telephone (206) 431-2926. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-114-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. DISCUSSION: On May 20, 1985, the FAA issued Amendment 39-5073 (50 FR 26690), AD 85-12-01, which requires inspection and repair, as necessary, of Significant Structural Details (SSD) as specified in the manufacturer's Supplemental Structural Inspection Document (SSID) D6-44860, Revision L, dated May 31, 1983. Since the adoption of AD 85-12-01, the manufacturer has revised the 707/720 Supplemental Structural Inspection Document. This amendment would require inspections in accordance with the later revision.

The latest revision to the 707/720 Supplemental Structural Inspection Document incorporates modified inspection thresholds. Thresholds previously listed between 27,000 and 32,000 flight cycles have been lowered to 25,000 flight cycles. Thresholds previously listed between 17,000 and 25,000 flight cycles have been adjusted to 19,000 flight cycles. Previous thresholds below 17,000 flight cycles remained unchanged. In establishing the total number of airplanes to be inspected under its previous revision, the manufacturer utilized a statistical sample consisting of certain high time airplanes (Reference 707/720 SSID, D6-44860, Revision L, Section 1.30). This resulted in a total of over 200 airplanes to be monitored under the 707/720 SSID program. However, since that time, the number of high time airplanes available for inspection has declined considerably. This has resulted in an inadequate fleet sample of airplanes by which critical structural details may be monitored.

In addition, there have been two editorial changes to the SSID:

First, all Significant Structural Details (SSD) have been consolidated into one of two categories. These categories include Fleet Sampling Details for non-service bulletin related items, and Known Fatigue Problem Details for items addressed by service bulletin or AD. The Fleet Sampling Details apply to all Model 707/720 airplanes exceeding the given SSD threshold. Previously, these SSD's applied only to a selected number of airplanes with a high number of flight cycles within each model series. The Known Fatigue Problem Details apply to aircraft as specified in the applicable service bulletin or AD.

Secondly, the SSID has been revised so that each SSD lists all the affected models on one page. Previously, the document had been organized into separate sections for each model. As a result of this change, the bulk volume of

the SSID has been reduced considerably.

AD 85-12-01, which became effective on May 20, 1985, requires all affected operators to incorporate revisions to their FAA-approved maintenance programs to require accomplishment of the inspections as specified in the SSID. Furthermore, AD 85-12-01 requires that airplanes which are approaching or have already exceeded an SSD threshold be inspected within one year after the effective date, or upon reaching the threshold, whichever occurs later. Although this amendment would adjust some thresholds, these adjustments do not justify an additional one-year extension of the compliance times. Therefore, the compliance time for incorporating the proposed revisions is proposed to be 180 days. This amendment would require that airplanes which are near or beyond an SSD threshold be inspected within 180 days after the effective date of this amendment, or upon reaching the threshold, whichever is later.

The amendment, if adopted, would incorporate the aforementioned editorial changes and would provide an increased fleet sample of high time airplanes by which Significant Structural Details (SSD) may be monitored.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0056.

It is estimated that 18 airplanes of U.S. registry and 9 U.S. operators would be affected by this AD, and that approximately 100 manhours would be required to incorporate these revisions into a typical operator's maintenance program. Based on an average labor cost of $40 per hour, the cost to U.S. operators for implementation of this amendment is estimated to be $36,000.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 707/720 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By amending Airworthiness Directive 85-12-01, Amendment 39-5073 (50 FR 26690; May 20, 1985), by revising paragraphs A., B., and C. to read as follows:

A. Within 180 days after the effective date of the amendment, incorporate a revision into the FAA-approved maintenance inspection program which requires accomplishment of the inspection and repairs, as necessary, of each Significant Structural Detail (SSD) as listed in Boeing Document D6-44860, Supplemental Structural Inspection Document (SSID), Revision M, or later FAA-approved revision. The revision to the maintenance program must include procedures to notify the manufacturer when SSD's are found cracked. The inspection thresholds, repetitive inspection intervals, inspection techniques, and terminating action for each SSD are listed in the SSID. Incorporate this revision to the maintenance program in accordance with paragraphs B., C., and D., below.

B. The increase of inspection intervals in accordance with Section 5.2 of Boeing Document D6-44860, Revision M, is not permitted, except as provided in paragraphs F. and G., below.

C. Inspect each Significant Structural Detail (SSD) which has exceeded the initial threshold specified in Boeing Document D6-44860, Revision M, within 180 days after the effective date of this amendment. Significant Structural Details which are below the inspection thresholds specified in Boeing Document D6-44860, Revision M, must have an initial inspection within 180 days after the effective date of this amendment or prior to reaching the threshold, whichever is later. Accomplish these inspections in accordance with Boeing Document D6-44860, Revision M, or later FAA-approved revisions.

All persons affected by this proposal who have not already received the appropriate documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on May 28, 1986.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-12478 Filed 6-3-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-NM-135-AD]

Airworthiness Directives: British Aerospace Model BAe 125-800A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD), applicable to certain Model BAe 125-800A Series airplanes, that would require the inspection of certain wire bundles and replacement, if necessary, if the insulation has been damaged. It also would require the installation of an improved protection for the cables to prevent further damage. This action is necessary to prevent fires which could result from shorted wires.

DATE: Comments must be received on or before July 28, 1986.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 85-NM-135-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-2909. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 85-NM-135-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The United Kingdom Civil Aviation Authority (CAA) has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of an unsafe condition which may exist on certain BAe Model 125-800A series airplanes. Certain wiring in the cockpit area has been found to be subject to chafing on surrounding structure. This condition, if not corrected, could lead to fires resulting from shorted wires. British Aerospace issued BAe Service Bulletin 24-250-(3017D), dated April 8, 1985, which describes inspection, modification, and repair procedures of the affected electrical cables to prevent this condition from occurring. the CAA has classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require compliance with the previously mentioned service bulletin.

It is estimated that 18 airplanes of U.S. registry would be affected by this AD, that it would take approximately 6 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $4,320.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($240). A final evaluation has been prepared for this regulation and placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

PART 39—[AMENDED]

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

British Aerospace: Applies to Model BAe 125-800 series airplanes, serial numbers as cited in BAe Service Bulletin 24-250-(3017D), dated April 8, 1985, certificated in any category. Compliance is required within 90 days after the effective date of this AD. To prevent a potential fire hazard associated with chafing of electrical wiring, accomplish the following, unless previously accomplished:

1. Inspect and replace as necessary, the affected electrical cables and install the protective treatment to adjacent structures in accordance with BAe Service Bulletin 24-250-(3017D), dated April 8, 1985.

2. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

3. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this proposed directive, who have not already received the applicable service document from the manufacturer, may obtain copies upon request to British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC 20041. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on May 28, 1986.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-12474 Filed 6-3-86; 8:45am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-NM-134-AD]

Airworthiness Directives: British Aerospace Model BAe 125-800A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require modification of the grounding connections of both AC and DC electrical circuits on certain BAe Model 125-800A series airplanes. This action is prompted by the manufacturer's analysis, which concluded that it is necessary to have dedicated ground terminals for both the AC and DC circuits to prevent power superposition and partial electrical system loss in the event of a grounding failure.

DATE: Comments must be received on or before July 28, 1986.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 85-NM-134-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, D.C.

20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM–113; telephone (206) 431–2188. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM–103), Attention: Airworthiness Rules Docket No. 85–NM–134–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

The United Kingdom Civil Aviation Authority (CAA) has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of an unsafe condition which may exist on certain BAe Model 125–800A airplanes. The manufacturer has determined that dedicated ground terminals are required for certain AC and DC electrical circuits in the signal summing system to prevent partial electrical system loss in the event of a ground failure. British Aerospace issued BAe Service Bulletin 24–251–(3014A), dated April 8, 1985, which describes a modification of the ground connections which will prevent this condition from occurring. The CAA has classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require compliance with the previously mentioned service bulletin.

It is estimated that 15 airplanes of U.S. registry would be affected by this AD, that it would take approximately 10 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $6,000.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; Febraury 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($400). A final evaluation has been prepared for this regulation and placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised) Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

British Aerospace: Applies to BAe Model 125–800A airplanes, serial numbers as cited in BAe Service Bulletin 24–251–(3014A), dated April 8, 1985, certificated in any category. Compliance is required within 60 days after the effective date of this AD, unless previously accomplished. To provide dedicated AC and DC ground terminals, accomplish the following:

1. Modify electrical wiring in accordance with BAe Service Bulletin 24–251–(3014A), dated April 8, 1985.

2. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Northwest Mountain Region.

3. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this proposed directive who have not already received the appropriate service bulletin from the manufacturer may obtain copies upon request to British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, D.C. 20041. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on May 28, 1986.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–12475 Filed 6–3–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 85–NM–132–AD]

Airworthiness Directives: British Aerospace Model BAe–146 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require an inspection and repair, if necessary, of the main landing gear main fittings on certain BAe Model 146 series airplanes. This action is prompted by reports of surface defects which, if not repaired, could lead to failure of the fittings.

DATE: Comments must be received on or before July 28, 1986.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 85-NM-132-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-2909. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 85-NM-132-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The United Kingdom Civil Aviation Authority (CAA) has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of an unsafe condition which may exist on certain BAe Model 146 series airplanes. As a result of a failure during testing conducted by the manufacturer, indications of possible forging defects were discovered in the landing gear main fitting. Similar defects have been discovered in other fittings subsequently examined. This condition, if uncorrected, could lead to landing gear failure. To detect any fitting flaws, and to make the necessary repairs, the CAA has mandated inspection and repair, if necessary, of these fittings in accordance with BAe Service Bulletin 32-18, Revision 1, dated November 28, 1984.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require compliance with the previously mentioned service bulletin.

It is estimated that 10 airplanes of U.S. registry would be affected by this AD, that it would take approximately 3 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $1,200.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($120). A final evaluation has been prepared for this regulation and placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

PART 39—[AMENDED]

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

British Aerospace: Applies to Model BAe-146 series airplanes, with serial numbers as noted in BAe Service Bulletin 32-18, Revision 1, dated November 28, 1984, certificated in any category. Compliance is required within 60 days after the effective date of this AD. To prevent structural failure of the main landing gear, accomplish the following, unless previously accomplished:

1. Inspect and repair, if necessary, the main landing gear main fittings in accordance with BAe Service Bulletion 32-18, Revision 1, dated November 28, 1984.

2. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

3. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this proposed directive, who have not already received the appropriate service document from the manufacturer, may obtain copies upon request to British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC 20041. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on May 28, 1986.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-12477 Filed 6-3-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-NM-109-AD]

Airworthiness Directives: Gates Learjet Models 35, 36, 35A, 36A, and 55

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new Airworthness Directive (AD)

applicable to Gates Learjet Model 35, 35A, 36, 36A, and 55 airplanes, equipped with certain J.E.T. autopilot/flight director systems. This proposed AD is needed to prevent possible lateral navigational errors during enroute and approach operations. This Ad would add a limitation to the Airplane Flight Manual Supplement (AFMS) that prohibits the use of the applicable J.E.T. flight director system for certain VOR/TACAN operations, and where appropriate, would modify or add a limitation to the AFMS relative to the use of wing flaps on autopilot-coupled VOR/TACAN approaches.

DATE: Comments must be received on or before July 28, 1986.

ADDRESSES: Mail comments on the proposal in duplicate to the Federal Aviation Adminstration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-109-Ad, 17900 Pacific Highway South, C68966, Seattle, Washington 98168. The applicable Temporary Airplane Flight Manual Supplement Changes may be obtained from Gates Learjet Corporation, P.O. Box 7707, Wichita, Kansas 67277, or may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or FAA, Central Region, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209.

FOR FURTHER INFORMATION CONTACT: Robert R. Jackson, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, Central Region, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas, 67209; telephone (316) 946-4419.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or agruments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-109-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168.

Discussion

Flight test investigations by the Gates Learjet Corporation have revealed that the J.E.T. FC-530, FC-535, and FC-550 flight director (FD) systems may provide lateral steering command errors during Very High Frequency Omni Range/Ultra-High Frequency Tactical Air Navigational (VOR/TACAN) operations, if the airplane, after the flight detector initially captures the navigation TRACK mode, deviates more than ⅔-dot Horizontal Situation Indicator (HSI) course deviation off the selected course, due to pilot inattention or for any other reason. A ⅔ dot course deviation sensing circuit, in combination with reduced flight director gains utilized during VOT/TACAN operations, results in more flight director steering authority being given to the actual selected course than to the course deviation. The pilot is presented a steering command that tends to parallel the selected course rather than providing a steering command back to the selected course. It should be noted that the problem is confined only to the flight director steering commands when not coupled to the autopilot. Autopilot-coupled operations and raw data displays are not affected.

Although the FAA has not received any official reports of flight director steering problems during VOT/TACAN operations, the airplane manufacturer requested and the FAA has approved an Airplane Flight Manual Supplement (AFMS) change which would prohibit the use of the flight director during all VOT/TACAN enroute and approach operations.

Since the FAA has determined that the unsafe condition described herein is likely to exist in other airplanes of the same type design, this proposed regulation would require a change to the AFMS to prohibit the use of the J.E.T. flight director systems for VOR/TACAN enroute and approach operations.

In addition, where appropriate, a limitation would be modified, or added, to clarify the use of wing flaps during autopilot-coupled approaches. It has always been an operational requirement on the affected autopilot/FD installations that the airplane wing flaps be lowered to 8° or greater during VOR/TACAN approaches, since an electronic autopilot/FD gain change is accomplished during flap extension. On the FC-530 and FC-535 installations, the requirement for flap extension would be included as a system limitation, and this proposal would simply modify the limitation to remove any reference to FD-coupled approaches. On the FC-550 installation, the reference to wing flap extension was previously included as a procedural step only, and not a limitation. However, it has been determined that flap extension should be a limitation and to make the FC-550 limitations consistent with the FC-530 and FC-535 installation, a limitation would be added to require that wing flaps be extended 8° or beyond when conducting autopilot-coupled VOR/TACAN approaches.

The FAA has determined that this proposed regulation only involves the insertion of the Temporary Flight Manual (TFM) Supplement Changes in the Limitations Section of the appropriate Flight Manual Supplement on approximately 230 airplanes. Compliance would involve only a nominal monetary cost to operators.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft.

PART 39—[AMENDED]

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

Gates Learjet Corporation: Applies to Model 35, 35A, 36, 36A airplanes equipped with a J.E.T. FC-530 autopilot/flight director; Model 35A, 36A airplanes equipped with a J.E.T. FC-535 autopilot/flight director; and Model airplanes equipped with a J.E.T. FC-550 autopilot/flight director; certificated in any category. Compliance required as indicated, unless already accomplished.

To prevent operations with unsafe flight director steering commands, accomplish the following:

A. For the Model 35, 36A, 36, 36A airplanes equipped with J.E.T. FC-530 autopilot/flight director, within the next 10 hours time-in-service after the effective date of this AD, insert the following information in Section I—Limitations of the Gates Learjet 35/36 series AFMS for the J.E.T. FC-530 Autopilot/Flight Director, AFMS W1029, dated 4/23/85 and revised 3/11/86 (or Gates Learjet 35A, 36A J.E.T. FC 530 autopilot/flight director, AFMS W1029, dated 9/20/82, revised 5/13/83):

1. Add the following limitation and Note:

Flight director VOR enroute and approach operations are prohibited.

Note.—Autopilot coupled VOR operations and raw data displays are not affected and may be used.

2. Change the final limitation to read as follows:

For autopilot VOR approach, the flaps must be lowered to 8° or more.

B. For Model 35A, 36A airplanes equipped with J.E.T. FC-535 autopilot/flight director, within the next 10 hours time-in-service after the effective date of this AD, insert the following information in Section I—Limitations of the Gates Learjet Model 35A/36A AFMS for the J.E.T. FC-535 autopilot/flight director, AFMS T1204, dated 3/16/84 and revised 4/4/84:

1. Add the following limitation and Note:

Flight director VOR/TACAN enroute and approach operations are prohibited.

Note.—Autopilot coupled VOR/TACAN operations and raw data displays are not affected and may be used.

2. Change the final limitation to read as follows:

For autopilot VOR/TACAN approach, the flaps must be lowered to 8° or more.

C. For Model 55 airplanes equipped with J.E.T. FC-550 autopilot/flight director, airplanes S/N 55-003 through 55-042, not incorporating ECR 2524, ECR 2525, or AAK 55-83-1, within the next 10 hours time-in-service after the effective date of this AD, insert the following information in Section I—Limitations of the Gates Learjet Model 55 AFMS for the J.E.T. FC-550 autopilot/flight director, AFMS W1001, dated 4/14/81 and revised 8/31/81:

1. Add the following limitation and Note:

Flight director VOR enroute operations are prohibited.

Note.—Autopilot coupled VOR enroute operations and raw data displays are not affected and may be used.

D. For Model 55 airplanes equipped with J.E.T. FC-550 autopilot/flight director, airplanes S/N 55-003 through 55-042 incorporating ECR 2524, ECR 2525 or AAK 55-83-1, and airplanes 55 S/N 55-043 and subsequent, within the next 10 hours time-in-service after the effective date of this AD, insert the following information in Section I—Limitations of the appropriate Gates Learjet Model 55 AFMS for the J.E.T. FC-550 autopilot/flight director: AFMS W1002, dated 8/25/81 (for airplanes incorporating ECR 2524), or AFMS W1003 dated 8/31/81 and revised 2/15/83 (for airplanes incorporating ECR 2524 and ECR 2525 or AAK 55-83-1, and 55-043 and subsequent):

1. Add the following limitation and note:

Flight director VOR enroute and approach operations are prohibited.

Note.—Autopilot coupled VOR operations and raw data displays are not affected and may be used.

2. Add the following limitation:

For autopilot VOR approach, the flaps must be lowered to 8° or more.

E. In order to comply with the applicable requirements of paragraph A., B., C., or D., above, a copy of this AD may be used as a temporary amendment to the AFMS and carried in the airplane as part of the AFMS until replaced by the appropriate FAA Approved Gates Learjet published Temporary Flight Manual (TFM) Supplement Change. These include:

1. TFM Supplement Change to AFMS W1029 for the Model 35/36 series with J.E.T. FC-530 autopilot/flight director: TFM 86-1, dated 4/1/86.

2. TFM Supplement Change to AFMS T1204 for the Model 35A/36A with J.E.T. FC-535 autopilot/flight director: TFM 86-2, dated 4/1/86.

3. TFM Supplement Change to W1001 for the Model 55 with J.E.T. FC-550 autopilot/flight director: TFM 86-3, dated 4/1/86.

4. TFM Supplement Change to AFMS W1002 and AFMS W1003 for the Model 55 with J.E.T. FC-550 autopilot/flight director: TFM 86-4, dated 4/1/86.

F. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Wichita Aircraft Certification Office, FAA, Central Region, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209.

All persons affected by this proposal who have not already received the appropriate Temporary Airplane Flight Manual Supplement Changes from the manufacturer may obtain copies upon request to Gates Learjet Corporation, P.O. Box 7007, Wichita, Kansas 67277. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or FAA, Central Region, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid Continent Airport, Wichita, Kansas.

Issued in Seattle, Washington, on May 28, 1986.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-12473 Filed 6-3-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 314

[Docket No. 86N-0077]

New Drugs for Human Use: Proposed Clarification of Requirements for Application Supplements

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to clarify the scope of certain reporting obligations imposed on holders of approved applications to market new drugs for human use. Specifically, the proposal would clarify the scope of a recently adopted final regulation that permits an applicant to make certain changes in an approved application without requiring a supplemental application if the changes are made to comply with an official compendium. The proposal is intended to end confusion about the scope of that specific provision.

DATE: Comments by August 4, 1986.

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

FOR FURTHER INFORMATION CONTACT: Steven H. Unger, Center for Drugs and Biologics (HFN-362), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8049.

SUPPLEMENTARY INFORMATION:

Introduction

In the **Federal Register** of February 22, 1985 (50 FR 7452), FDA revised the regulations governing the review and approval of marketing applications for new drugs (21 CFR Part 314). Questions have been raised about a provision in the new drug regulations (§ 314.70(d)(1)) that permits a drug firm to make "any change to comply with an official compendium" without the filing of a supplemental application for the change, provided it is described in the next required annual report. FDA is now proposing to amend the regulation to

clarify the scope and applicability of that provision.

Under section 505(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(a)), a new drug may not be introduced or delivered for introduction into interstate commerce in the United States unless FDA has made effective the approval of a marketing application for it. FDA approves a marketing application only if the sponsor of the application shows that the drug is safe and effective for the conditions prescribed, recommended, or suggested in the product's labeling. The marketing application is required to contain, among other data and information, detailed information about the composition of the drug, the method of its manufacture, and copies of the labeling for the product. In general, a manufacturer who wants to change the conditions under which the drug was approved for marketing must first inform FDA of the proposed change and, in some cases, await FDA approval before making the change. However, some changes do not require that prior notification be given to FDA. Specifically, under the revised regulations, changes are divided into three classes: (1) Changes that require an approved supplemental application before the change can be made (§ 314.70(b)); (2) changes that require that a supplement be submitted before a change is made but do not require approval before the change is made (§ 314.70(c)); and (3) changes that may be made without a supplemental application provided the change is described in the next annual report (§ 314.70(d)).

The regulations enumerate the changes that are required to be submitted in supplemental applications under § 314.70(b) or (c). If not listed in either of these two paragraphs, a change in the conditions of approval of the product may be implemented without a supplemental application provided the description of the change is contained in the next required annual report.

To illustrate the scope of § 314.70(d), the section gives a few examples of changes that may be made without a supplemental application provided the change is described in the next annual report. Among the types of changes described is "Any change made to comply with an official compendium" (§ 314.70(d)(1)). Confusion has arisen in interpreting the meaning of this phrase. The phrase has been read by some drug companies to include not only those changes specifically described in an official compendium, but also other changes that, although not described in the compendium, are, arguably, "made necessary" by the change that was described. Thus, for example, one drug company read the phrase as allowing it to reformulate a product on the basis that the official compendium had adopted a dissolution testing requirement for the product. Because the approved formulation of the product could not meet the newly adopted dissolution testing requirement, the company claimed that a change in formulation was "made necessary" by the compendial change even though the formulation itself was not described in the compendium. FDA advises that this view of the provision misreads its intended purpose: the provision is intended to be confined to changes specifically described in the compendium. Changes that as a practical matter are made necessary by compendial change, but that are not expressly adopted in the compendium, may not be made under the provisions of § 314.70(d). Such changes, if they are of the type that require a supplemental application under § 314.70 (b) or (c), can be made only in accordance with the specific provision that applies.

Therefore, in the example cited, because the reformulation of the drug product was not itself described in the official compendium, the reformulation could only be implemented under a supplemental application approved under § 314.70(b)(2)(i), which requires a supplement to add or delete an ingredient, or otherwise to change the composition of the drug product.

The agency's view of the scope of the provision in § 314.70(d) is supported by a consideration of the process that governs the adoption of revisions in the official compendium—*The United States Pharmacopeia—The National Formulary*. Underlying FDA's willingness to forgo supplemental applications for changes made to comply with an official compendium is the close cooperation between FDA and the United States Pharmacopeial Convention (USPC) in the development of compendial standards, including cooperation in the review of data and information supporting proposed changes in standards. This relationship ensures that proposed compendial changes will be brought to FDA's attention before they are incorporated into a compendial standard. It should be emphasized that agency review of proposed compendial changes under this process is limited to review of the particular revision being considered by the USPC.

To ensure that agency policy with respect to compendial changes is clearly understood, FDA proposes to revise § 314.70(d)(1) to clarify its intended scope. As proposed, the section would be revised to allow the holder of an approved application to adopt, without the filing of a supplemental application, "any test, method, labeling statement, or specification * * * to comply with the adoption of that same test, method, labeling statement, or specification in an official compendium." As now, the regulation would require that the change be reported in the next required annual report.

FDA expects that in some situations a manufacturer may be unsure whether a planned change in the conditions of approval is, in fact, a change made to comply with an official compendium under § 314.70(d). In such situations, FDA strongly encourages the manufacturer to discuss the matter with the appropriate reviewing officials in the division in the Center for Drugs and Biologics with responsibility for review and approval of the product in question.

Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Economic Impact

FDA has carefully analyzed the regulatory impact of the proposed rule in accordance with Executive Order 12291 and the Regulatory Flexibility Act (Pub. L. 96–354). The proposed rule would clarify a provision allowing a drug firm holding an approved marketing application for a new drug to comply with new standards adopted in an official compendium without requiring the firm to file a supplemental application for the change. Therefore, the agency has determined that the proposed rule is not a major rule as defined in Executive Order 12291. Further, FDA certifies that the proposed rule, if adopted, will not have a significant impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act.

Request for Comments

Interested persons may, on or before August 4, 1986, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy.

Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 314

Administrative practice and procedure, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act, it is proposed that Part 314 be amended as follows:

PART 314—APPLICATIONS FOR FDA APPROVAL TO MARKET A NEW DRUG OR AN ANTIBIOTIC DRUG

1. The authority citation for 21 CFR Part 314 continues to read as follows:

Authority: Secs. 501, 502, 503, 505, 506, 507, 701, 51 Stat. 1049–1053 as amended, 1055–1056 as amended, 55 Stat. 851, 59 Stat. 463 as amended (21 U.S.C. 351, 352, 353, 355, 356, 357, 371); 21 CFR 5.10, 5.11.

2. In § 314.70 by revising paragraph (d)(1) to read as follows:

§ 314.70 Supplements and other changes to an approved application.

* * * * *

(d)* * *

(1) The adoption of a test, method, labeling statement, or specification to comply with the adoption of that same test, method, labeling statement, or specification in an official compendium.

* * * * *

Dated: April 26, 1986.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 86-12489 Filed 6-3-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Parts 510 and 570

[Docket No. R-86-1286; FR-2151]

Section 312 Rehabilitation Loan Program and Urban Development Action Grant Program; Relocation Requirements

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Proposed rule.

SUMMARY: The Department proposes to revise its relocation requirements for those displaced by rehabilitation activities under the Section 312 Rehabilitation Loan Program and the Urban Development Action Grant Program. These amendments would provide greater consistency in the treatment of persons who are displaced by HUD-assisted community development projects that are not subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

COMMENT DUE DATE: Comments must be in writing and must be received on or before July 21, 1986.

ADDRESS: Comments should be sent to the Office of General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection and copying during regular business hours at this address. Comments on the information collection requirement contained in this rule (which should include a reference to the docket number and title) should be submitted both to the HUD Rules Docket Clerk at the above address and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: HUD Desk Officer.

FUR FURTHER INFORMATION CONTACT: Melvin Geffner, Deputy Director; Roland Brown, Georgian Carter, or Alvin West, Relocation and Real Estate Division, Room 7174, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–7000. Telephone (202) 755–6336. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

1. Section 312 Rehabilitation Loan Program

Most displacement under the Section 312 Rehabilitation Loan Program is not subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) because it does not involve the acquisition of real property by a "State agency." However, the current relocation provisions at 24 CFR 510.52 (effective May 12, 1980) require that tenants displaced by non-Uniform Act Section 312 activities be provided relocation assistance at levels similar to those provided under HUD Uniform Act regulations at 24 CFR Part 42, as modified by § 510.52. On February 27, 1986 (51 FR 7000), the Department issued a comprehensive revision of its Uniform Act regulations as part of a common final rule issued with 16 other Federal agencies. Because of the scope and applicability of that rulemaking, however, the displacement of tenants by non-Uniform Act Section 312 activities continues to be governed by the procedures in old 24 CFR Part 42. Thus, until the current Section 312 relocation requirements are changed, local agencies administering both a Section 312 program and other HUD-assisted community development programs will be required to follow two different HUD Uniform Act regulations—the old Part 42 and the new Part 42.

The Department is proposing to adopt relocation requirements for non-Uniform Act Section 312 Program activities that are similar to those it plans to adopt to implement Section 104(j) of the Housing and Community Development Act of 1974. Section 104(j) requires that "reasonable relocation benefits" be provided to persons displaced by rehabilitation or non-Uniform Act acquisition under the Community Development Block Grant (CDBG) Program or Urban Development Action Grant (UDAG) Program.

The proposed changes would simplify current requirements and make them more consistent with relocation requirements under other HUD-assisted activities not subject to the Uniform Act.

The proposed rule would expand a locality's flexibility in determining tenant eligibility requirements for relocation assistance and the amount of assistance to be provided. Consistent with certain minimums set forth in the rule, the locality would develop, adopt and make public the standards it will follow.

At a minimum, all residential and nonresidential tenants permanently displaced as a direct result of the rehabilitation project would be reimbursed for their reasonable moving expenses. A locality could (but would not be required to) continue to provide tenants the option of choosing a "fixed payment" in lieu of a payment for their actual reasonable moving expenses.

All displaced residential tenants would be eligible for rental assistance payments to obtain suitable, decent, safe and sanitary housing for at least a two-year period. Payments under the current rule are based on housing needs for a four-year period. The Department believes the reduced standard is consistent with Congressional intent in enacting the "reasonable relocation benefits" criterion, rather than extending Uniform Act coverage to displacement resulting from rehabilitation.

A locality may determine that a residential tenant will not be considered permanently displaced from his or her dwelling if the tenant has been offered a

decent, safe, and sanitary dwelling unit in the rehabilitated property at a monthly cost for rent and utilities that does not exceed the greater of (1) the tenant's cost for rent and utilities at the time of the submission of the Section 312 preapplication (or application, if there is no preapplication); or (2) 30 percent of the household's gross income. If temporary relocation to another dwelling unit is required, the tenant would be reimbursed for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation (including any moving costs and any increase in the monthly cost for rent and utilities).

2. Urban Development Action Grant Program

This rule proposed changes to § 570.457, the Urban Development Action Grant (UDAG) Program's requirements on relocation assistance. Paragraph (a) of this section makes it clear that the acquisition of real property by a "State agency" under the UDAG program and displacement resulting from such acquisition are subject to the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act). Rather than repeat standards contained in other regulations, paragraph (b) refers the user to § 570.606(a) and 24 CFR Part 42 for specific instructions on implementation of the Uniform Act.

Paragraph (c) of § 570.457 sets forth relocation requirements governing non-Uniform Act displacements subject to the provisions of Section 104(j) of the Housing and Community Development Act of 1974 (the Act). Section 104(j) requires that reasonable relocation benefits be provided to any family, individual, business, nonprofit organization or farm "involuntarily and permanently displaced as a result of the use of assistance" under the CDBG or UDAG programs to acquire or substantially rehabilitate property. Because the statute covers displacement brought about as a result of the "use of assistance", the displacement-causing acquisition or rehabilitation activities of private developers are subject to the law and these implementing regulations.

The proposed changes would improve consistency in relocation requirements under HUD-assisted community development programs not subject to the Uniform Act. Like the proposed Section 312 relocation requirements described above, the proposed rule would expand the flexibility of the grantee to determine eligibility requirements for tenants displaced from a dwelling and also the amount of assistance to be provided. Consistent with certain minimums set forth in the rule, the grantee would develop, adopt and make public the standards it would follow.

At a minimum, all persons permanently displaced as a direct result of non-Uniform Act acquisition or rehabilitation would be reimbursed for their reasonable moving expenses. All persons displaced from a dwelling unit would be eligible for financial assistance sufficient to rent suitable, decent, safe and sanitary housing for at least two years. Under the present rule assistance must reflect four-year housing needs. The Department believes the reduced standard is consistent with Congressional intent in enacting the "reasonable relocation benefits" criterion, rather than extending Uniform Act coverage to displacements resulting from rehabilitation.

A grantee may determine that a tenant has not been permanently displaced from his or her dwelling if the tenant has been offered a decent, safe, and sanitary dwelling unit in the rehabilitated property at a monthly cost for rent and utilities that does not exceed the greater of (1) the tenant's cost for rent and utilities at the time of the preliminary funding approval for UDAG assistance or (2) 30 percent of the household's gross income. If temporary relocation to another dwelling unit is required, the tenant must be reimbursed for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including any moving costs and any increase in the monthly cost for rent and utilities.

The Department also is proposing to revise §570.458(c)(14)(ix)(I) to conform the required certification of compliance with applicable relocation and acquisition requirements to the proposed changes in §570.457 described above.

3. Other Matters

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20410–0500.

Executive Order 12291

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

Regulatory Flexibility Act of 1980

Under the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned certifies that this rule would not have a significant economic impact on a substantial number of small entities, because it does not affect the amount of funds provided under the Urban Development Action Grant Program or Section 312 Rehabilitation Loan Program, but rather eliminates unnecessary, administrative relocation requirements by making revisions to the rule consistent with recently enacted legislation.

HUD Semiannual Agenda

This proposed rule was listed as item 910 in the Department's Semiannal Agenda of Regulations, published on April 21, 1986 (51 FR 14036, 14067) under Executive Order 12291 and the Regulatory Flexibility Act.

Paperwork Reduction Act

The information collection requirements contained in this rule were submitted to the Office of Management and Budget for approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). All requirements have been approved and have been assigned OMB control number 2506–0084.

Catalog of Federal Domestic Assistance

The applicable Catalog numbers are 14.220 for the Section 312 Rehabilitation Loan Program and 14.221 for the Urban Development Action Grant Program.

List of Subjects

24 CFR Part 510

Loan programs: housing and community development, Housing, Relocation assistance, Home improvement, Rehabilitation, Urban renewal

24 CFR Part 570

Community development block grants, Grant programs: housing and community

development, Loan programs: housing and community development, Low and moderate income housing, New communities, Pockets of poverty, Small cities.

Accordingly, it is proposed that 24 CFR Chapter V be amended as follows:

PART 510—SECTION 312 REHABILITATION LOAN PROGRAM

1. The authority citation for Part 510 is proposed to continue to read as follows:

Authority: Section 312 of the United States Housing Act of 1964 (42 U.S.C. 1452b) and sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Section 510.52 is proposed to be revised to read as follows:

§ 510.52 Relocation/Displacement.

(a) *Responsibility of locality.* (1) The locality shall administer its Section 312 Rehabilitation Loan Program in a manner that minimizes any potential or actual involuntary displacement of tenants. Wherever it offers the potential of minimizing displacement, the locality shall require the owner to consider the feasibility of carrying out the rehabilitation in stages.

(2) The locality is responsible for ensuring compliance with the requirements of this section. To pay the cost of the assistance required, the locality may use local public funds or Community Development Block Grant funds. The locality also may secure a commitment from any participating party in the program to provide all or part of the necessary funds. (To use Block Grant funds, the locality shall adopt a written policy in accordance with § 570.606(b) of this chapter.)

(3) If a locality determines that a residential tenant will not be displaced, it shall ensure that the terms and conditions of the tenant's continued occupancy are consistent with the locality's standards, are not more restrictive than those customary in the jurisdiction, and are set forth in a lease which is offered to the tenant.

(4) The locality shall maintain records in sufficient detail to demonstrate compliance with the requirements of this section.

(b) *Applicability of Uniform Act.* The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) and HUD implementing regulations at 24 CFR Part 42 apply to the displacement of any person (family, individual, business, nonprofit organization or farm) as a direct result of the acquisition of real property by a "State agency" (defined in section 101 of the Uniform Act, 42 U.S.C. 4601) for a federally assisted project, including a project where the Federal assistance is a Section 312 Rehabilitation Loan.

(c) *Non-Uniform Act Displacement.* Projects not subject to the Uniform Act are subject to this paragraph (c). The locality shall provide reasonable relocation assistance to any residential or nonresidential tenant displaced as a direct result of an approved Section 312 Rehabilitation Loan activity. (The term "tenant" includes any family, individual, business, nonprofit organization or farm that is a renter.) The locality shall develop, adopt and make public the standards it will use for providing the relocation assistance, consistent with the following minimum requirements:

(1) A residential tenant who moves will be considered displaced from his or her dwelling if (i) The tenant has not been offered a decent, safe and sanitary dwelling unit on the real property at a cost for rent and estimated utility charges that does not exceed the greater of (A) the tenent's cost for rent and utilities at the time of the submission of the preapplication (or the application, if there is no preapplication) to the HUD Office or (B) 30 percent of the tenant household's gross income; or (ii) Temporary relocation is required and the tenant is not reimbursed for all reasonable out-of-pocket expenses incurred in connection with the termporary relocation.

(2) Eligibility criteria must cover (i) Any tenant legally occupying the property at the time of the submission of the preapplication (or application, if there is no preapplication) to the HUD office; and (ii) Any tenant who legally moves into the property between such event and the actual rehabilitation without receiving prior written notice of his or her possible displacement as a result of the planned rehabilitation.

(3) Any residential or nonresidential tenent (but not an owner-occupant) who is determined under local standards to be displaced as a direct result of Section 312 Rehabilitation Loan activity shall be provided with relocation assistance, including at a mimimum:

(i) Reasonable moving expenses;

(ii) Advisory services needed to help in relocating; and

(iii) For a displaced residential tenant:

(A) Referral to at least one suitable, decent, safe and sanitary replacement dwelling unit. The grantee shall advise tenants of their rights under the Federal Fair Housing Law (Title VIII) and of replacement housing opportunities in such manner that, wherever feasible, they will have a choice between relocating within their neighborhood and other neighborhoods consistent with the locality's responsibility to affirmatively further fair housing; and

(B) Either (*1*) Payment at least equal to 24 times the increase, if any, between the monthly cost of rent and utilities at the dwelling unit from which the tenant is displaced and the cost of rent and utilities at a suitable, decent, safe and sanitary replacement dwelling unit or (*2*) The provision of a Certificate or Housing Voucher for rental assistance payments under the Section 8 Housing Assistance Payments Program if the tenant is an eligible low-income person.

(d) *Appeals.* If a person disagrees with the locality's determination concerning the person's eligibility for, or the amount of a relocation payment under this section, the person may file a written appeal of that determination with the locality. The appeal procedures to be followed are described at 24 CFR 42.10.

(Approved by the Office of Management and Budget under control number 2506–0084)

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

3. The authority citation for Part 570 is proposed to continue to read as follows:

Authority: Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301–5320); and sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

4. Section 570.457 is proposed to be revised as follows:

§ 570.457 Relocation and acquisition.

(a) *Responsibility of the applicant.* (1) The applicant is responsible for ensuring compliance with the requirements of this section. To pay the cost of relocation assistance, including rental assistance payments, the applicant may use local public funds, action grant or entitlement community development block grant funds (see Subparts D and G of this part). The applicant also may secure a commitment from any participating party in the action grant program to provide all or a part of the necessary funds. In order to use Block Grant funds, the applicant shall adopt a written policy in accordance with § 570.606(b).

(2) If the applicant determines that a residential occupant will not be displaced, it shall ensure that the terms and conditions of the person's continued occupancy are consistent with its established standards, are not more restrictive than those customary in the jurisdiction, and are set forth in a lease which is offered to the person.

(3) The applicant shall maintain records in sufficient detail to demonstrate compliance with the requirements of this section.

(b) *Applicability of the Uniform Act.* The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) and HUD implementing regulations in Part 42 of this title apply to the acquisition of real property by a "State agency" for an activity assisted under this subpart and to the displacement of any person (family, individual, business, nonprofit organization or farm) that results from the acquisition. "State agency" is defined in section 101 of the Uniform Act (42 U.S.C. 4601). *See* also § 570.606(a) for additional instructions on the implementation of the Uniform Act.

(c) *Displacement not subject to the Uniform Act.* The displacement of any person (family, individual, business, nonprofit organization or farm) as a result of the acquisition of real property by an entity other than a State agency or rehabilitation for an activity assisted under this subpart is not subject to the Uniform Act. However, such dispacement is subject to section 104(j) of the Housing and Community Development Act of 1974, which requires that reasonable benefits be provided to persons permanently and involuntarily displaced as a result of the use of assistance received under this part to acquire or substantially rehabilitate property where such displacement is not subject to the Uniform Act. The grantee is responsible for developing the standards it will use for providing such benefits, consistent with the following minimum requirements:

(1) A residential tenant who moves will be considered displaced from his or her dwelling if:

(i) The tenant has not been provided a decent, safe, and sanitary dwelling unit on the property following the completion of the assisted activity at a monthly cost for rent and utilities that does not exceed greater of:

(A) The tenant's cost for rent and utilities at the time of preliminary funding approval for the UDAG assistance; or

(B) 30 percent of the tenant household's gross income; or

(ii) Temporary relocation is required and the tenant is not reimbursed for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation.

(2) Eligibility criteria for benefits must cover:

(i) Any tenant legally occupying the property at the time the grantee enters into a contract to provide assistance for the acquisition or rehabilitation; and

(ii) Any tenant who legally moves into the property between such event and the actual acquisition or rehabilitation without receiving prior written notice of his or her possible displacement as a result of the planned acquisition or rehabilitation.

(3) Any residential or nonresidential tenant who is determined under grantee standards to be displaced as a direct result of rehabilitation or acquisition assisted under this part (not subject to the Uniform Act) must be provided relocation assistance, including at a minimum:

(i) Reasonable moving expenses;

(ii) Advisory services needed to help in relocating; and

(iii) For a displaced residential tenant:

(A) Referral to at least one suitable, decent, safe and sanitary replacement dwelling unit. The grantee shall advise tenants of their rights under the Federal Fair Housing Law (Title VIII) and of replacement housing opportunities in such a manner that, wherever feasible, they will have a choice between relocating within their neighborhood and other neighborhoods consistent with the grantee's responsibility to affirmatively further fair housing; and

(B) Either (i) Payment at least equal to 24 times the increase, if any, between the monthly cost of rent and utilities at the dwelling unit from which the tenant is displaced and the cost of rent and utilities at a suitable, decent, safe and sanitary replacement dwelling unit, or (ii) The provision of a Certificate or Housing Voucher for rental assistance payments under the Section 8 Housing Assistance Payments Program, if the tenant is an eligible low-income person.

(4) For purposes of this paragraph (c), the term "tenant" includes any family, individual, business, nonprofit organization or farm that is a renter. It also includes any owner-occupant displaced as a direct result of non-Uniform Act acquisition by an agency with the power of eminent domain and any displaced owner-occupant of a mobile home who rents the site.

(d) *Appeals.* If a person disagrees with the applicant's determination concerning the person's eligibility for, or the amount of a relocation payment under this section, the person may file a written appeal of that determination with the applicant. The appeal procedures to be followed are described in 24 CFR 42.10.

(Approved by the Office of Management and Budget under control number 2506–0084)

5. Section 570.458(c)(14)(ix)(I) is proposed to be revised as follows:

§ 570.458 Full applications.

* * * * *

(c) * * *

(14) * * *

(ix) * * *

(I) The acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act), HUD implementing regulations in Part 42 of this title, and the relocation requirements in § 570.457(c) governing displacement subject to section 104(j) of the Housing and Community Development Act of 1974.

* * * * *

Dated: May 27, 1986.

Alfred C. Moran,

Assistant Secretary for Community Planning and Development.

[FR Doc. 86–12450 Filed 6–3–86; 8:45 am]

BILLING CODE 4210–29–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 222

Superfund Cost Sharing Eligibility Criteria for Permanent and Temporary Relocation

Correction

In FR Doc. 86–10671 beginning on page 17501 in the issue of Tuesday, May 13, 1986, make the following correction:

On page 17502, in § 222.3(a), in the second column, in the thirteenth line, "(a)(2)" should read "(a)(1)".

BILLING CODE 1505–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86–206, RM–5086, RM–5214, RM–5287, RM–5402]

Radio Broadcasting Services; Canton, GA et. al.

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the following: (a) the substitution of Channel 289C2 for Channel 288A in Canton, Georgia, and the modification of license of Station WCHK–FM to specify operation on Channel 289C2 in response to a petition filed by Cherokee Broadcasting in order to provide a grater coverage area, (b) the allotment of Channel 289A to Douglasville or to Villa Rica, Georgia, as a first FM service to either community in response to

petitions filed by Hugh J. Wheeler and Elizabeth Martin Henley respectively; and (c) the substitution of FM Channel 289A for Channel 244A at Newnan, Georgia, and the modification of license of FM Station WBUS to specify operation on Channel 289A to eliminate a severe short spacing and alleviate an alleged intermodulation interference problem.

DATES: Comments must be filed on or before July 21, 1986, and reply comments on or before August 5, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows:

Edward W. Hummers, Jr., Fletcher, Heald and Hildreth, 125 Connecticut Ave., NW—Suite 400 Washington, DC 20036 (Counsel for Cherokee Broadcasting Co.)

Eric L. Bernthal, Arent, Fox, Kintner, Plotkin & Kahn, 1050 Connecticut Ave., NW., Washington, DC 20036 (Counsel for NEW Systems of Georgia, Inc.)

Timothy K. Brady, Esq., 1116 Weisgarber Road, Post Office Box 10566, Knoxville, Tennessee 37939, (Counsel for Hugh J. Wheeler)

Lawrence J. Bernard, Jr., Ward & Mendelsohn, P.C., 1110—17th Street NW—Suite 900, Washington, DC 20036 (Counsel for Elizabeth Martin Henley)

FOR FURTHER INFORMATION CONTACT: Arthur D. Scrutchins, Mass Media Bureau—(202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86–206, adopted May 20, 1986, and released May 28, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M. Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible ex parte contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Ralph A. Haller,

Acting Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86–12332 Filed 6–3–86; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 86–201, RM–5003]

Radio Broadcasting Services; Walton, KY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Florence Broadcasting Company proposing to allot FM Channel 245A to Walton, Kentucky as that community's first FM channel.

DATES: Comments must be filed on or before July 18, 1986, and reply comments on or before August 4, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Allan G. Moskowitz, Shrinsky, Weitzman & Eisen, P.C., Suite 270, 1120 Connecticut Ave. NW., Washington DC, 20036 (Counsel to Petitioner).

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86–201, adopted May 15, 1986, and released May 27, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible ex parte contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Ralph Haller,

Acting Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86–12333 Filed 6–3–86; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 86–203, RM–5247]

Radio Broadcasting Services; Scotland Neck, NC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the allocation of Channel 274A to Scotland Neck, North Carolina, as the community's first local FM service, at the request of WYAL Radio, Inc.

DATES: Comments must be filed on or before July 18, 1986, and reply comments on or before August 4, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

In addition to filing comments with the FCC, interested parties should serve the petitioner, or their counsel or consultant, as follows: Mark N. Prak, Esq., Tharrington, Smith & Hargrove, P.O. Box 1151, 209 Fayetteville Street Mall, Raleigh, North Carolina 27602 (Petitioner's counsel).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86–203 adopted May 15, 1986, and released May 27, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800,

2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible ex parte contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Ralph Haller,

Acting Chief, Policy & Rules Division, Mass Media Bureau.

[FR Doc. 86-12336 Filed 6-3-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-202, RM-5266]

Radio Broadcasting Services; Penacook, NH

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the allocation of Channel 227A to Penacook, New Hampshire, as the community's first local FM service, at the request of Harvest Broadcasting Services. Petitioner is requested to provide additional information regarding Penacook in order to determine if it is a "community" for allotment purposes since it is not listed in the 1980 U.S. Census.

DATES: Comments must be filed on or before July 18, 1986, and reply comments on or before August 4, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

In addition to filing comments with the FCC, interested parties should serve the petitioner, or their counsel or consultant, as follows: Brian Dodge, Harvest Broadcasting Services, Box 105 FM, Hinsdale, New Hampshire 03451 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86-202, adopted May 15, 1986, and released May 27, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Steet NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible ex parte contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Ralph Haller,

Acting Chief, Policy & Rules Division, Mass Media Bureau.

[FR Doc. 86-12334 Filed 6-3-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-204, RM-5249]

Radio Broadcasting Services; Sullivan, NH

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the allocation of Channel 256A to Sullivan, New Hampshire, as the community's first local FM service, at the request of Gary M. Kenny.

DATES: Comments must filed on or before July 18, 1986, and reply comments on or before August 4, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

In addition to filing comments with the FCC, interested parties should serve the petitioner, or their counsel or consultant, as follows: Gary, M. Kenny, P.O. Box 1326, Westfield, Massachusetts 01086 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86-204, adopted May 15, 1986, and released May 27, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible ex parte contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Ralph Haller,

Acting Chief, Policy & Rules Division, Mass Media Bureau.

[FR Doc. 86-12335 Filed 6-3-86; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 51, No. 107
Wednesday, June 4, 1986

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

Forms Under Review by Office of Management and Budget

May 30, 1986.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from:

Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, D.C. 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to:

Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

• Agricultural Marketing Service
Regulations for Inspection and Certification of Quality of Agricultural and Vegetable Seeds under the Agricultural Marketing Act of 1946
On occasion
Individuals or households; Farms; Businesses or other for-profit;
Small businesses or organizations; 1,365 responses; 1,365 hours; not applicable under 3504(h)
Donald W. Ator (202) 447–9340

• Agricultural Stabilization and Conservation Service
Financial Statement
ASCS 398
On occasion
Farms; 15,000 responses; 15,000 hours; not applicable under 3504(h)
Beverly Pritts (202) 447–8374

• Agricultural Stabilization and Conservation Service
Record of Pooled Farm Allotment, Quota, or Acreage Base
ASCS–177 and ASCS–178
On occasion
Individuals or households; Farms; 60,000 responses; 30,000 hours; not applicable under 3504(h)
Harold Connor (202) 447–5103

• Food and Nutrition Service
Food Stamp Mail Issuance Report
FNS 259
Quarterly
State or local governments; 10,060 responses; 3,139 hours; not applicable under 3504(h)
Paul Jones (703) 756–3396

New

• Food and Nutrition Service
Food Stamp Program: Simplified Application and Standardized Benefit Project
Annually
State or local governments; 10 responses; 250 hours; not applicable under 3504(h)
Patricia Hagen (703) 756–3387

Donald E. Hulcher,
Acting Departmental Clearance Officer.
[FR Doc. 86–12558 Filed 6–3–86; 8:45 am]
BILLING CODE 3410–01–M

Agricultural Marketing Service

Renewal of the Flue-Cured Tobacco Advisory Committee

Notice is hereby given that the Secretary of Agriculture has renewed the Flue-Cured Tobacco Advisory Committee for an additional period of 2 years.

This Committee recommends opening dates and selling schedules for the flue-cured marketing area which aid the Secretary in making an equitable apportionment and assignment of tobacco inspectors.

The Committee consists of 39 members, 21 producers, 10 warehousemen, and 8 buyers, representing all segments of the flue-cured tobacco industry.

The Committee shall report to the Director, Tobacco Division, Agricultural Marketing Service.

This Committee is authorized by Title 7, Code of Federal Regulations, § 29.9403, and the Tobacco Inspection Act (7 U.S.C. 511 *et seq.*).

Authority for this Committee will expire two years from date of filing unless the Secretary formally determines that continuance is in the public interest.

This notice is given in compliance with the Federal Advisory Committee Act, (5 U.S.C. App. 1).

Dated: May 28, 1986.

William T. Manley,
Deputy Administrator, Marketing Programs.
[FR Doc. 86–12559 Filed 6–3–86; 8:45 am]
BILLING CODE 3410–02–M

Soil Conservation Service

Mill Haven Watershed, Louisiana

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of availability of a record of decision.

SUMMARY: Horace J. Austin, responsible Federal official for projects administered under the provisions of Pub. L. 83–566, 16 U.S.C. 1001–1008, in the State of Louisiana, is hereby providing notification that a record of decision to proceed with the installation of the Mill Haven Watershed project is available. Single copies of this record of

decision may be obtained from Horace J. Austin at the address shown below.

FOR FURTHER INFORMATION CONTACT: Horace J. Austin, State Conservationist, Soil Conservation Service, 3737 Government Street, Alexandria, Louisiana 71302, telephone (318)473–7751.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. State and local review procedures for Federal and federally assisted programs and projects are applicable.)

Dated: May 27, 1986.

Horace J. Austin,

State Conservationist.

[FR Doc. 86–12497 Filed 6–3–86; 8:45 am]

BILLING CODE 3410–16–M

COMMISSION ON CIVIL RIGHTS

Arizona Advisory Committee; Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Arizona Advisory Committee to the Commission previously scheduled for May 30, 1986, convening at 1:00 p.m. and adjourning at 5:00 p.m., at the Ramada Hotel Airport East, Board Room, 1600 South 52nd Street, Tempe, Arizona (FR Doc. 86–10797, Page 17663) has a new meeting date.

The meeting convening and adjourning times and location will remain the same. The meeting date will change to June 20, 1986.

Dated at Washington, DC, May 30, 1986.

Donald A. Deppe,

Assistant Staff Director for Regional Programs.

[FR Doc. 86–12596 Filed 6–3–86; 8:45 am]

BILLING CODE 6335–01–M

Florida Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Florida Advisory Committee to the Commission will convene at 7:00 p.m. and adjourn at 9:00 p.m. on June 26, 1986, at the Holiday Inn Downtown, the Burgundywood Room, 3233 Emerson Street, Jacksonville, Florida. The purpose of the meeting is to hold a briefing session in preparation for the community forum on June 27.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Vice-Chairperson, Michael Moorehead or Bobby Doctor, Director of the Southern Regional Office at (404) 221–4391, (TDD 404/221–4391). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 30, 1986.

Ann E. Goode,

Program Specialist for Regional Programs.

[FR Doc. 86–12597 Filed 6–3–86; 8:45 am]

BILLING CODE 6335–01–M

Florida Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Florida Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 5:30 p.m. on June 27, 1986, at the Florida Junior College, Auditorium, 101 W. State Street, Jacksonville, Florida. The purpose of the meeting is to hold a community forum on public employment and contractual services.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Vice-Chairperson, Michael Moorehead or Bobby Doctor, Director of the Southern Regional Office at (404) 221–4391, (TDD 404/221–4391). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 30, 1986.

Ann E. Goode,

Program Specialist for Regional Programs.

[FR Doc. 86–12598 Filed 6–3–86; 8:45 am]

BILLING CODE 6335–01–M

North Dakota Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the North Dakota Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 3:30 p.m. on June 27, 1986, at the Town House Motel, 301 Third Avenue, North, Fargo, North Dakota. The purpose of the meeting is to review current projects and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Robert Feder or William Muldrow, Acting Director of the Rocky Mountain Regional Office at (303) 844–2211, (TDD 303/844–3031). Hearing impaired persons who will attend the meeting and require the sevices of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 30, 1986.

Ann E. Goode,

Program Specialist for Regional Programs.

[FR Doc. 86–12599 Filed 6–3–86; 8:45 am]

BILLING CODE 6335–01–M

Texas Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Texas Advisory Committee to the Commission will convene at 1:30 p.m. and adjourn at 4:30 p.m. on June 27, 1986, at the University of Texas Law School (Townes Hall) Dean's Conference Room 2.117D, 727 E. 26th Street, Austin, Texas. The purpose of the meeting is to review current projects and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Adolph Canales, or J. Richard Avena, Director of the Southwestern Regional Office at (512) 229–5570, (TDD 512/229–5580). Hearing impaired persons who will attend the meeting and require the sevices of a sign language interpreter, should contact the Regional Office at least five(5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 30, 1986.

Yvonne E. Schumacher,

Program Specialist for Regional Programs.

[FR Doc. 86–12600 Filed 6–3–86; 8:45 am]

BILLING CODE 6335–01–M

West Virginia Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations

of the U.S. Commission on Civil Rights, that a meeting of the West Virginia Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 4:30 p.m., on June 18, 1986, at the Sheraton Inn, 2nd Floor, 153 W. Main Street, Downtown, Clarksburg, West Virginia. The purpose of the meeting is to hear from individuals and groups about voting problems and other civil rights issues in West Virginia.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Adam Kelly or John Binkley, Director of the Mid-Atlantic Regional Office at (202) 523-5264, (TDD 202/523-5264). Hearing impaired persons who will attend the meeting and require the services of a sign language intepreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 30, 1986.

Donald A. Deppe,

Program Specialist for Regional Programs.

[FR Doc. 86-1260 Filed 6-3-86; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Presidential Board of Advisors on Private Sector Initiatives; Open Meeting

AGENCY: Office of the Secretary, Office of the General Counsel and Office of Business Liaison, Commerce.

SUMMARY: The Presidential Board of Advisors on Private Sector Initiatives will hold a meeting on June 17, 1986. The Presidential Board of Advisors was established on August 8, 1985 to advise the President and Secretary of Commerce, through The White House Office of Private Sector Initiatives, with respect to the objectives and conduct of private sector initiative policies. This includes methods of increasing public awareness of the importance of public/private partnerships; removing barriers to development of effective social service programs which are administered by private organizations; strenthening the professional resources of the private social service sector; and studying options for promoting the long-term development of private sector initiatives in the United States.

Time and place: Tuesday, June 17, 1986, 3:30 p.m., at the National Headquarters of American Red Cross, 17th & E Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: The Committee Control Officer, Mr. Robert H. Brumley, Deputy General Council, U.S. Department of Commerce, (202/377-4772) or the Alternate Control Officer, Nancy J. Olson, Director, Office of Business Liaison, U.S. Department of Commerce, (202/377-3942), Main Commerce Building, Washington, DC 20230.

Dated: May 28, 1986.

Nancy J. Olson,

Director, Office of Business Liaison.

[FR Doc. 86-12500 Filed 6-3-86; 8:45 am]

BILLING CODE 3510-BW

International Trade Administration

Licensing Procedures and Regulations Subcommittee of the Computer Systems Technical Advisory Committee; Partially Closed Meeting

A meeting of the Licensing Procedures and Regulations Subcommittee will be held on June 26 and 27, 1986, 9:30 a.m. to 5:00 p.m. in the Herbert C. Hoover Building, 14th Street and Constitution Avenue, NW., Washington, D.C. The meeting on June 26 will be held in Room 1092, and in Room 3407 on June 27. The Committee advises the Office of Technology and Policy Analysis with respect to licensing procedures and regulation that affect the level of export controls applicable to computer systems or technology.

Agenda

Open Discussion

1. Opening Remarks by the Chairman.
2. Presentation of papers or comments by the public on proposed equipment decontrol and discussions on problems experienced in obtaining export licenses.
3. Discussion and formulation of a proposal to revise U.S. controls regarding West/West export licenses.

Executive Session

4. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1986, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

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 6628, U.S. Department of Commerce, Telephone: (202) 377-4217. For further information or copies of the minutes, call (202) 377-2583.

Dated: May 30, 1986.

Margaret Cornejo,

Director, Technical Support Staff, Office of Technology & Policy Analysis.

[FR Doc. 86-12588 Filed 6-3-86; 8:45 am]

BILLING CODE 3510-DT-M

The Electronic Instrumentation Technical Advisory Committee; Partially Closed Meeting

The Electronic Instrumentation Technical Advisory Committee was initially established on October 23, 1973, and rechartered on January 10, 1986, in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

Time and place: June 16 1986 at 9:30 a.m. to 5:00 p.m., in the Herbert C. Hoover Building, Room 3708, 14th Street and Constitution Avenue NW., Washington, D.C. The meeting will continue to its conclusion on June 17, 1986, in Room 1092, the Herbert C. Hoover Building.

Agenda

1. Introduction of members and guests.
2. Opening remarks by the Chairman.
3. Public comments invited on revisions to:

CCL 1529—Electronic Test Equipment
CCL 1531—Frequency Synthesizers
CCL 1522—Lasers and Laser Systems
CCL 1533—Radio Spectrum Analysers
CCL 1521—Solid State Broadband Amplifiers
CCL 1541—Cathode Ray Tubes
CCL 1572—Recording and Reproduce Equipment

Comments should consider the need for revision (strengthening, relaxation, or decontrol) of the current regulations based on technological trends, foreign availability, and national security. The committee is interested in proposals for revision to PRC guidelines and G-COM

regulations for the above commodites as well.

Executive Session

4. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1986, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409, that the matters 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 12356.

A copy of the Notice of Determination to close meetings or portions thereof are available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202/377–4217. For further information or copies of the minutes, call 202/377–4959.

Dated: May 23, 1986.

Margaret Cornejo,

Director, Technical Support Staff, Office of Technology & Policy Analysis.

[FR Doc. 86–12589 Filed 6–3–86; 8:45 am]

BILLING CODE 3510-DT-M

The MCTL Implementation Technical Advisory Committee; Closed Meeting

A meeting of the MCTL Implementation Technical Advisory Committee will be held Tuesday, June 24, 1986, 9:30 am, the Herbert Hoover Building, Room B841, 14th Street and Constitution Avenue, NW., Washington, DC.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 19, 1985, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409, 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 Sessions will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

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 6628, U.S. Department of Commerce, telephone: (202) 377–4217. For further information, (202) 377–4959.

Dated: May 30, 1986.

Margaret A. Cornejo,

Director, Technical Support Staff, Office of Technology & Policy Analysis.

[FR Doc. 86–12590 Filed 6–3–86; 8:45 am]

BILLING CODE 3510-DT-M

[A-351-605]

Frozen Concentrated Orange Juice From Brazil: Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether frozen concentrated orange juice (FCOJ) from Brazil is being, or is likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product materially injure, or threaten material injury to, a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before June 23, 1986, and we will make ours on or before October 16, 1986.

EFFECTIVE DATE: June 4, 1986.

FOR FURTHER INFORMATION CONTACT: John Brinkmann, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377–3965.

SUPPLEMENTARY INFORMATION:

The Petition

On May 9, 1986, we received a petition in proper form filed by Florida Citrus Mutual, a voluntary cooperative marketing association of growers of citrus fruit for processing and processors of citrus fruits. The petition was filed on behalf of the United States industry producing FCOJ, including growers and processors. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Brazil are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a United States industry.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and, further, whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on FCOJ from Brazil and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether FCOJ is being, or is likely to be, sold in the United States at less than fair value.

Scope of Investigation

The product covered by this investigation is FCOJ in a highly concentrated form for transport and further processing, sometimes referred to as frozen concentrated orange juice for manufacturing, currently provided for under the *Tariff Schedules of the United States (TSUS)* item number 165.29.

United States Price and Foreign Market Value

The petitioner based United States price on offers made by Brazilian producers to U.S. purchasers. Using price offers from the Brazilian producers, petitioner arrived at ex-factory prices by subtracting estimated charges for foreign inland freight, ocean freight, insurance, customs duties, brokerage, Brazilian export tax, Florida

citrus equalization tax and U.S. inland freight.

Petitioner alleged that sales of FCOJ in Brazil were too small to constitute a viable home market. Therefore, it based foreign market value on constructed value because the sales price to third countries was below the cost of production of the Brazilian producers. We will determine whether the home market is viable. If it is not viable, we wil initiate a cost of production investigation with regard to sales to third countries.

Based on the comparison of these estimated values, petitioner alleged dumping margins ranging from 3.0 percent to 167.8 percent.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by June 23, 1986, whether there is a reasonable indication that imports of FCOJ from Brazil are causing material injury, or threaten material injury, to a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Joseph A. Spetrini,

Acting Deputy Assistant Secretary for Import Administration.

May 29, 1986.

[FR Doc. 86-12582 Filed 6-3-86; 8:45 am]

BILLING CODE 3510-DS-M

Sugar and Syrups From Canada; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On July 20, 1984, the Department of Commerce published the preliminary results of its administrative review and tentative determination to revoke in part the antidumping duty order on sugar and syrups from Canada. The review covered the ten known manufacturers and/or exporters of this merchandise to the United States and the period April 1, 1982 through March 31, 1983.

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke in part. Based on our analysis of the comment received, we have changed the margin for Lantic Sugar Limited from that presented in the preliminary results of review.

EFFECTIVE DATE: June 4, 1986.

FOR FURTHER INFORMATION CONTACT: Richard P. Bruno or J. Linnea Bucher, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On July 20, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 29428) the preliminary results of its administrative review and tentative determination to revoke in part the antidumping duty order on sugar and syrups from Canada (45 FR 24126, April 9, 1980). The preliminary results covered the ten known manufacturers and/or exporters of Canadian sugar and syrups to the United States and the period April 1, 1982 through March 31, 1983.

In accordance with § 353.53a(a) of the Commerce Regulations, five of the ten firms requested that we complete the administrative review for those firms. The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Canadian sugar and syrups produced from sugar cane and sugar beets. The sugar is refined into granulated or powdered sugar, icing, or liquid sugar. Sugar and syrups are currently classifiable under items 155.2025, 155.2045, and 155.3000 of the Tariff Schedules of the United States Annotated.

The review covers five of the ten known manufacturers and/or exporters of sugar and syrups to the United States and the period April 1, 1982 through March 31, 1983.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results and tentative determination to revoke in part. We received a written comment from Lantic Sugar Limited (previously known as Atlantic Sugar, Ltd.).

Comment

During the review period, Lantic made only spot price sales to the United States. Lantic had three types of home market sales during the review period: spot price sales, spot price sales with fixed discounts, and fixed price long-term contract sales. Lantic argues that, through clerical error, it reported as the date of sale for the last group the dates of shipments under those contracts. The Department then included those individual shipments in the weighted-average foreign market values. Lantic contends that we should ignore the fixed price contract sales completely when creating the weighted average, because those sales are not of the same type as the U.S. sales. Alternatively, we should change the dates of those sales to the dates of original contract before deciding which sales to weight average.

Department's Position

The issue of whether fixed price contract sales should be included in creating a weighted-average is moot, since calculation under either method results in a zero margin.

Final Results of the Review

As a result of the comment received, we have revised our preliminary results for Lantic, and we determine that the following weighted-average margins exists for the period April 1, 1982 through March 31, 1983:

Manufacturer/exporter	Margin (percent)
Atlantic Sugar, Ltd. (now known as Lantic Sugar Limited)	0
Lentzco Ltd.	10.18
Redpath Sugars, Ltd.	0.01
St. Lawrence Sugar, Ltd. (now known as Lantic Sugar Limited)	0
Westcane Sugar Ltd. (now know as Lantic Sugar Limited)	0

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, the Department will instruct the Customs Service to collect a cash deposit of estimated antidumping duties for each firm based upon the above margins as provided in section 751(a)(1) of the Tariff Act. Since the margin for Redpath Sugars, Ltd. is less than 0.5 percent and therefore *de minimis* for

cash deposit purposes, the Department waives the deposit requirement for that firm. For any shipments from the remaining five known manufacturers and/or exporters, not covered by this review, the cash deposit will continue to be at the rate published in the final results of the last administrative review for each of those firms (48 FR 49327, October 25, 1983). For any shipments from a new exporter not covered by this or prior administrative reviews, whose first shipments of Canadian sugar and syrups occurred after March 31, 1983, and who is unrelated to any covered firm, a cash deposit of 10.18 percent shall be required. These deposit requirements and waiver are effective for all shipments of Canadian sugar and syrups entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a; 50 FR 32556, August 13, 1985).

Dated: May 23, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-12583 Filed 6-3-86; 8:45 am]

BILLING CODE 3510-DS-M

California Institute of Technology; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket No. 86-011R. Applicant: California Institute of Technology, Pasadena, CA 91125. Instrument: VG Sector Thermal Ionization Mass Spectometer with Accessories. Manufacturer: VG Instruments, United Kingdom. Original notice of this resubmitted application was published in the **Federal Register** of November 13, 1985.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument is equipped with a fully automated multiple collector system capable of providing an external precision on Neodymium (300 ng) of 0.003%. This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

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

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-12584 Filed 6-3-86; 8:45 am]

BILLING CODE 3510-DS-M

College of the Holy Cross; Decision on Application for Duty-Free Entry of Scientific Instrument

This application is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 85-074R. Applicant: College of the Holy Cross, Worcester, MA 01610. Instrument: Flash Photolysis with 1000J Capacitor Bank, Model KN-100. Original notice of this resubmitted application was published in the **Federal Register** of February 15, 1985.

Comments: None received.

Decision: Application denied. An instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: This application is a resubmission of Docket Number 85-074, which was denied without prejudice to resubmission (DWOP). In the DWOP, we asked the applicant to demonstrate that the instrument *as ordered* was capable of making absorption measurements in the range between 750 and 900 nm claimed pertinent. In the resubmission the applicant did not do this. However, the applicant did confirm the NBS contention that the foreign article as ordered is of limited usefulness, stating that the foreign article "is equipped with a IP28 photomultiplier tube useful only to 600 nm." Although the applicant intends to purchase a photomultiplier tube extending the instrument range to the near IR, the purchase of optional parts that do not accompany the instrument cannot be considered (Subsection 301.5(d)(1)(ii). The applicant's contention "that the instrument will be used primarily in the region 700-900 nm" is irrelevant to the capability of the instrument *as purchased* since it is incapable of making measurements in this absorption range without a red sensitive photomultiplier tube.

We conclude, therefore, that the instrument available from the domestic manufacturer, Xenon Corporation, is scientifically equivalent to the foreign article as purchased.

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

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-12585 Filed 6-3-86; 8:45 am]

BILLING CODE 3510-DS-M

Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles; Oakland University et al.

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Decision: Denied. Applicants have failed to establish that domestic instruments of equivalent scientific value to the foreign instruments for the intended purposes are not available.

Reasons: Section 301.5(e)(4) of the regulations requires the denial of applications that have been denied without prejudice to resubmission if they are not resubmitted within the spcified time period. This is the case for each of the listed dockets.

Docket No. 85-188. Applicant: Oakland University, Rochester, MI 48063. Instrument: Scanning Electron Microscope, Model DS-130. Manufacturer: Akashi-Seisakusho Ltd., Japan. Date of denial without prejudice to resubmission: December 26, 1985.

Docket No. 85-249. Applicant: Georgia Baptist Medical Center, Atlanta, GA 30312. Instrument: Lithotripter. Manufacturer: Dornier System GmbH, West Germany. Date of denial without prejudice to resubmission: January 22, 1986.

Docket No. 85–290. Applicant: North Texas State University, Denton, TX 76203. Instrument: CO_2 Breadboard Amplifier System. Manufacturer: Lumonics Inc., Canada. Date of denial without prejudice to resubmission: December 23, 1985.

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

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–12505 Filed 6–3–86; 8:45 am]

BILLING CODE 3510-DS-M

State University of New York et al.; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 86–100. Applicant: State University of New York, Syracuse, NY 13210. Instrument: Electron Microscope, Model JEM-2000EX with Accessories. Manufacturer: Jeol, Ltd., Japan. Intended Use: See notice at 51 FR 6576. Instrument Ordered: October 9, 1985.

Docket No. 86–114. Applicant: Ohio State University, Columbus, OH 43210. Instrument: Electron Microscope, Model EM 10CA. Manufacturer: Carl Zeiss, West Germany. Intended Use: See notice at 51 FR 7844. Instrument Ordered: December 2, 1985.

Docket No. 86–116. Applicant: State University of New York, Stonybrook, NY 11794. Instrument: Electron Microscope, Model CM 12 with Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended Use: See notice at 51 FR 7844. Instrument Ordered: December 13, 1985.

Docket No. 86–117. Applicant: Medical College of Ohio, Toledo, OH 43699. Instrument: Electron Microscope, Model CM 10 with Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended Use: See notice at 51 FR 7845. Instrument Ordered: November 20, 1985.

Docket No. 86–120. Applicant: Colorado State University, Fort Collins, CO 80523. Instrument: Electron Microscope, Model EM 109 with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended Use: See notice at 51 FR 6576. Instrument Ordered: December 20, 1985.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as those instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

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

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–12586 Filed 6–3–86; 8:45 am]

BILLING CODE 3510-DS-M

The Regents of the University of California; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 86–119. Applicant: The Regents of the University of California, Davis, CA 95616. Instrument: Far infrared spectrometer with accessories. Manufacturer: SPECAC, Analytical Accessories Ltd., United Kingdom. Intended Use: See notice at 51 FR 6576.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides a spectral range from 3 $_{cm}^{-1}$ to 200 $_{cm}^{-1}$ with a resolution of 0.1 $_{cm}^{-1}$. The National Bureau of Standards advises in its memorandum dated April 24, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

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

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–12587 Filed 6–3–86; 8:45 am]

BILLING CODE 3510-DS-M

[C–557–601]

Preliminary Negative Countervailing Duty Determination; Carbon Steel Wire Rod From Malaysia

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that no benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Malaysia of carbon steel wire rod (wire rod). The estimated net bounty or grant is 0.09 percent *ad valorem*. This rate is *de minimis*, and therefore our preliminary countervailing duty determination is negative. If this investigation proceeds normally, we will make our final determination on or before August 11, 1986.

EFFECTIVE DATE: June 4, 1986.

FOR FURTHER INFORMATION CONTACT: Roy Malmrose, Ellie Shea, or Barbara Tillman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–2815, 377–0184, or 377–2438.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon the questionnaire responses, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Malaysia of wire rod. For purposes of this preliminary determination, the following programs are found to confer bounties or grants:

- Export Tax Incentives
  - —An export allowance of five percent of the f.o.b. value of qualifying exported goods
  - —A double deduction for expenses related to export promotion
- Short-Term Export Financing

We preliminarily determine the estimated net bounty or grant to be 0.09 percent *ad valorem*. Although we have determined these programs to be countervailable, the respondents received *de minimis* benefits during the review period, calendar year 1985. Therefore, we preliminarily determine that no benefits which constitute bounties or grants within the meaning of section 303 of the Act are being provided to manufacturers, producers, or exporters in Malaysia of wire rod.

Case History

On March 4, 1986, we received a petition in proper form from Armco, Inc., Atlantic Steel Co., Georgetown Steel Corp., North Steel Texas, Inc., and Raritan River Steel Co., filed on behalf of the U.S. industry producing wire rod. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Malaysia of wire rod receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on March 24, 1986, we initiated an investigation (51 FR 10905). We stated that we expected to issue a preliminary determination on or before May 28, 1986.

Since Malaysia is not a "country under the Agreement" within the meaning of section 701(b) of the Act, sections 303(a)(1) and 303(b) of the Act apply to this investigation. Accordingly, petitioners are not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of the subject merchandise from Malaysia materially injure, or threaten material injury to, a U.S. industry.

On April 3, 1986, we presented a questionnaire to the government of Malaysia in Washington, DC, concerning petitioners' allegations. We received the government and company responses on May 9, 1986. According to the government response, Amalgamated Steel Mills Bhd. (ASM) is the only producer of wire rod in Malaysia. Angkasa Marketing Sdn. Bhd. (Angkasa), a wholly-owned subsidiary of ASM, is the only exporter of wire rod to the United States. Malayawata Steel Bhd. (Malayawata), alleged in the petition to be a producer and exporter of wire rod, does not produce wire rod or export wire rod to the United States.

Scope of Investigation

For purposes of this investigation, the term "carbon steel wire rod" covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross-section, not under 0.20 inch in diameter, nor over 0.74 inch in diameter, tempered or not tempered, treated or not treated, not manufactured or partly manufactured, and valued over or under 4 cents per pound. Wire rod is currently classifiable under items 607.14, 607.17, 607.22, and 607.23 of the *Tariff Schedules of the United States*.

Analysis of Programs

Throughout this notice we refer to certain general principles applied to the facts of the current investigation. These general principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 26, 1984 issue of the **Federal Register** (49 FR 18006).

Consistent with our practice in preliminary determinations, when a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses are subject to verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a bounty or grant in the final determination.

Petitioners allege in the petition that Malayawata, which is 51 percent government-owned, may have benefitted from government equity infusions on terms inconsistent with commercial considerations. In addition, petitioners allege that Malayawata has been uncreditworthy since at least 1983. According to the government response, Malayawata does not produce wire rod or export wire rod to the United States. Therefore, an analysis of the equityworthiness and creditworthiness of Malayawata is not necessary for this preliminary determination. At verification, however, we will verify that Malayawata is not a producer or exporter of wire rod.

For purposes of this preliminary determination, the period for which we are measuring bounties or grants (the review period) is calendar year 1985. Based upon our analysis of the petition and the responses to our questionnaire submitted by the government of Malaysia, ASM, and Angkasa, we preliminarily determine the following:

I. Programs Preliminarily Determined To Confer Bounties or Grants

We preliminarily determine that bounties or grants are being provided to manufacturers, producers or exporters in Malaysia of wire rod under the following programs:

A. Tax Incentives for Exporters. Petitioners allege that the government of Malaysia provides tax incentives to promote exports of wire rod. First, a double tax deduction is granted for expenses related to export promotion, such as market research, overseas advertising, participation in trade exhibitions, and overseas sales offices. Second, Malaysian companies allegedly can deduct from net taxable income eight percent of the f.o.b. value of export sales if Malaysian content of the product is more than 50 percent; they allegedly can deduct five percent if Malaysian content is less than 50 percent.

According to the government response, section 27 of the Investment Incentives Act of 1968 allows exporters to obtain a double deduction of eligible export promotion expenses. The double deduction allows these export related expenses to be deducted twice, once in the financial statement and then again in the income tax form. Section 29 of the same Act provided, for tax years prior to 1979, an export allowance of eight percent of the increase in the gross income derived from the export of products incorporating more than 50 percent local content, and an allowance of five percent if local content is less than 50 percent. For tax years 1980 to 1983, section 29 was amended to provide a deduction of two percent of the ex-factory value of exports from taxable income and a deduction of ten percent of the increase in export value from the preceding year. In 1983, the government of Malaysia amended section 29 of the law to provide a flat deduction of five percent of the f.o.b. value of export revenues from taxable income. This amendment became effective in 1984 and applied to all tax returns filed in 1985.

According to the company response, ASM did not claim any export allowance or the double deduction for export promotion on the tax return filed during the review period. Angkasa claimed the export allowance of five percent of the f.o.b. value of qualifying exports and made a provisional claim

for the double deduction for export promotion expenditures.

Because these tax incentives are available only to exporters, we preliminarily determine that they confer a bounty or grant. For tax programs, we generally determine the value of the bounty or grant by calculating the amount of the benefit based on the tax return filed during the review period. Although Angkasa claimed the export allowance and the double deduction on the tax return filed in 1985, these claims did not affect Angkas's tax liabilities during the review period since Angkasa would have incurred a tax loss even absent these claims. Therefore, although we preliminarily determine these tax incentives to be countervailable, the estimated net countervailable benefit is zero.

B. Short-Term Export Financing. Petitioners allege that the government of Malaysia provides preferential pre- and post-export short-term financing through the Malaysian banking system. The commercial banks allegedly provide loans to exporters at rates lower than those available for domestic transactions.

In its response, the government of Malaysia stated that Bank Negara, the central bank, maintains an export credit refinancing facility for both pre- and post-shipment refinancing. This facility allows commercial banks to finance export transactions for a period of up to 92 days. Access to these funds is usually limited to three million Malaysian dollars for each exporter. The annual interest rates on these loans has varied over the life of the program.

According to the company response, ASM had no loans through Bank Negara on which interest was paid during the review period. Angkasa, however, had two loans from Bank Negara on which interest was paid during the review period.

Because only exporters are eligible for these loans, we preliminarily determine that they are countervailable to the extent that they are provided at preferential rates. The benchmark for short-term loans is the most comparable and predominant commercial rate for short-term financing. The Banker's Acceptance is the most comparable and commonly used alternative source of short-term financing. The government response lists the average Banker's Acceptance rate for 1985 as 9.53 percent. Comparing this rate to the rate charged on export loans, we find that the rate on export loans is preferential. Therefore, the export loans provided under this program confer a countervailable benefit upon wire rod from Malaysia. Using our short-term loan methodology, we calculate an estimated net bounty or grant of 0.09 percent *ad valorem*.

II. Programs Preliminarily Determined Not To Confer Bounties or Grants

A. *Tax Holiday for Pioneer Status.* Petitioners allege that the Malaysian government provides tax holidays for companies that have "pioneer status," utilize a certain amount of labor, produce a priority product, produce goods containing at least 50 percent local content or are located in designated development areas.

According to the government response only three programs provide for tax holidays: (1) Locational incentives; (2) labor utilization relief; and (3) pioneer status. The first two programs are discussed in the section of this notice entitled "Programs Determined Not to Be Used."

The designation of "pioneer status" is made by the Ministry of Trade and Industry. The criteria for designation of pioneer status are: (1) The number of pioneer companies already established which produce the products mentioned in the application; (2) the production of those pioneer companies; (3) the prospects for favorable development; and (4) the management of the company. Once granted pioneer status, a company is tax exempt for two to five years, depending on the level of investment. Furthermore, a company may be eligible for an extra one-year tax exemption for each of the following conditions that it meets: (2) The company makes a "priority" product; (2) the Malaysian content is at least 50 percent; and (3) the company is located in a development area. During fiscal years 1983 and 1984, ASM, but not Angkasa, was under pioneer status.

According to the government response, virtually all processed or manufactured goods produced in Malaysia have been designated as pioneer products. These include *inter alia*, agricultural products, textiles, furniture, rubber goods, industrial chemicals, cosmetics, fuel oils, steel, and electronic goods. Therefore, we preliminarily determine that the "pioneer status" tax holiday is not limited to a specific enterprise or industry or group of enterprises or industries.

B. *Medium- and Long-Term Government Loans.* Petitioners allege that the Malaysian Industrial Development Finance Bhd. (MIDF), the Industrial Development Bank of Malaysia, the Development Bank of Malaysia, the Borneo Development Corporation, and the Sabah Development Bank provide medium- and long-term government loans on terms inconsistent with commercial considerations. MIDF is discussed below; the other development banks are discussed in the "Programs Determined Not to Be Used" section of this notice.

MIDF was established in 1960 by the Malaysian government and several private investors. The original purpose of MIDF was to provide a source of long-term financing for industrial development in Malaysia. MIDF provides fixed-rate long-term loans for machinery, factory mortgages, and new plant or expansion projects. ASM had three MIDF loans outstanding during the review period.

According to the government response, MIDF has provided loans to a wide range of industries. These include, among others, the food, steel, non-ferrous metals, machinery, wood products, textile, rubber products, chemical and paper industries. Therefore, we preliminarily determine that the provision of MIDF loans is not limited to a specific enterprise or industry or group of enterprises or industries.

III. Programs Preliminarily Determined Not To Be Used

In accordance with our practice of accepting a response to an allegation which denies the receipt of benefits under a program, we preliminarily determine, subject to verification, that the manufacturers, producers, or exporters in Malaysia of wire rod did not use the following programs:

A. *Accelerated Depreciation Allowance for Exporters.* Petitioners allege that the Malaysian wire rod industry benefits from an accelerated depreciation allowance on capital expenditures incurred in acquiring plant or equipment to modernize production techniques if at least 20 percent of production is exported. According to the responses, neither ASM nor Angkasa has used an accelerated depreciation allowance.

B. *Other Tax Holidays.* As discussed in section II. A., the Malaysian government provides tax holidays for companies that utilize a certain amount of labor or are located in designated development areas.

According to the government response, a company may receive a tax holiday from two to five years depending on the level of employment. Moreover, a company is eligible for an additional one-year exemption for each of the following criteria that it meets: (1) The company produces a "priority" product; (2) the Malaysian content of the product is at least 50 percent; and (3) the

plant is located in a "development" area.

In addition, a company may receive a tax holiday if it is sited in a "locational incentive area". The length of the tax holiday varies from five to eight years, depending on the level of investment and the number of employees. Furthermore, a company is eligible for an additional one-year exemption for each of the following criteria that it meets: (1) The company makes a "priority" product; and (2) the Malaysian content of the product is at least 50 percent. The company response states that neither ASM nor Angkasa has used the above programs.

C. *Investment Tax Credits.* Petitioners allege that the government of Malaysia provides investment tax credits for approved projects which do not qualify under other incentive schemes (*e.g.*, pioneer status), and for investments which have heavy capital requirements and long start-up periods. The investment tax credit ranges from 25 to 40 percent of capital expenditures for plant, equipment, and buildings, is applied against taxable income, and can be carried forward until the entire credit is used. According to the responses, neither ASM nor Angkasa has received investment tax credits.

D. *Other Medium- and Long-Term Government Loans.* Petitioners allege that the Industrial Development Bank, the Development Bank of Malaysia, the Borneo Development Corporation and the Sabah Development Bank provide medium- and long-term government loans on terms inconsistent with commercial considerations. According to the responses, neither ASM nor Angkasa had loans outstanding from the aforementioned banks during the review period.

E. *Export Credit Insurance.* Exporters may benefit from the provision of export credit insurance at premium rates which are inadequate to cover the long-term operating costs and losses of the insurance program. According to the responses, neither ASM nor Angkasa has participated in this program.

F. *Industrial Building Allowance.* In 1984, the government of Malaysia instituted an industrial building allowance for warehouses and bulk installations used for storing goods for export. The allowance consists of an initial deduction of ten percent of the cost of acquisition, followed by an annual deduction of two percent. According to the responses, neither ASM nor Angkasa claimed the industrial building allowance on the tax return filed during the review period.

G. *Increased Capital Allowance.* An increased capital allowance may be available to projects which the government of Malaysia deems desirable and which do not qualify for other incentive schemes. The allowance applies to qualifying building and plant expenditures incurred in establishing a new factory or modernizing an existing one. Companies are permitted to deduct 40 percent of the cost of modernizing production techniques in an existing factory and three percent of the cost of constructing a building. Companies purchasing a building may increase the allowable percentage by 50 percent. According to the responses, neither ASM nor Angkasa claimed the increased capital allowance on the tax return filed during the review period.

Verification

In accordance with section 776(a) of the Act, we will verify the information used in making our final determination.

Public Comment

In accordance with § 355.35 of the Commerce Regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on July 21, 1986 at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW. Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B099, at the above address within ten days after publication of this notice in the **Federal Register.** Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, at least ten copies of pre-hearing briefs must be submitted to the Deputy Assistant Secretary by July 14, 1986. Oral presentation will be limited to issues in the briefs. In accordance with 19 CFR 355.33(d) and 19 CFR 355.34, written views will be considered if received not less than 30 days before the final determination or, if a hearing is held, within ten days after the hearing transcript is available.

This notice is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

John L. Evans,

Acting Deputy Assistant Secretary for Import Administration.

May 28, 1986.

[FR Doc. 86-12504 Filed 6-3-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-796-601]

Preliminary Affirmative Countervailing Duty Determination: Carbon Steel Wire Rod From Zimbabwe

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Zimbabwe of carbon steel wire rod (wire rod). The estimated net bounty or grant is 51.35 percent *ad valorem* for all manufacturers, producers, or exporters in Zimbabwe of wire rod.

We are directing the U.S. Customs Service to suspend liquidation of all entries of wire rod from Zimbabwe that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and to require a cash deposit or bond on entries of this product in the amount equal to the estimated net bounty or grant.

If this investigation proceeds normally, we will make our final determination on or before August 11, 1986.

EFFECTIVE DATE: June 4, 1986.

FOR FURTHER INFORMATION CONTACT: Barbara Tillman or Ellie Shea, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-2438 or 377-0184.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based on our investigation, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Zimbabwe of wire rod. For purposes of this preliminary determination, the following programs are found to confer bounties or grants:

- Export Incentive Scheme; and
- Government Equity Infusions and Other Financial Assistance to Ziscosteel-Zimbabwe Iron & Steel Co. Ltd. for the Years 1982-1985.

We preliminarily determine the estimated net bounty or grant to be 51.35 percent *ad valorem* for all

manufacturers, producers, or exporters in Zimbabwe of wire rod.

Case History

On March 4, 1986, we received a petition in proper form from Armco, Inc., Atlantic Steel Co., Georgetown Steel Corp., North Star Steel Texas, Inc., and Raritan River Steel Co., filed on behalf of the U.S. industry producing wire rod. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Zimbabwe of wire rod, directly or indirectly, receive benefits which constitute bounties or grants within the meaning of section 303 of the Act.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on March 24, 1986, we initiated an investigation (51 FR 10906). We stated that we expected to issue a preliminary determination on or before May 28, 1986.

Since Zimbabwe is not a "country under the Agreement" within the meaning of section 701(b) of the Act, sections 303(a)(1) and 303(b) of the Act apply to this investigation. Accordingly, petitioners are not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this merchandise materially injure, or threaten material injury to, a U.S. industry.

On April 1, 1986, we presented a questionnaire to the government of Zimbabwe, in Washington, DC, concerning the petitioners' allegations, and we requested a response by April 30, 1986. This date was extended to May 9, 1986 for the government response and May 12, 1986 for the company responses. On May 22, 1986, we received a partial response from the government of Zimbabwe. No response has been received from the manufacturers, producers, or exporters of wire rod in Zimbabwe.

Scope of Investigation

For purposes of this investigation, the term "carbon steel wire rod" covers a coiled, semi-furnished, hot-rolled carbon steel product of approximately round solid cross-section, not under 0.20 inch in diameter, nor over 0.74 inch in diameter, tempered or not tempered, treated or not treated, not manufactured or partly manufactured, and value over or under 4 cents per pound. Wire rod is currently classifiable under items 607.14, 607.17, 607.22, and 607.23 of the *Tariff Schedules of the United States*.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the current investigation. These general principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 26, 1984 issue of the **Federal Register** (49 FR 18006).

The response provided by the government of Zimbabwe in this investigation was incomplete and untimely. Furthermore, no response was received from the manufacturers, producers, or exporters of wire rod in Zimbabwe. Therefore, for purposes of this preliminary determination, we are using the best information available as required under § 355.39 of our regulations (19 CFR 355.39). The Department has no record of past countervailing duty investigations or administrative reviews involving Zimbabawe and, therefore, we are unable to include such information in estimating the benefit from programs alleged in the petition to the bounties or grants. If we do not receive a complete response in time to verify the information submitted, we will continue to seek information from available sources to determine the countervailability and level of benefits of the programs under investigation. As best information available, we are using the estimates of benefits included in the petition. For equity infusions into Ziscosteel-Zimbabwe Iron & Steel Co. Ltd. (Zisco), we are also using information obtained from published sources. For the sales value used in calculating the *ad valorem* rates for the domestic bounties or grants, we are using, as best information available, the total sales value for Zisco, as provided in the response. We are using this value because petitioners provided no information on total sales value, and we were unable to obtain this figure from public sources. For those programs on which the petitioners provided no estimates of benefits and for which we were unable to develop information from published sources, we are requesting additional information to determine whether a bounty or grant is being conferred.

For purposes of this preliminary determination, the period for which we are measuring bounties or grants ("the review period") is calendar year 1985 . Based upon our analysis of the petition and the best information available, we preliminarily determine the following:

I. Programs Preliminarily Determined To Confer Bounties or Grants

We preliminarily determine that bounties or grants are being provided to manufacturers, producers, or exporters in Zimbabwe of carbon steel wire rod under the following programs:

A. *Export Incentive Scheme.* Petitioners allege that, under the Export Incentive Scheme, the Zimbabwean wire rod industry receives the following benefits:

- a tax-free payment equal to at least nine percent of the f.o.b. value of qualifying exported goods;
- bonus allocations of foreign exchange calculated at the rate of one percent of the f.o.b. value of the exporter's manufactured exports; and
- a tax-free payment of five percent of the value of exports within a given period, which are over and above the company's exports registered for the same period during the previous year.

Based upon the best information available, we preliminarily determine that the companies under investigation received a tax-free payment equal to at least nine percent of the f.o.b. value of qualifying exported goods, resulting in an estimated net bounty or grant of nine percent *ad valorem*, and that they also received bonus allocations of foreign exchange calculated at the rate of one percent of the f.o.b. value of manufactured exports, resulting in an estimated net bounty or grant of one percent *ad valorem*.

Based upon the best information available, we preliminarily determine that the companies under investigation received an additional tax-free payment of five percent of the increase in the value of exports between 1984 and 1985. To calculate the benefit from this payment, we took five percent of the difference between the value of the 1984 and 1985 exports of wire rod to the United States, as reported in the Department of Commerce Special Summary Steel Invoice Data. We allocated that amount over the value of exports of wire rod to the United States in 1985, resulting in an estimated net bounty or grant of .51 percent *ad valorem*.

Therefore, to calculate the total estimated net bounty or grant received through the Export Incentive Scheme, we summed the *Ad valorem* rates found under each component to arrive at an estimated net bounty or grant of 10.51 percent *ad valorem*.

B. *Government Equity Infusions and Other Financial Assistance to Ziscosteel-Zimbabwe Iron & Steel Co., Ltd. for Years 1982–1985.* Petitioners

allege that Zisco, which is 49.7 percent state-owned, has benefitted from government equity infusions and other government financial assistance, including cash grants, on terms inconsistent with commercial considerations. Petitioners also allege that Zisco has been uncreditworthy and unequityworthy since 1982. Information submitted in the petition indicates that Zisco has been incurring losses since at least 1982.

As best information available, we have used petitioners' information which states that the government of Zimbabwe provided to Zisco 30 million Zimbabwe dollars ($Z30 million) in 1983 to cover the company's cash shorfalls and $Z200 million in 1984 for a capital development program. Petitioners have provided additional information indicating that the government of Zimbabwe provided $Z120 million in 1985 to the national railways and Zisco. As best information available, we are assuming that one-half of the $Z120 million was allocated to Zisco. Based on these figures, government assistance totaled $Z290 million for the period 1983–1985.

There is no indication in the petition of the form in which this government assistance was provided; therefore, for purposes of this preliminary determination, we are assuming that all government assistance to Zisco was in the form of equity infusions. Our own research has confirmed that Zisco has been incurring large losses since 1981. Therefore, as best information available, we are assuming that Zisco has been unequityworthy since the time of the first alleged equity infusion in 1983. Using information from the petition and from publications and materials maintained by the Department, we calculated the benefit from these infusions according to the rate of return shortfall methodology outlined in the Subsidies Appendix. Neither the petitioners nor the Department were able to obtain or develop information on Zisco's rate of return on equity. Therefore, as best information avalable, we are using Zisco's rate of return on sales, which we have developed based on Zisco's total sales in 1985, as provided in the response, and Zisco's losses in 1984 (the most recent year for which this statistic is available), as reported in the 1985 *Quarterly Economic Review of Zimbabwe and Malawi*. For the national average rate of return, we used the 1985 average monthly earnings yield for industrial shares of 6.38 percent, as published in the Reserve Bank of Zimbabwe's *Quarterly Economic and Statistical Review* (December 1985). We multiplied the rate of return shortfall by the total amount of equity received by Zisco since 183. We then allocated the aggregate benefit over the value of Zisco's total sales in 1985, resulting in an estimated net bounty or grant of 40.84 percent *ad valorem*.

II. Programs for Which We Need Additional Information

Information regarding the level of benefits received under the following programs was not supplied by petitioners. We also have been unable to obtain any information on the level of benefits or potential countervailability of these programs from any sources other than the petition. Therefore, we preliminarily determine that we need additional information on the following programs.

A. *Export Promotion.* Petitioners allege that the Zimbabwean wire rod industry benefits from export promotional assistance, including financial assistance for participation in trade expositions, from the Export Promotion Section of the Ministry of Trade and Commerce.

Since the respondents did not provide a complete response in this investigation, and the Department was not able to obtain any information about this program, we cannot quantify the amount of any bounty or grant that may have been received.

B. *Training Investment Allowance.* Petitioners allege that the Zimbabwean wire rod industry may benefit from a training investment allowance, available to businesses which construct new buildings and purchase new equipment. The allowance, which is to be used exclusively for employee training, is equivalent to fifty percent of the costs of new buildings and/or equipment.

Since the respondents did not provide a complete response in this investigation, and the Department was not able to obtain any information about this program, we cannot quantify the amount of any bounty or grant that may have been received.

C. *Regional Tax Incentives.* Petitioners allege that the Zimbabwean wire rod industry benefits from special tax incentives to encourage commercial and industrial development in prescribed "growth-point areas." Industries in the designated areas benefit from special depreciation rates, including an investment allowance of 15 percent on buildings, machinery, and furniture, and a special initial allowance of 100 percent, instead of the normal 2.5 percent, on new commercial buildings.

Since the respondents did not provide a complete response in this investigation, and the Department was not able to obtain any information about this program, we cannot quantify the amount of any bounty or grant that may have been received.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of carbon steel wire rod from Zimbabwe which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit or bond for each entry of this merchandise in the amount of the estimated net bounty or grant. The estimated net bounty or grant is 51.35 percent *ad valorem* for all manufacturers, producers, or exporters in Zimbabwe of carbon steel wire rod. This suspension will remain in effect until further notice.

Verification

In accordance with section 776(a) of the Act, if we receive complete responses in a timely manner, we will verify the information used in making our final determination. We will not accept any statement in a response that cannot be verified for our final determination.

Public Comment

In accordance with § 355.35 of the Commerce Regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on June 30, 1986, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B–099, at the above address within ten days of the publication of this notice in the **Federal Register**. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, at least ten copies of the confidential version and seven copies of the nonconfidential version of the pre-hearing briefs must be submitted to the Deputy Assistant Secretary by June 23, 1986. Oral Presentations will be limited to issues raised in the briefs. In accordance with 19 CFR 355.33(d) and 19 CFR 355.34, written views will be considered if received not less than 30 days before the final determination or, if a hearing is

held, within ten days after the hearing transcript is available.

This notice is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

John L. Evans,

Acting Deputy Assistant Secretary for Import Administration.

May 28, 1986.

[FR Doc. 86-12503 Filed 6-3-86; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Coastal Zone Management; Federal Consistency Appeal by Civil Designs, Inc., From an Objection by the Massachusetts Coastal Zone Management Office

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of appeal withdrawal.

On May 8, 1986, the Secretary of Commerce granted the request of Civil Designs, Inc. to withdraw its appeal filed under section 307(c)(3)(A) of the Coastal Zone Management Act. The appeal had been taken from an objection by the Massachusetts Coastal Zone Management Office (MCZM) to Civil Designs' alteration of a marina in Quincy, Massachusetts without necessary federal, state and local permits. The MCZM found Civil Designs' project, specifically the retaining wall and 3000 square feet of fill placed in wetlands, was inconsistent with the federally-approved Massachusetts Coastal Management Program.

After negotiations between the parties, Civil Designs agreed to and in fact has begun restoring the shoreline to its original condition in accordance with a plan submitted and approved by the Massachusetts Department of Environmental Quality Engineering. Consequently, because the basis for MCZM's objection will no longer exist, Civil Designs moved for dismissal of its appeal on April 16, 1986. The request was unopposed by the State of Massachusetts.

FOR FURTHER INFORMATION CONTACT: L. Pittman, Attorney/Advisor, Office of the Assistant General Counsel for Ocean Services, 2001 Wisconsin Avenue NW., Room 270, Washington, DC 20235; (202) 673-5200.

SUPPLEMENTARY INFORMATION: Notice of the appeal was published in the **Federal Register** on February 21, 1986 (51 FR 6294).

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: May 22, 1986.

Daniel W. McGovern,

General Counsel, National Oceanic and Atmospheric Administration.

[FR Doc. 86-12499 Filed 6-3-86; 8:45 am]

BILLING CODE 3510-08-M

North Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council and its advisory bodies will convene separate public meetings as follows:

Americanization Committee—will convene June 9, 1986 at 9 a.m., at the National Marine Fisheries Service, Northwest and Alaska Fisheries Center auditorium, 2725 Montlake Boulevard, East, Seattle, WA, to continue deliberations regarding Council-established phaseout dates for foreign fishing and foreign processing. The Committee has conducted two previous meetings on April 18-19, and May 12, 1986. The June 9 meeting will be open to the public; however, no public testimony will be taken. The opportunity to submit written and oral testimony was provided at the April meeting. Questions regarding the June meeting should be directed to Ron Miller, Special Advisor, North Pacific Fishery Management Council, 411 West 4th Avenue, Suite 2D, Anchorage, AK 99501; telephone: (907) 274-4563.

Council—will convene June 25, 1986 at 9 a.m., and continue through approximately noon, June 27, at the Kodiak Community College, Kodiak AK, to approve for public review proposed changes (Amendment 15) to the fishery management plan (FMP) for Gulf of Alaska groundfish. Proposed Amendment 10 to the Bering Sea/Aleutian Islands Groundfish FMP will be given final approval to go to Secretarial review. The Council also will make final decisions on its role in management of Alaska salmon fisheries and discuss procedures for managing Tanner crab.

A revised joint venture policy will be reviewed and sent out for public comment following the meeting. The need for company limits on both bycatch and target species will be one of the major discussion items in the revised policy. The Council also will receive recommendations from an industry workgroup on amendments to the Magnuson Fishery Conservation and Management Act relating to foreign directed and joint venture fisheries. There also will be a status report on Kodiak trawl closures from an industry workgroup, and the Council will review trawl restrictions in the Bristol Bay Pot Sanctuary. The Council will meet in executive session at least once during the week to review ongoing litigation and foreign affairs.

Scientific and Statistical Committee and Advisory Panel—will convene meetings at 9 a.m. on June 23, also at the Kodiak Community College. Other plan team and workgroup meetings may be held on short notice during the week.

For further information contact Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 274-4563.

Dated: May 30, 1986.

Carmen Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86-12573 Filed 6-3-86; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Federal Patent Licensing, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

Department of Agriculture

SN 6-355,953 (4,578,506)
Process for the Preparation of Tris(N-Carbalkoxylaminomethyl)-Phosphine Oxides and Sulfides

SN 6-818,567
Temperature Adaptable Textile Fibers and Method of Preparing Same

SN 6-822,574

Apparatus for Maintaining Stability of Mobile Land Vehicles on Sloping Terrain

Department of Commerce

SN 6-834,728
Three and Five Axis Laser Tracking Systems
SN 6-838,726
Method and Apparatus for Measuring Machine Cutting Tool Positions

Department of Health and Human Services

SN 6-186,735 (4,359,457)
Anti Thy 1.2 Monoclonal Antibody-Ricin Hybrid Utilized as a Tumor Suppressant
SN 6-199,781 (4,356,117)
Chemical Modifications of Proteins Which Induce New Receptor Specificities and Therefore Elicit New Effects in Cells
SN 6-341,572 (4,397,843)
Mannose-6-Phosphate-Low Density Protein Reagent Effective Against Hypercholesterolemia
SN 6-350,222 (4,520,011)
Inactivating Protein Synthesis by Incubating Anti-Thy 1.1 Ricin A Chain Monoclonal Antibody Hybrids with Target Protein Cells
SN 6-350,223 (4,440,747)
Monoclonal Antibody-Ricin Hybrids as a Treatment of Murine Graft-Versus-Host Disease
SN 6-399,257 (4,500,637)
Prevention of Graft Versus Host Disease Following Bone Marrow Transplantation
SN 6-456,401
Improved Protocol for the Treatment of Graft Verus Host Disease
SN 6-799,464
Protective Synthetic Peptide Against Malaria and Encoding Gene
SN 6-817,189
Method and Additives for Improving the Quality and Shelf Life of Stored Blood
SN 6-823,115
Improved Angle ROTOR Coil Planet Centrifuge for Countercurrent Chromatography and Particle Separation
SN 6-836,414
A Human Gene Related to but Distinct from EGF Receptor Gene
SN 6-844,503
Human Growth Hormone Produced by Recombinant DNA in Mouse Cells
SN 6-849,299
Vaccine Against RSV Infection

Department of the Air Force

SN 5-808,048 (4,577,192)
Electronic Countermeasures False Target System
SN 6-398,281 (4,577,812)
Centrifugally Operated Moving-Mass Roll Control System
SN 6-417,928 (4,564,839)
Feature Referenced Error Correction Apparatus
SN 6-486,478 (4,571,578)
Intrusion Barrier and Detection Apparatus
SN 6-546,222 (4,577,891)
Torque Limiting Collar
SN 6-585,092 (4,572,630)
Variable Contrast Direct Read-Out Vision Tester
SN 6-671,395 (4,574,700)
Solid Rocket Motor with Nozzle Containing Aromatic Amide Fibers
SN 6-721,835 (4,578,432)
Method for Making Heterocyclic Block Copolymer
SN 6-721,973, (4,578,435)
Method for Making Heterocyclic Block Copolymer
SN 6-722,028 (4,578,434)
Method for Making Heterocyclic Block Copolymer
SN 6-733,294
Ferrous and Sulfide Treatment of Electroplating Wastewater
SN 6-733,128
Remotely Controlled Aircraft Tire Inflation/Deflation Value
SN 6-797,581
Self-Retained Platform Cooling Plate for Turbine Vane
SN 6-805,518
Fatigue Test Machine
SN 6-811,901
Electronic Warfare Software System Design an Integrated Approach
SN 6-816,596
Low Phase Noise Two Port Voltage Controlled Oscillator
SN 6-817,637
A Conductively Cooled Laser Diode Array Pumped Laser
SN 6-817,714
Rocket Exhaust Probe
SN 6-818,922
Fiber Optic Rotary Switching Device
SN 6-818,923
Fast Response High-Torque Clutch Unit
SN 6-818,924
Test Configuration and Procedure for Determining the Operational Status of a Phased Array Antenna
SN 6-818,944
Non-Contact Polishing
SN 6-818,945
Micro Mushroom Instrumentation System
SN 6-819,073
Adaptive Microwave Channelization
SN 6-819,185
Improved Robotic Kitting Station
SN 6-819,322
Phenylquinoxaline Resin Compositions
SN 6-819,334
Phenylquinoxaline Resin Monomers
SN 6-819,558
Laser Induced Selective Electroless Plating
SN 6-822,579
Monlithic Low Noise Amplifier with Limiting
SN 6-823,872
Portable Glide Slope Indicator
SN 6-824,822
Synthesis of R_fOTeF_5
SN 6-824,998
Pulse Repetition Modulator Apparatus
SN 6-825,107
Double Sideband Generation with Serrodyne Modulators
SN 6-831,894
Motion Sensitive Frame Integration
SN 6-831,897
Monolithic Area for Laser Ranging Application
SN 6-831,908
CCD Gate Definition Process
SN 6-832,114
Low Mass Diffusion Bonding Tools
SN 6-836,043
Triple Cavity Laser
SN 6-838,850
Ductless Acoustical Noise Attenuator
SN 6-838,855
Flexible (Multi-Mode) Waveform Generator
SN 6-838,970
Active Matching Transmit/Receive Module
SN 6-838,976
Gas Mixture for Triggerable Spark Gaps

Department of the Army

SN 6-580,496 (4,578,384)
Polylactic-Polyglycolic Acids Combined with an Acidic Phospholipid-Lysozyme Complex for Healing Osseous Tissue
SN 6-740,610 (4,580,567)
Suture Needle Holder
SN 6-841,083
Random Beam Positioning Surveillance Process
SN 6-845,671
Selectively Etching Microstructures in a Glow Discharge Plasma
SN 6-848,416
A Linear Algorithm for Non-Linear Interpolation for Computer Aided Designs

Tennessee Valley Authority

SN 6-681,157 (4,557,909)
Method to Improve Acidulation Quality of North Carolina Phosphate Rock

[FR. Doc. 86-12521 Filed 6-3-86; 8:45 am]
BILLING CODE 3510-04-M

Intent To Grant Exclusive Patent License, Whale Scientific, Inc.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Whale Scientific, Inc., having a place of business at Commerce City, Colorado, an exclusive right in the United States to manufacture, use, and sell products embodied in the invention entitled "Implantiation Device for Use In Vivo Stimulation and Collection of Monocytes from Peritoneum of Vertebrate," U.S. Patent 4,505,277. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Agriculture.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to Douglas J. Campion, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Office of Federal Patent Licensing, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 86-12496 Filed 6-3-86; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Limit for Certain Cotton Textile Products Produced or Manufactured in the Peoples' Republic of China

May 28, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on May 28, 1986. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

A CITA directive of December 24, 1985, as amended, which established import limits for specified categories of cotton, wool and man-made fiber textile products, including women's girls' and infants' cotton skirts in Category 342, produced or manufactured in China and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986, was published in the **Federal Register** on December 30, 1985 (50 FR 53182). Under the terms of the Bilateral Cotton Wool and Man-Made Fiber Textile Agreement of August 19, 1983, as amended, between the Governments of the United States and the People's Republic of China, the restraint limit for Category 342 is being increased from 184,607 dozen to 193,837 dozen by the application of swing for the agreement year which began on January 1, 1986.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983, (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annoted (1986).

William H. Houston, III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 28, 1986.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 24, 1985, as amended, from the Chairman of the Committee for the Implementation of Textile Agreements, which established restraint limits for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during 1986.

Effective on May 28, 1986, the directive of December 24, 1985 is hereby further amended to increase the previously established restraint limit for cotton textile products in Category 342 to 193,837 dozen [1] under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, as amended.[2]

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553

Sincerely,

William H. Houston, III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-12502 Filed 6-3-86; 8:45 am]

BILLING CODE 3510-DR-M

Adjusting Import Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Mexico

May 30, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on May 30, 1986. For further information contact Ann Fields, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

The Governments of the United States and Mexico have agreed to further amend their Bilateral Cotton, Wool and Man-Made fiber Textile Agreement of February 26, 1979, as amended and extended, to increase the consultation levels for Categories 334 (men's and boys' other cotton coats), 335 (women's, girls' and infants' cotton coats), 340 (men's and boys' cotton shirts), 359pt. (all TSUSA numbers except 381.0822, 381.6510, 384.0928 and 384.5227), 363 (cotton terry and other pile towels), 433 (men's and boys' wool suit-type coats), 604-A (only plied acrylic spun yarn in T.S.U.S.A. number 310.5049), and 640 (men's and boys' woven shirts of man-made fibers), produced or manufactured in Mexico and exported during the six-month period which began on January 1, 1986 and extends through June 30, 1986. The letter to the Commissioner of Customs which follows this notice implements these increases.

A description of the textile categories in terms of T.S.U.S.A numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14,

[1] The limit has not been adjusted to reflect any imports exported after December 31, 1985.

[2] The agreement provides, in part, that: (1) With the exception of Category 315, any specific limit may be exceeded by not more than 5 percent of its square yards equivalent total, provided that the amount of the increase is compensated for by an equivalent square yard equivalent decrease in one or more other specific limits in that agreement year; (2) the specific limits for certain categories may be increased for carryforward, and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

May 30, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, DC 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of February 4, 1986, which directed you to prohibit entry of certain cotton, wool and man-made fiber textile products, produced or manufactured in Mexico and exported during the six-month period which began on January 1, 1986 and extends through June 30, 1986.

Effective on May 30, 1986, the directive of February 4, 1986 is hereby further amended to increase the following limits:

Category	Amended 6-mo limit [1]
334	24,214 dozen.
335	30,000 dozen.
340	95,000 dozen.
359 pt.[2]	217,392 pounds.
363	3,000,000 numbers.
433	10,000 dozen.
604-A [3]	475,000 pounds.
640	150,000 dozen.

[1] The limits have not been adjusted to reflect any imports exported after December 31, 1985.
[2] In Category 359, all TSUSA numbers except 381.0822, 381.6510, 384.0928, and 384.5227.
[3] In Category 604, only T.S.U.S.A. number 310.5049.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553 (a)(1).

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-12581 Filed 6-3-86; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Intent To Prepare a Draft Environmental Impact Statement for a Proposed Ice Jam Flood Control Project on the Missisquoi River in the Village of Richford, Franklin County, VT

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY:

1. Description of Proposed Action.

The proposed project consists of a low overflow dam and a minor channel modification. The dam is an ogee weir located at 750 feet upstream of the Main Street Bridge with the crest elevation at 442.2. The crest length is 215 feet and the dam height is 12 feet. The base width is 30 feet. At the heel there is a 5 foot wide concrete key the full length of the spillway. At the toe there is a key extending 3 feet below the base of the dam. Downstream of the dam for a distance of 40 feet, there is a concrete apron with a stepped endsill. The abutment walls are centi-levered concrete retaining walls that extend to the 100 year flood stage adjacent to and upstream of the dam. A capability for draining the dam is provided by a 10 foot stoplogged drain gate. The channel modification is located to the north of Big Island between Stations 87+50 and 93+00 and is approximately 750 feet downstream of the Main Street Bridge. The Channel modification consists of raising the weir into the Pilot Channel to elevation 430.0 and filling in the left bank to narrow the Main Channel between Stations 87+50 and 93+00. The proposed dam also includes provisions for hydopower at the site and the construction of a fish ladder to allow migration of resident fish.

2. Reasonable Alternatives

A reasonable alternative to the proposed dam is no action. Other alternatives considered include: a dam located 250 feet upstream of the Main Street Bridge and a dam with multiple stoplog openings.

3. Scoping Process

a. Public involvement

Preparation of the Draft Environmental Impact Statement (EIS) and the Detailed Project Study (DPS) involves coordination with several Federal, State and local agencies as well as coordination meetings held during the plan formulation stage. On March 19, 1986 the Corps conducted a public meeting attended by Congressional Representatives, U.S. Fish and Wildlife Serviced (USFWS), Vermont Agency of Environmental Conservation (VAEC) and local interests to review the Corps' alternative plans of improvement, discuss future steps necessary before a project for the Town of Richford could be recommended and to obtain the views and comments of local interests.

b. Significant issues requiring in-depth analysis

Water quality impacts; archaeological and cultural resources impacts; aquatic resources impacts; and terrestrial resources impacts.

c. Assignments

U.S. Fish and Wildlife Service will be coordinated with concerning the design of a fish ladder to be constructed as an integral part of the proposed dam.

d. Environmental review and consultation

Review will be as outlined in Council on Environmental Quality regulations dated November 29, 1983 (40 CFR Parts 1500–1508) and Corps regulations ER 200–2–2 dated August 25, 1980 (revised March 2, 1981).

4. Scoping Meeting will not be held.

5. Estimate date of statement availability July 1986.

Address:

Project Manager, Linda Buege, ATTN: NANPL–FB, Tel No. (212) 264–1060.

EIS Coordinator, Karen Gustina, ATTN: NANPL–E, Tel No. (212) 264–4662.

US Army Engineer District, New York, 26 Federal Plaza, New York, N.Y. 10007.

Dated: May 23, 1986.

Richard J. Maraldo,

Acting Chief, Planning Division.

[FR Doc. 86-12495 Filed 6-3-86; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

National Advisory Council on Women's Educational Programs; Meeting

AGENCY: National Advisory Council on Women's Educational Programs; Education.

ACTION: Notice of meeting.

SUMMARY: This sets forth the schedule and proposed agenda of the National Advisory Council on Women's Educational Programs and its Executive; Federal Policies, Practices Programs; WEEA and Civil Rights Committees. The agenda will include Committee reports, election of officers, discussion of Council goals and objectives, budget review and general discussion. This notice also describes the function of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend, and that a portion of the Executive Committee meeting will be closed.

DATES: June 11, 1986, 7:00 p.m. to 7:30 p.m., Executive Committee (closed session).

7:30 p.m. to close of business (open session).

June 12, 1986, 2:00 p.m. to close of business. Meetings of Federal Policies, Practices and Programs Committee; Civil Rights Committee and WEEA Program Committee.

June 13, 1986, 8:00 a.m. to 3:00 p.m., Full Council Meeting.

ADDRESS: All meetings will be held at the Capitol Hill Hotel, 200 C Street, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Patricia A. Weber, Deputy Director, National Advisory Council on Women's Educational Programs, 2000 "L" Street, NW., Suite 568, Washington, DC 20036, (202) 634–6105.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Women's Educational Programs is established pursuant to Pub. L. 95–561. The Council is mandated to (a) advise the Secretary on matters relating to equal education opportunities for women and policy matters relating to the administration of the Women's Educational Equity Act of 1978; (b) make recommendations to the Secretary with respect to the allocation of any funds pursuant to the Act, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the Nation; (c) make recommendations to the Secretary with respect to the establishment of program priorities; (d) make such reports as the Council determines appropriate to the President and Congress on the activities of the Council; and (e) disseminate information concerning the activities of the Council.

The meeting of the Executive Committee will take place on Wednesday, June 11, 1986, from 7:30 p.m. until close of business. From 7:00 p.m. to 7:30 p.m., the Executive committee will meet in closed session to discuss personnel matters. At 7:30 p.m. the Executive Committee will meet in open session. The agenda will include confirmation hearing up-date, budget review, forum up-date, goals and objectives review and orientation up-date.

The meetings of the Federal Policies, Practices and Programs; Civil Rights and WEEA Programs Committees, will take place on Thursday, June 12 at 2:00 p.m. until close of business.

The agenda for the Federal Policies, Practices and Programs Committee will include discussion of cataloguing project and forum up-date, unfinished business and new business.

The agenda for the Civil Rights Committee will include new legislation, unfinished business and new business.

The agenda for the WEEA Program Committee will include priority recommendations, discussion of site visits, unfinished business and new business.

The full Council will meet June 13, 1986, beginning at 8:00 a.m. to 3:00 p.m. The agenda will include election of officers, budget review, committee reports, discussion of goals and objectives, forum up-date and student financial aid briefing.

Records will be kept of the proceedings and will be available for public inspection at the office of the National Advisory Council on Women's Educational Programs, 2000 L Street, NW., Suite 568, Washington, DC 20036.

Signed at Washington, DC, on May 16, 1986.

Sally A. Todd,

Executive Director.

[FR Doc. 86–12514 Filed 6–3–86; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

National Petroleum Council, Historical Factors Task Group; Meeting

Notice is hereby given that the Historical Factors Task Group will meet in June 1986. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Historical Factors Task Group is reponsible for the identification and analysis of events, governmental policies, and actions (federal, state, and local), and the reactions of the oil and gas industries to such events, policies and actions (i.e., the "factors") that affect the supply of and demand for oil and gas in the U.S. since the end of World War II.

The Historical Factors Task Group will hold its third meeting on Wednesday, June 11, 1986, starting at 9:00 a.m., in the Conference Room of the National Petroleum Council, 1625 K Street NW., Washington, DC.

The tentative agenda for the Historical Factors Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Discussion of the factors affecting natural gas supply and demand.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Historical Factors Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Historical Factors Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Ms. Pat Dickinson, Office of Oil, Gas, Shale and Coal Liquids, Fossil Energy, 301/353–2430, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on May 29, 1986.

Donald L. Bauer,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 86–12577 Filed 6–3–86; 8:45 am]

BILLING CODE 6450–01–M

American Indian Tribal Participation in the Implementation of the Nuclear Waste Policy Act of 1982

AGENCY: Department of Energy (DOE).

ACTION: Notice of Intent to Increase the Scope of Work under Grant Number DE–FG01–84NE44506 with National Congress of American Indians (NCAI).

SUMMARY: The United States Department of Energy, Office of Civilian Radioactive Waste Management, Office of Policy and Outreach, is preparing a grant modification to increase the work effort under Grant Number DE–FG01–84NE44506.

The purpose of the grant is to encourage American Indian Tribal participation in the consultation and cooperative decision making process required by the Nuclear Waste Policy Act.

Eligibility—Award of this effort has been limited to NCAI because of its unique qualifications as a non-profit Indian Organization and its familiarity with the project. NCAI provides at this time the only demonstrated capability to provide this needed liaison activity.

The term of this grant effort shall be three months with an estimated cost of $34,000.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Procurement Operations, ATTN: Diana

Mink, MA–453.2, 1000 Independence Avenue, SW., Washington, DC 20585.

Issued in Washington, DC, on May 22, 1986.

Edward T. Lovett,

Director, Contract Operations Division "B", Office of Procurement Operations.

[FR Doc. 86–12576 Filed 6–3–86; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[Docket No. ERA–C&E–86–43; OFP Case No. 61061–9317–20–24]

Powerplant and Industrial Fuel Use; Acceptance of Petition for Exemption and Availability of Certification by Corona CoGen, Inc.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Acceptance of Petition for Exemption and Availability of Certification by Corona CoGen, Inc.

SUMMARY: On May 13, 1986, Corona CoGen, Inc. (Corona CoGen) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent exemption for a cogeneration facility to be located in Corona, Riverside County, California, from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. Corona CoGen is petitioning for an exemption based on the lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum. Final rules setting forth criteria and procedures for petitioning for this type of exemption from the prohibitions of Title II of FUA are found in 10 CFR 503.32.

The proposed facility for which the petition was filed will consist of one natural gas-fired combustion turbine generator, and one unfired heat recovery steam generator which will produce approximately 47.6 megawatts (net) of electricity. The plant will burn natural gas only. It is expected that over 50 percent of the net annual electric power produced by the cogenerator will be sold to Southern California Edison, making the cogeneration facility an electric powerplant pursuant to the definitions contained in 10 CFR 500.2. The facility will produce approximately 35,500 pounds of steam per hour which will supply Integrated Protein Technology Company's heating and process steam needs. Corona CoGen will operate the facility.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination on the exemption request and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701(c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue SW., Room 1E–190, Washington, DC 20585, from 9:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the Federal Register.

DATES: Written comments are due on or before July 21, 1986. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitt4ed to: Case Control Unit, Office of Fuels Programs, Room GA–093, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585.

Docket No. ERA–C&E–86–43 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Myra Couch, Coal & Electricity Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–093, 1000 Independence Avenue, Washington, DC 20585, Telephone (202) 252–6769;

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy Forrestal Building, Room 6A–113, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone (202) 252–6947.

SUPPLEMENTARY INFORMATION: Section 212(a)(1)(A)(ii) of the Act provides for a permanent exemption due to lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using petroleum. To qualify the petitioner must certify that:

(1) A good faith effort has been made to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with the design and operational requirements of the proposed unit;

(2) The cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the proposed unit as defined in § 503.6 (cost calculation) of the regulations;

(3) No alternate power supply exists, as required under § 503.8 of the regulations;

(4) Use of mixtures is not feasible, as required under § 503.9 of the regulations; and

(5) Alternative sites are not available, as required under § 503.11 of the regulations.

In accordance with the evidentiary requirements of § 503.32(b) (and in addition to the certifications discussed above), Corona GoGen has included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under 10 CFR 503.13.

In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's implementing regulations, 40 CFR Part 1500 *et seq.;* and DOE's guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of (1) an Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the Federal Register as soon as practicable. No final action will be taken on the exemption until ERA's NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that Corona CoGen is entitled to the exemption requested. That determination will be based on the entire of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, DC, on May 29, 1986.

Barton R. House,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-12579 Filed 6-3-86; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-C&E-86-42; OFP Case No. 67054-9320-20, 21-24]

Powerplant and Industrial Fuel Use; Acceptance of Petition for Exemption and Availability of Certification by Sierra CoGen, Inc.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance of petition for exemption and availability of certification by Sierra CoGen, Inc.

SUMMARY: On May 12, 1986, Sierra CoGen, Inc. (Sierra Cogen) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent exemption for a cogeneration facility to be located in Bakersfield, California, from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. Sierra CoGen is petitioning for an exemption based on the lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum. Final rules setting forth criteria and procedures for petitioning for this type of exemption from the prohibitions of Title II of FUA are found in 10 CFR 503.32.

The proposed facility for which the petition was filed will consist of two natural gas-fired combustion turbine generators, and two unfired heat recovery steam generators which will produce approximately 48.75 megawatts (net) of electricity. The gas turbine exhaust gases will be ducted to the heat recovery steam generators. The steam generators will utilize the heat in the hot exhaust gases to produce approximately 108,400 pounds per hour of steam to be used for enhanced oil recovery by Cities Service Oil and Gas Corporation. The electricity produced will be sold to the Pacific Gas & Electric Company.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination on the exemption request and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701(c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, DC 20585, from 9:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATES: Written comments are due on or before July 21, 1986. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case control Unit, Office of Fuels, Programs, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

Docket No. ERA-C&E-86-42 should be printed in the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Myra Couch, Coal & Electricity Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-093, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone (202) 252-6769.

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone (202) 252-6947.

SUPPLEMENTARY INFORMATION: Section 212(a)(1)(A)(ii) of the Act provides for a permanent exemption due to lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum. To qualify the petitioner must certify that:

(1) A good faith effort has been made to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with the design and operational requirements of the proposed unit;

(2) The cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the proposed unit as defined in § 503.6 (cost calculation) of the regulations;

(3) No alternate power supply exists, as required under § 503.8 of the regulations;

(4) Use of mixtures is not feasible, as required under § 503.9 of the regulations; and

(5) Alternative sites are not available, as required under § 503.11 of the regulations.

In accordance with the evidentiary requirements of § 503.32(b) (and in addition to the certifications discussed above), Sierra CoGen has included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact anaylsis, as required under 10 CFR 503.13.

In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's implementing regulations, 40 CFR Part 1500 *et seq.*; and DOE's guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of (1) an Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as practicable. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that Sierra CoGen is entitled to the exemption requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, DC, on May 29, 1986.

Barton R. House,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-12580 Filed 6-3-86; 8:45 am]

BILLING CODE 6450-01-M

Settlement Agreements; Hearing in Stripper Well Settlement

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Hearing on Settlement Agreement in the *Department of Energy Stripper Well Exemption Litigation.*

SUMMARY: The Economic Regulatory Administration of the United States Department of Energy (DOE) gives notice that a hearing has been scheduled before the Honorable Frank Theis on the Settlement Agreement in the *Department of Energy Stripper Well Exemption Litigation,* M.D.L. 378 (D. Kan.) in the United States District Court for the District of Kansas in Wichita at 1:30 P.M. on June 12, 1986. *See* 51 FR 19380, May 29, 1986.

FOR FURTHER INFORMATION CONTACT: Carl A. Corrallo, Solicitor, Economic Regulatory Administration, 1000 Independence Avenue SW., Washington, DC 20585, 202–252–4167.

A copy of the Agreement is available for inspection or copying at the DOE Freedom of Information Reading Room. The Reading Room is located in Room 1E–190 of the Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, and can be reached at 202–252–6020.

Issued in Washington, DC, on May 30, 1986.

Marshall A. Staunton,

Acting Administrator, Economic Regulatory Administration.

[FR Doc. 86–12578 Filed 6–3–86; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER86–486–000 et al.]

Electric Rate and Corporate Regulation Filings; Interstate Power Co. et al.

Take notice that the following filings have been made with the Commission:

1. Interstate Power Company

[Docket No. ER86–486–000]

May 28, 1986.

Take notice that Interstate Power Company (Company) tendered for filing on May 15, 1986, new Electric Service Agreements between the following communities and Interstate Power Company:

Community name	FERC No.
Lakefield, MN	67
Springfield, MN	114
Westbrook, MN	108

These agreements provide for lower transformer losses when low side metering is involved, and increase in average power factor requirements and the implementation of late payment penalties.

Interstate Power Company also tendered for filing on May 15, 1986, a revision to the Electric Service Agreement between Interstate Power Company and the City of Windom, Minnesota (FERC No. 123, Supplement 1).

This supplement revised the basic agreement to provide for a reduction in the transformer loss compensation percentage, and increase in average power factor, the inclusion of late payment provisions and a plant test requirement.

Comment date: June 10, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Adams-Marquette Electric Cooperative, Central Wisconsin Electric Cooperative, Columbus Rural Electric Cooperative, Waushara Electric Cooperative, Inc. and Rock County Electric Cooperative v. Wisconsin Power and Light Company

[Docket No. EL86–41–000]

May 29, 1986.

Take notice that on May 13, 1986, Adams-Marquette Electric Cooperative, Central Wisconsin Electric Cooperative, Columbus Rural Electric Cooperative, Waushara Electric Cooperative, Inc. and Rock County Electric Cooperative (hereinafter "Coops") by and through their attorneys Dykema, Gossett, Spencer, Goodnow & Trigg, tendered for filing this Complaint under Rule 206 of this Commission's Rules of Practice and Procedure, 18 CFR 385.206, seeking a Commission Order which:

1. Opens an investigation into Wisconsin Power and Light Company's (hereinafter "WP&L") possible improper collection of certain fixed gas costs through its fuel adjustment clause; and

2. Requires WP&L to comply with the terms of its own tariff by constructing and paying for transmission line extensions required to serve W–2 customers.

Specifically, the Coops request the Commission to issue an order which provides the following:

1. Institutes an investigation into the properity of WP&L's collection of fixed charges through its fuel cost adjustment clause. If it is determined that said collection was improper, this proceeding would result in a refund to wholesale customers of the overcharge plus interest;

2. Finds that WP&L's failure to construct transmission line extensions in accordance with the terms of its W–2 tariff constitutes a violation of § 35.1 of this Commission's Regulations; and

3. Requires WP&L to cease and desist its violation of § 35.1 of this Commission's Regulations and to adhere to the terms of its tariff.

Comment date: June 30, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Bangor Hydro-Electric Company

[Docket No. ER86–501–000]

May 28, 1986.

Take notice that on May 22, 1986, Bangor Hydro-Electric Company (Bangor) tendered for filing a proposed rate schedule pertaining to a Purchase Sale Agreement (Agreement) made as of March 26, 1986 between Bangor Hydro-Electric Company (Bangor) and UNITIL Power Corp. (UNITIL) for the sale of power to UNITIL.

Bangor states that the Agreement provides for a sale to UNITIL of 25,000 kilowatts of unit power from Bangor's entitlement in four small power production facilities and up to 6,000 kilowatts of system power from a mix of Bangor's power resources for a period of approximately fifteen years commencing on or about November 1, 1986.

Bangor requests that the Commission permit the rate schedule to become effective on October 1, 1986.

Bangor states that a copy of the rate schedule has been mailed or delivered to UNITIL, Bedford, N.H.

Comment date: June 10, 1986, in accordance with Standard Paragraph E at the end of this notice.

Cities and Villages of Belmont, Black Earth, Brodhead, Columbus, Evansville, Gresham, Hazel Green, Hustisford, Juneau, Lodi, Mount Horeb, New Glarus, Pardeeville, Plymouth, Princeton, Reedsburg, Richland Center, Sauk City, Sheyboygan Falls, Stoughton, Sun Prairie, Wisconsin Rapids and Wonewoc, Wisconsin, and Pioneer Power & Light Company, and Wisconsin Public Power Incorporated SYSTEM, Complainants, v. Wisconsin Power and Light Company, Respondent.

[Docket No. EL86–40–000]

May 29, 1986.

Take notice that on May 8, 1986, cities and villages of Belmont, Black Earth, Brodhead, Columbus, Evansville, Gresham, Hazel Green, Hustisford, Juneau, Lodi, Mount Horeb, New Glarus,

Pardeeville, Plymouth, Princeton, Reedsburg, Richland Center, Sauk City, Sheyboygan Falls, Stoughton, Sun Prairie, Wisconsin Rapids and Wonewoc, Wisconsin, and Wisconsin Public Power Incorporated SYSTEM and Pioneer Power & Light (collectively, the Complainants) tendered for filing a complaint against Wisconsin Power & Light Company pursuant to sections 206 and 306 of the Federal Power Act (16 U.S.C. 825e) and Rule 206 of the Commission's Rules of Practice and Procedure. The Complaint alleges WP&L has violated section 205 of the Federal Power Act (16 U.S.C. 824d) and §35.14 (18 CFR 35.14) of the Federal Energy Regulatory Commission's FERC's Regulations by improperly collecting from the Complaints through operation of the Company's fuel adjustment clause certain fixed gas costs associated with the provision of boiler fuel by WP&L's gas utility to the Company's electric utility.

Specifically, the Complainants ask that the Commission commence an investigation and hearing concerning the fixed gas cost issue, find that WP&L violated section 205 of the Act and § 35.14 of the Commission's Regulations by improperly collecting fixed gas costs through the fuel adjustment clause, determine the amount of overcollection and direct WP&L to refund to the Complainants their share of the overcollection, with interest.

Comment date: June 30, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public investigation.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-12563 Filed 6-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP86-344-000]

Consolidated Gas Transmission Corp.; Granting Extension of Time

May 28, 1986.

On February 25, 1986, Consolidated Gas Transmission Corporation (Consolidated) applied to the Federal Energy Regulatory Commission for a certificate to construct 33.5 miles of 24-inch natural gas pipeline, called Line No. TL-460, in Onondaga and Oswego Counties, New York. A measuring station in Oswego County called the Biddlecum Road Measuring Station was also proposed. The pipeline and measuring station were to be used to deliver gas to Niagara Mohawk Corporation, a gas distribution company, to accommodate anticipated increases in annual and peak day demand for natural gas. On May 8, 1986, the Commission issued a notice entitled "Notice of Intent to Prepare an Environmental Assessment on the Proposed Line No. TL-460 and Biddlecum Road Measuring Station, Request for Comments, and Notice of Public Meeting." 51 FR 17227 (May 9, 1986). The notice described the project and established dates for public comment and a public meeting.

On May 23, 1986, Consolidated filed a motion to postpone the June 2, 1986 public meeting regarding the proposed project until June 30, 1986. The meeting was to be held in Baldwinsville, New York. Consolidated also requests that FERC extend the deadline for its response to staff's May 16, 1986, data request from June 9, 1986, to June 20, 1986. Consolidated states that these extensions are necessary because Niagara Mohawk Corporation is revising its market data and estimate of delivery requirements, which may require changing the proposed facilities. It also states that such changes could affect the alternative proposals being reviewed by the staff. Consolidated states that it plans to file an amendment to its original application by June 16, 1986.

Consolidated's request for extensions of time are granted, with the exception that no date will be set for the public meeting. The motion indicates that Consolidated is not ready to proceed with the project as proposed. Since Consolidated's amendment may include changes in facility requirements, it is inappropriate to proceed with the public meeting until after the amendment is filed. After Consolidated files its amendment and the staff and parties have had time to review it, a new notice to prepare an environmental assessment, request for comments, and notice of public meeting will be issued. The new notice will describe the amended proposal and will set new dates for public comments and a public meeting. Since the notice of May 8, 1986 is no longer relevant, it is hereby withdrawn.

Accordingly, the public meeting on June 2, 1986 is postponed until further notice and the deadline for Consolidated responding to staff's data request is extended until June 20, 1986.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-12564 Filed 6-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-80-000]

Jupiter Energy Corp.; Filing

June 2, 1986.

Take notice that Jupiter Energy Corporation ("Jupiter") on May 23, 1986 tendered for filing proposed rate schedules covering transportation services performed by Jupiter for its three jurisdictional customers, Union Oil, Philips Petroleum Company, and Kerr-McGee Corporation. Jupiter proposes by this rate schedule filing to increase the rate at which it renders transportation service. The proposed rate would increase revenues from jurisdictional transportation service by $272,144 based on the 12 month period ended December 31, 1985, as adjusted. Jupiter requests an effective date of June 23, 1986.

Jupiter states that the reasons for the proposed transportation service rate increase are that its costs of rendering such services are different now than they were when the existing rate was established in 1966, that Jupiter's transportation volumes have declined and continue to decline, and that Jupiter is not presently recovering even the out-of-pocket costs of such service.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before June 9, 1986. 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 motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-12565 Filed 6-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER81-428-001, ER82-483-026, and EL81-12-001]

Middle South Services, Inc.; Compliance Filing

May 28, 1986.

Take notice that on May 19, 1986, Middle South Services, Inc. tendered for filing six copies of revised pages 5, 6 and 7 of Article II; revised page 11 of Article III; revised page 13 of Article IV; revised page 1-3 of Service Schedule MSS-1 and revised pages 3-3, 3-4 and 3-5 of Service Schedule MSS-3 of the 1982 System Agreement.

Any person desiring to be heard or to protest said filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before June 6, 1986. 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. 86-12566 Filed 6-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI86-428-000]

Mobil Oil Corporation et al.; Application

May 28, 1986.

Take notice that on May 12, 1986, Mobil Oil Corporation, Mobil Producing Texas & New Mexico Inc., Mobil Oil Exploration & Producing Southeast Inc. and Mobil Exploration and Producing North America Inc. (jointly referred to as "Mobil") field an Application for Limited-Term Partial Abandonment Authorization and for Blanket Limited-Term Certificate Authorization for Sales with pre-granted abandonment. The authority sought therein would grant limited-term abandonment of sales of gas released by purchasing pipelines and the resale of that gas with pre-granted abandonment, pursuant to section 7 of the Natural Gas Act. These authorizations are being requested, effective immediately. Eligibility for these authorizations is limited to gas with a ceiling price in excess of the lawful price under NGPA section 109.

Any person desiring to be heard or to make any protest with reference to said application should, on or before June 10, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding herein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-12567 Filed 6-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP77-192-002]

Northern Natural Gas Co., a Division of InterNorth, Inc.; Filing

June 2, 1986.

Take Notice that on May 23, 1986, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), tendered for filing to become a part of Northern Natural Gas Company's (Northern) F.E.R.C. Gas Tariffs, Original Volume No. 2:

Original Sheet No. 986a
First Revised Sheet No. 990

These sheets consist of supplements dated June 8, 1983 to Rate Schedule X-63, a Gas Exchange Agreement dated April 1, 1967 between Northern Natural Gas Company and Cabot Petroleum Corporation. The supplements add two additional delivery points to the agreement.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with the Commission's Rules of Practice & Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 9, 1986. 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 motion to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-12568 Filed 6-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI86-429-000]

Phillips Petroleum Co., Application

May 30, 1986.

Take notice that on May 16, 1986, Phillips Petroleum Company (Phillips) filed an application pursuant to sections 4 and 7 of the Natural Gas Act (NGA) and the provisions of 18 CFR Parts 154 and 157 (1) authorizing blanket limited-term abandonment; (2) authorizing blanket limited-term certificate for the resale of gas into interstate commerce; (3) authorizing pre-granted abandonment of sales for resale; and (4) authorizing limited-term transportation and pre-granted abandonment.

The authorizations requested therein will permit Phillips to respond expeditiously to the release of shut-in gas supplies resulting in greater market efficiency and savings to the consumer.

Specifically, Phillips requests the Commission to authorize:

(1) Blanket limited-term abandonment for a period of two years to permit sales for resale of NGA gas previously certificated by the Commission to the extent natural gas is released by the interstate pipelines or not currently subject to a valid written contract;

(2) Sales for resale natural gas subject to the NGA for which the maximum lawful price is higher than the NGPA Section 109 ceiling price;

(3) Sales for resale in interstate commerce without market limitations of NGA gas produced from interests attributable to Phillips and its joint interest owners.

(4) Pre-granted abandonment of any sale for resale pursuant to the blanket certificate issued herein;

(5) Sales for resale in interstate commerce, NGA gas subject to gas sales contracts which has been expired for three months or more and have not been renegotiated; and,

(6) That natural gas which is sold pursuant to authorizations therein, be transported by any willing transporter to effectuate the sale of gas.

Any person desiring to be heard or to protest with reference to said application should on or before June 16, 1986 file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a

protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing, therein must file a motion to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless Phillips is otherwise advised, it will be unnecessary for Phillips to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-12569 Filed 6-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER86-500-000]

The Washington Water Power Co.; Filing

May 28, 1986.

Take notice that on May 21, 1986, The Washington Water Power Company (WWP) tendered for filing materials regarding Average System Cost (ASC) for the Washington and Idaho jurisdictions pursuant to its Residential Purchase and Sale Agreement with the Bonneville Power Administration. These materials include ASC for Washington and Idaho reflecting the revised methodology, and effective generally from October, 1984 to February, 1985, and ASC for Washington and Idaho based on increases in the costs of capital, investment, and operating expenses as approved by state regulatory commissions, and effective from February, 1985 to the present. Because WWP has deemed its ASC as being equal to the Bonneville Priority Firm rate, no residential exchange benefits currently accrue to them and this filing has no retail or wholesale rate effect.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before June 6, 1986. 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-12570 Filed 6-3-86; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180692; FRL-3024-4]

Emergency Exemptions; Fluazifop-butyl, etc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pest in the 9 States listed below. These exemptions, issued during the month of March, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific exemption for its effective dates.

FOR FURTHER INFORMATION CONTACT: See each specific exemption for the name of the contact person. The following information applies to all contact people:

By mail: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1806).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. California Department of Food and Agriculture for the use of fluazifop-butyl on garlic to control grasses; March 31, 1986 to July 1, 1986. (Jim Tompkins)

2. California Department of Food and Agriculture for the use of fluazifop-butyl on dry bulb onions to control barnyard and rabbitfoot grasses; March 17, 1986 to September 1, 1986. (Jim Tompkins)

3. California Department of Food and Agriculture for the use of metalaxyl on strawberries to control red stele disease; March 17, 1986 to November 30, 1986. (Jim Tompkins)

4. Colorada Department of Agriculture for the use of fenvalerate on winter wheat to control the pale western cutworm and/or the army cutworm in 34 Colorado counties; March 26, 1986 to June 30, 1986. (Jack E. Housenger)

5. Florida Department of Agriculture and Consumer Services for the use of avermectin on chrysanthemums, gypsophila, gerbera daisies, and snapdragons to control serpentine leafminers; March 12, 1986 to March 11, 1987. A notice of receipt was published in the Federal Register of February 19, 1986 (51 FR 6034), with no comments received. The rationale for issuance is based on:

a. There are no registered alternative pesticides which will provide adequte control of leafminers on ornamental flowers.

b. A significant economic loss my occur if a suitable pesticide is not made available. (Libby Pemberton)

6. Michigan Department of Agriculture for the use of fluazifop-butyl on dry bulb onions grown on muck soil to control grasses; March 27, 1986 to September 1, 1986. (Jim Tompkins)

7. Minnesota Department of Agriculture for the use of the active ingredients 6-(4-isopropyl-4-methyl-5-oxo-2-imidazoline-2-yl) methyl ester and 2-(4-isopropyl-4-methyl-5-oxo-2-imidazoline-2-yl) methyl ester on sunflowers to control wild mustard; March 14, 1986 to August 15, 1986. A notice of receipt was published in the Federal Register of January 8, 1986 (51 FR 779); issuance is based on:

a. No postemergent herbicides are registered for control of wild mustard in sunflowers. Other products tested for this use are economically unacceptable.

b. The potential loss of $4.1 million threatens the long-term financial viability of the sunflower industry in this State. (Libby Pemberton)

8. Montana Department of Agriculture for the use of fenvalerate on oats, barley, and wheat to control pale western cutworms and/or the army cutworm; March 26, 1986 to June 30, 1986. (Jack E. Housenger)

9. North Dakota Department of Agriculture for the use of the active ingredients 6-(4-isopropyl-4-methyl-5-oxo-2-imidazoline-2-yl) methyl ester and 2-(4-isopropyl-4-methyl-5-oxo-2-imidazoline-2-yl) methyl ester on sunflowers to control wild mustard; March 14, 1986 to August 15, 1986. A notice of receipt published in the Federal Register of January 2, 1986 (51 FR 60); issuance is based on:

a. No postemergent herbicides are registered for control of wild mustard in sunflowers. Other products tested for this use are economically unacceptable.

b. The potential loss of $7.9 million threatens the long-term financial

viability of the sunflower industry in this State. (Libby Pemberton)

10. South Dakota Department of Agriculture for the use of the active ingredients 6-[4-isopropyl-4-methyl-5-oxo-2-imidazoline-2-yl] methyl ester and 2-[4-isopropyl-4-methyl-5-oxo-2-imidazoline-2-yl] methyl ester on sunflowers to control wild mustard; March 14, 1986 to August 15, 1986. (Libby Pemberton)

11. Wisconsin Department of Agriculture, Trade, and Consumer Protection for the use of fluazifop-butyl on dry bulb onions grown on muck soil to control grasses; March 28, 1986 to September 1, 1986. (Jim Tompkins)

12. Wisconsin Department of Agriculture, Trade, and Consumer Protection for the use of iprodione on ginseng to control leaf and stem blight; March 25, 1986 to September 15, 1986. (Libby Pemberton)

Authority: 7 U.S.C. 136.

Dated: May 22, 1986.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 86-12377 Filed 6-3-86; 8:45 am]

BILLING CODE 6560-50-M

[OPP-00227; FRL-3024-3]

FIFRA Scientific Advisory Panel; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a 2-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel to review the Office of Drinking Water's Draft Health Advisories for Fifteen Pesticide Chemicals. The meeting will be open to the public.

DATES: Wednesday and Thursday, June 25 and 26, 1986, from 8:30 a.m. to 5 p.m. each day.

ADDRESS: The meeting will be held at: Environmental Protection Agency, Rm. 1112, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT:

By mail: Stephen L. Johnson, Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (TS-766C), 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 1121, Crystal Mall, Building No. 2, Arlington, VA, (703-557-7695).

SUPPLEMENTARY INFORMATION: The agenda for the meeting is: Review of the Office of Drinking Water's Draft Health Advisories for the following 15 pesticide chemicals: alachlor, aldicarb, carbofuran, chlordane, 2,4-D, dibromochloropropane (DBCP), 1,2-dichloropropane, endrin, ethylene dibromide, heptachlor/heptachlor epoxide, lindane, methoxychlor, oxamyl, toxaphene, and 2,4,5-TP.

The Office of Drinking Water, through its Health Advisory Program, has been providing health effects guidance, along with technical assistance on analytical methodology and treatment techniques, to regional, State and local officials facing incidents of contamination of drinking water sources and supplies by chemicals for which no national drinking water standards existed. The Office of Drinking Water has prepared Draft Health Advisory documents dated September 30, 1985 for each of the 15 pesticide chemicals and has requested that the FIFRA Scientific Advisory Panel evaluate each of the Health Advisories for the 15 pesticide chemicals.

Health Advisories describe concentrations of contaminants in drinking water at which adverse non-carcinogenic effects would not be expected to occur. A margin of safety is included to protect senstive members of the population. Health Advisories are not legally enforceable Federal standards. They are subject to change as new and better information becomes available. To obtain copies of the Draft Health Advisory documents for specific substances please write to: Penelope Fenner-Crisp, Manager, Health Advisory Program, Criteria and Standards Division (WH-550), Environmental Protection Agency, Rm. E-1101C, 401 M St., SW., Washington, DC 20460, (202-382-7589).

Any member of the public wishing to submit written comments should contact Stephen L. Johnson at the address or telephone listed above to be sure that the meeting is still scheduled and to confirm the Panel's agenda. Interested persons are permitted to file such statements before the meeting. To the extent that time permits and upon advance notice to the Executive Secretary, interested persons may be permitted by the chairman of the Panel to present oral statements at the meeting. There is no limit on written comments for consideration by the Panel, but oral statements before the Panel are limited to approximately 5 minutes. Since oral statements will be permitted only as time permits, the Agency urges the public to submit written comments in lieu of oral presentations. All statements will be made part of the record and will be taken into consideration by the Panel. Persons wishing to make oral/written statements should notify the Executive Secretary and submit 10 copies of written comments and oral written testimony no later than June 16, 1986, in order to ensure appropriate consideration by the Panel.

Dated: May 23, 1986.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 86-12379 Filed 6-3-86; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50657; FRL-3024-7]

Issuance of Experimental Use Permits; BASF Corp. et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT

By mail: Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M. St., SW., Washington, DC 20460.

In person or by telephone: Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1800).

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

7969-EUP-21. Renewal. BASF Corporation Chemicals Division, 100 Cherry Hill Road, Parsippany, NJ 07054. This experimental use permit allows the use of 1,080 pounds of the herbicide sethoxydim on alfalfa to evaluate the control of grasses. A total of 1,080 acres are involved; the program is authorized only in the States of Arizona, California, Idaho, Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, Ohio, Oregon, Texas, Washington, and Wisconsin. The experimental use permit was previously effective from April 30, 1985 to April 30, 1986. The permit is now effective from May 5, 1986 to May 5, 1987. This permit is issued with the limitation that all treated crops are destroyed or used for research purposes only. (Robert Taylor, PM 25, Rm. 245, CM#2, (703-557-1800))

464-EUP-80. Issuance. Dow Chemical Company, 9008 Building, P.O. Box 1706, Midland, MI 48640. This experimental

use permit allows the use of 4,320 pounds of the herbicides 2,4–D and triclopyr on pastures and rangelands to evaluate the control of weeds. A total of 8,640 acres are involved; the program is authorized only in the States of Kentucky, Illinois, Iowa, Missouri, Ohio, Oregon, Pennsylvania, Washington, and West Virginia. The experimental use permit is effective from April 1, 1986 to March 31, 1988. A permanent tolerance for residues of the active ingredient in or on pasture grasses and rangelands has been established (40 CFR 180.142 and 180.417). (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

352–EUP–116. Extension. E.I. duPont deNemours & Company, Walkers Mill Building, Barley Mill Plaza, Wilmington, DE 19898. This experimental use permit allows the use of 298 pounds of the herbicide methyl 2–[[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino]carbonyl]sulfonyl]benzoate on forestry to evaluate the control of weeds. A total of 3,946 acres are involved; the program is authorized only in the of States of Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. The experimental use permit is effective from May 6, 1986 to May 6, 1987. (Robert Taylor, PM 25, Rm. 245, CM#2, (704–557–1800))

352–EUP–133. Issuance. E.I. duPont deNemours & Company, Walkers Mill Building, Barley Mill Plaza, Wilmington, DE 19898. This experimental use permit allows the use of 1,125 pounds of the herbicides 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazine-5(4H)-one and ethyl 2-[[[[(4-chloro-6-methoxypy6rimidin-2-yl)amino]carbonyl]amino]sulfonyl] benzoate on soybeans to evaluate the control of weeds. A total of 3,000 acres are involved; the program is authorized only in the States of Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin. The experimental use permit is effective from April 30, 1986 to April 30, 1987. A permanent tolerance for residues of the active ingredient in or on soybeans has been established (40 CFR 180.332 and 180.429). (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

Persons wishing to review these experimental use permits are referred to the designated product manager. Inquires concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136c.

Dated: May 22, 1986.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86–12376 Filed 6–3–86; 8:45 am]

BILLING CODE 6560–50–M

[OPP–50655; FRL–3024–6]

Issuance of Experimental Use Permits; Dow Chemical Co. et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT:

By mail, the product manager cited in each experimental use permit at the address below: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

464–EUP–85. Issuance. Dow Chemical Company, P.O. Box 1706, Midland, MI 48640. This experimental use permit allows the use of 750 pounds of the herbicide 2-(3,5-dichlorophenyl)-2-(2,2,2-trichloroethyl)oxirane on grain sorghum to evaluate the control of broadleaf weeds and grasses. A total of 1,950 acres are involved; the program is authorized only in the States of Alabama, Arkansas, Kansas, Missouri, Nebraska, Oklahoma, and Texas. The experimental use permit is effective from April 9, 1986 to April 9, 1988. A temporary tolerance for residues of the active ingredient in or on grain sorghum has been established. (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

352–EUP–126. Extension. E.I. duPont de Nemours and Company, Inc., Walkers's Mill Building, Barley Mill Plaza, Wilmington, DE 19898. This experimental use permit allows the use of 259 pounds of the fungicide 1-[[bis(4-fluorophenyl) methylsilyl]methyl]-1H-1,2,4-triazole on apples to evaluate the control of apple scab, cedar and apple rust, and powdery mildew. A total of 660 acres are involved; the program is authorized only in the States of California, Illinois, Indiana, Michigan, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Virginia, Washington, West Virginia, and Wisconsin. (Henry Jacoby, PM 21, Rm. 245, CM#2, (703–557–1900))

352–EUP–127. Extension. E.I. duPont de Nemours and Company, Inc., Walker's Mill Building, Barley Mill Plaza, Wilmington, DE 19898. This experimental use permit allows the use of 120 pounds of the fungicide 1-[[(bis(4-fluorophenyl) methylsilyl]methyl]-1H-1,2,4-triazole on grapes to evaluate the control of black rot and powdery mildew. A total of 480 acres are involved; the program is authorized only in the States of Arizona, California, Michigan, Missouri, New York, Ohio, Oregon, Pennsylvania, and Washington. This permit and the one above are effective from April 7, 1986 to April 7, 1987. Both permits are issued with the limitation that all treated crops are destroyed or used for research purposes only. (Henry Jacoby, PM 21, Rm. 245, CM#2, (703–557–1900))

352–EUP–135. Issuance. E.I. duPont deNemours and Company, Inc., Walker's Mill Building, Barley Mill Plaza, Wilmington, DE 19898. This experimental use permit allows the use of 50 ounces of the herbicide methyl 3-[[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino]carbonyl]amino]sulfonyl]-2-thiophenecarboxylate on soybeans to evaluate the control of various weeds. A total of 100 acres are involved; the program is authorized only in the States of Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin. The experimental use permit is effective from April 7, 1986 to April 7, 1987. This permit is issued with the limitation that all treated crops are destroyed or used for research purposes only. (Robert

Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

748–EUP–18. Extension. PPG Industries, Inc., One PPG Place, Pittsburgh, PA 15272. This experimental use permit allows the use of 40 pounds of the herbicide 1-(carboethoxy)ethyl 5-[2-chloro-4-(trifluoromethyl)phenoxy]-2-nitrobenzoate on soybeans to evaluate the control of broadleaf weeds. A total of 200 acres are involved; the program is authorized in the States of Alabama, Arkansas, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, Ohio, South Carolina, South Dakota, Tennessee, Virginia, and Wisconsin. The experimental use permit is effective from May 1, 1986 to May 1, 1987. This permit is issued with the limitation that all food or feed derived from the experimental use will be destroyed or used for research purposes only. (Richard Mountfort, PM 23, Rm. 237, CM#2, (703–557–1830))

201–EUP–79. Issuance. Shell Oil Company, 1025 Connecticut Ave. NW., Washington, DC 20036. This experimental use permit allows the use of 10,000 pounds (5,000 pounds each year) of the herbicide 1-methyl-4-(1-methylethyl)-2-Exo[(2-methylphenyl)-methoxy]-7-oxabicyclo[2.2.1.]heptane on cotton, peanuts, and soybeans to evaluate the control of annual grasses and broadleaf weeds. A total of 10,000 acres (5,000 acres each year) are involved; the program is authorized in the States of Alabama, Arizona, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, and Wisconsin. The experimental use permit is effective from April 4, 1986 to April 4, 1988. A temporary tolerance for residues of the active ingredient in or on cotton, peanuts, and soybeans has been established. (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

11273–EUP–44. Issuance. Zoecon Corporation, 975 California Ave., Palo Alto, CA 94304. This experimental use permit allows the use of 837 pounds of the herbicide norflurazon on peanuts to evaluate the control of various grasses and broadleaf weeds. A total of 620 acres are involved; the program is authorized only in the States of Alabama, Georgia, North Carolina, Oklahoma, South Carolina, and Texas. The experimental use permit is effective from April 9, 1986 to April 9, 1988. A temporary tolerance for residues of the active ingredient in or on peanuts has been established. (Richard Mountfort, PM 23, Rm. 237, CM#2, (703–557–1830))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136c.

Dated: May 22, 1986.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86–12375 Filed 6–3–86; 8:45 am]

BILLING CODE 6560–50–M

[PF–453; FRL–3024–5]

Pesticide Tolerance Petitions; Nor-Am Chemical Co.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Nor-Am Chemical Co. has submitted to EPA pesticide and feed additive petitions proposing to establish tolerances for residues of the insecticide 3,6-bis-(2-chlorophenyl)-1,2,4,5-tetrazine (referred to in this document as "clofentezine") in or on certain agricultural commodities.

ADDRESS: By mail, submit comments identified by the document control number [PF–453] and the petition number, attention Product Manager (PM–12), at the following address:

Information Services Section (TS–757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to:

Information Services Section (TS–757C), Environmental Protection Agency, Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed in response to this notice will be available for public inspection in the Information Services Section office at the address given above, from 8 a.m., to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Jay Ellenberger, (PM–12), Registration Division (TS–767C), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Room 202, CM#2, 1921 Jefferson Davis Hwy., Arlington, VA, (703–557–2386).

SUPPLEMENTARY INFORMATION: EPA has received pesticide (PP), and feed additive petitions (FAP), from Nor-Am Chemical Co., 3509 Silverside Rd., P.O. Box 7495, Wilmington, DE 19803, relating to the establishment of tolerances for residues of the insecticide clofentezine in or on certain agricultural commodities as follows:

Petition identity	CFR affected	Commodities	Part per million (ppm)
PP 6F3392	40 CFR Part 180.	Apples	0.15
		Meat	0.05
		Meat byproducts	0.05
		Milk	0.01
		Poultry, poultry byproducts.	0.05
FAP 6H5500	21 CFR Part 561.	Apple pomace (dry).	1.0

The proposed analytical method of determining residues is gas chromatography.

Authority: 21 U.S.C. 346a and 348

Dated: May 22, 1986.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86–12378 Filed 6–3–86; 8:45 am]

BILLING CODE 6560–50–M

[OPP–36117; FRL–3024–1]

Pesticide Registration Standards; Availability for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability of Proposed Standard for Comment.

SUMMARY: This notice announces the availability of certain proposed pesticide Registration Standard

documents for comment. The Agency has completed a review of each listed pesticide and is making available a document describing its regulatory conclusions and actions.

DATE: Written comments on each Registration Standard should be submitted on or before August 4, 1986.

ADDRESSES: Three copies of comments identified with the docket number listed with each Registration Standard should be submitted to:

By Mail: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460

In person, deliver comments to: Rm 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment in response to this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be inlcuded in the public docket without prior notice. The public docket and indices to the public dockets are available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: To request a copy of a Registration Standard, to request information concerning the public dockets, or to request indices to the public dockets, contact Frances Mann of the Information Services Section, in Rm. 236 at the address given above (703-557-3262). Requests should be submitted no later than July 7, 1986 to allow sufficient time for receipt before the close of the comment period.

For technical questions related to each Registration Standard, contact the Product Manager listed for that Standard, at the phone number given.

SUPLEMENTARY INFORMATION: The Environmental Protection Agency conducts a systematic review of pesticides to determine whether they meet the criteria for continued registration under section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). That review culminates in the issuance of a Registration Standard, a document describing the Agency's regulatory conclusions and positions on the continued registrability of the pesticide. In accordance with 40 CFR 155.34(c), published in the **Federal Register** of November 27, 1985 (50 FR 48998), before issuing certain Registration Standards, the Agency makes the proposed document available for public comment.

Proposed Registration Standards for the following pesticides are now available:

Name of pesticide	Docket No.	Contact person
1. Paraquat dichloride.	1910-42-5	Robert Taylor, Product Manager 25, (703-557-1800).
2. Benomyl	17804-35-2	Henry Jacoby, Product Manager 21, (703-557-1900).
3. Thiophanate methyl.	23564-25-08	Henry Jacoby, Product Manager 21, (703-557-1900).

Copies of each Registration Standard may be obtained from the Agency at the address listed under **"FOR FURTHER INFORMATION CONTACT."** Because of the length of each Standard and the limited number of copies available for distribution, only one copy can be provided by mail to any one individual or organization. Each Registration Standard is also available for inspection and copying in EPA Regional Offices at the addresses listed below after July 7, 1986.

List of EPA Regional Offices

Pesticides Branch, EPA—Region I, JFK Federal Building, Boston, MA 02203, Contact person: Andrew Triolo

Pesticides Branch, EPA—Region II, Woodbridge Avenue, Edison, NJ 08837, Contact person: Dave Andreassen

EPA—Region III, Curtis Building, 6th and Walnut Sts., Philadelphia, PA 19106, Contact person: John Smith

Pesticide and Toxic Substances Branch, EPA—Region IV, 345 Courtland St., NE, Atlanta, GA 30365, Contact person: Kent Williams

Toxic Materials Branch, EPA—Region V, 230 South Dearborn St., Chicago, IL 60604, Contact person: Lavarre Uhlken

Pesticide and Toxic Substances Branch, EPA—Region VI, 1201 Elm St., Dallas, TX 75270, Contact person: Norman Dyer

Pesticide and Toxic Substances Branch, EPA—Region VII, 324 East 11th St., Kansas City, MO 64106, Contact person: Leo Alderman

Toxic Substances Branch, EPA—Region VIII, 1860 Lincoln St., Suite 900, Denver, CO 80295, Contact person: Dean Gillan

Hazardous Materials Branch, EPA—Region IX, 215 Fremont St., San Francisco, CA 94105, Contact person: Laurie Perrot

Air & Water Division, EPA—Region X, 1200 6th Ave., Seattle, WA 98101, Contact person: Chuck Shenk

Dated: May 9, 1986.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 86-12381 Filed 6-3-86; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3025-7]

Ocean Dumping Program—Final Determination To Deny a Research Permit for the Incineration of Chemical Wastes at Sea

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency has determined that it is not currently necessary to conduct a research burn at sea pursuant to its Incineration-at-Sea Research Strategy and is therefore denying the application for Chemical Waste Management, Inc. (CWM), Oak Brook, Illinois, for the Vulcanus II (the Applicant), for a permit to perform that research. The Agency made a tentative determination to issue the proposed research permit on December 16, 1985. After reviewing the public comments filed on this tentative determination and the Hearing Officer's recommendations based on those comments, the Agency has decided not to issue a research permit until the Agency promulgates its proposed Ocean Incineration Regulations.

DATE: Any request for an adjudicatory hearing for a review of the Agency's determination to deny issuance of the permit must be filed pursuant to 40 CFR 222.10(a) within ten days of the publication of this determination at the address listed below.

ADDRESS: Requests for adjudicatory hearings may be sent to: Tudor Davies, Director, Office of Marine and Estuarine Protection [WH-556M], Environmental Protection Agency, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lisa Barrera, (202) 382-5410.

SUPPLEMENTARY INFORMATION:

I. Legal Authority

In enacting the Marine Protection, Research, and Sanctuaries Act (MPRSA or the Act) of 1972, as amended (33 U.S.C. 1401 *et seq.*) Congress authorized the EPA to permit the dumping (including incineration) of waste materials in ocean waters. In addition, Congress in 1981 enacted section 2 of Pub. L. 96-572 (33 U.S.C. 1412a(b)) specifically authorizing EPA to issue permits for research if the Agency determines, among other things:

(1) [T]hat the proposed dumping [incineration] is necessary to conduct research—

(A) On new technology related to ocean dumping [incineration], or

(B) To determine whether the dumping [incineration] of such substance will unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ocological systems, or economic potentialities.

EPA initially implemented the statutory requirements of the MPRSA through the Ocean Dumping Regulations which the Agency promulgated in 1977. 40 CFR Subchapter H. Although EPA has in the past permitted both ocean dumping and ocean incineration programs pursuant to these regulations, the Agency decided in May 1984 to defer the issuance of any operational ocean incineration permits until the Agency developed regulations with criteria more specifically related to the evaluation of ocean incineration activities. The Agency proposed those regulations on February 28, 1985, to modify the ocean dumping regulations as they apply to the incineration of liquid wastes at sea. The proposed regulations also would specifically implement the authority granted to the Agency in 1981 by Pub. L. 96–572, to issue research permits. EPA received over 900 public comments on the proposed regulations and is currently in the process of evaluating those comments. Final regulations will be promulgated at a future date.

II. Prior Incineration-at-Sea Permit Decisions

Since 1974, there have been four series of research burns conducted on organochlorine wastes. The first two series of burns were conducted in late 1974, early 1975, and 1977 in the Gulf of Mexico. A third series of burns followed late in 1977 when Herbicide Orange was incinerated in the Pacific Ocean west of Johnson Atoll. The last series of burns were conducted in 1981 and 1982 when liquid PCB wastes were incinerated at the Gulf Incineration Site under a research permit issued to Chemical Waste Management, Inc. (CWM), and Ocean Combustion Services, B.V.

CWM also submitted an application for a research permit on July 10, 1981, and an application for a research permit on November 2, 1981. On October 17, 1983, EPA made a tentative determination to issue the special and research permits to CWM. After reviewing the public comments and the Hearing Oficer's Report, the Assistant Administrator for Water on May 23, 1984, issued a final determination not to issue either permit. The Assistant Administrator's decision was based, in part, on his determination that the Agency should develop specific criteria for regulating ocean incineration activities before issuance of operational permits.

The Assistant Administrator also concluded that there was a need to develop a comprehensive research strategy to verify available information related to the human health and environmental risks of ocean incineration. To that end, EPA prepared a draft research strategy that was discussed at public meetings on November 13, 1984 and December 19, 1984. After evaluating comments, the Agency published its "Incineration-at-Sea Research Strategy" on February 19, 1985. (Support Document G to Tentative Determination). The Research Stategy has both short and long-term goals. Initial research was intended to validate sampling and analytical protocols that would be used to obtain scientific information and to collect information on types and quantities of emissions from incineration, and potential exposure and biological effects of such emissions. The primary focus of the long-term research is to evaluate long-term human health and environmental effects of such emissions, the characteristics of a site which make it suitable for incineration, the effects of different incineration technologies on emissions and any resultant environmental effects from alternative technologies.

To implement its Research Strategy; the Agency developed a detailed "Proposed Incineration-at-Sea Research Burn Implementation Plan." EPA released a working draft of that Plan on May 6, 1985. (Support Document E to the Tentative Determination). The Plan describes in detail the sampling and analytical protocols that would be used in obtaining the various types of scientific information identified in the Research Strategy. The Agency thereafter entertained applications to conduct the research.

III. Basis for Agency's Tentative Determination to Issue CWM a Research Permit

On May 24, 1985, CWM filed an application for a permit to conduct research consistent with the Agency's Research Strategy. (Support Document D to the Tentative Determination). In the application, CWM stated that the "immediate need for a research permit is to provide additional physical, chemical, and biological information on incineration of liquid organohalogen materials at sea." CWM noted that "EPA has prepared a detailed plan for a research burn at sea" a portion of which "CWM is prepared to perform . . . under the supervision of EPA". *Id.* at 5. CWM also identified the "long-term need" for the permit as providing "additional information is respect to use of ocean incineration as a means of permanently destroying liquid organic hazardous waste." *Id.* The permit application proposed to burn up to 3,500 metric tons of polychlorinated biphenyl (PCB) waste on board the Vulcanus II. The Vulcanus II would be loaded with the waste materials in the Port of Philadelphia and burn the wastes at a site designated by EPA.

EPA made a tentative determination on December 16, 1985, to issue the research permit to authorize CWM "to participate in research activities that have been designated by the Agency." 50 FR 51360. The proposed permit would have authorized CWM to burn 708,958 gallons of fuel oil containing 10–30 percent PCBs over a 19-day period at the proposed North Atlantic Incineration Site, approximately 104 miles east of the mouth of the Delaware River.

IV. Public Hearing and Comments

During January 1986, four public hearings on the proposed permit were held. The dates of these hearings, the number of persons who registered and the number of persons who presented statements are summarized below:

Date	Location	Registration	Statements
Jan. 13, 1986	Philadelphia, PA.	1,322	81
Jan. 16, 1986	Red Bank, NJ	561	53
Jan. 21, 1986	Wilmington, DE	164	31
Jan. 27, 1986	Ocean City, MD.	798	102
Totals		2,845	267

By the close of the comment period on February 15, 1986, 1,644 persons, including those who made statements at the public hearings, had submitted comments to the Agency on the tentative detemination to issue the research permit. The Agency received submissions from members of Congress, Federal, state and local government agencies, governors, public interest and environmental organizations, industrial and labor organizations, professional societies and academia.

V. Hearing Officer's Report

In accordance with 40 CFR 222.6–222.8, a Presiding Officer (or Hearing Officer) was designated to conduct the public hearings, summarize all the public comments and make recommendations to the Assistant Administrator for Water relating to the

issuance, denial, or modification of the proposed research permit. On May 1, 1986, the Hearing Officer submitted his report.

The Hearing Officer's Report did not specifically recommend that the Agency issue, deny, or modify the permit but rather presented a series of recommendations related to policy, technical and legal issues that the Hearing Officer believed the Agency should carefully consider before proceeding with a research burn. The Hearing Officer's Report also noted many of the provisional elements of the ocean incineration program, the primary element being the "proposed, but not finalized," ocean incineration regulations. (Report at 5). A review of the public comments reveals that the concerns of many of the commenters about the transportation and incineration of liquid harardous waste extend far beyond the more narrow statutory and regulatory criteria relevant to a decision on the issuance of a research permit. In his Report, therefore, the Hearing Officer summarized and discussed not only the adequacy of the draft permit, but these larger concerns as well. In general, the Report reflects the strong concerns expressed by a majority of the public commenters and many members of Congress that it is premature to issue a permit for a research burn at sea. In making its final determination, the Agency has considered the applicable statutory and regulatory criteria for permit issuance in light of the Hearing Officer's recommendations and the public comments.

VI. Basis for Determination to Deny the Permit

After a careful review of all the public comments and the Hearing Officer's Report, the Agency has decided that it is not currently necessary to perform the research outlined in its Research Strategy and therefore is denying the application for a research permit. The Hearing Officer's Report and his summary of the public comments clearly establish that the extensive number of issues raised during the public comment period are issues which the Agency should carefully consider before granting a permit for a research burn. Most of these issues previously have been raised by the public and currently are being considered by the Agency in the Agency's ongoing rulemaking process for development of comprehensive ocean incineration regulations. These issues include: establishing financial responsibility requirements and clarifying questions related to liability; addressing concerns related to the risks associated with land and marine transport; delineating factors to consider in the assessment of need; establishing criteria for consideration of an applicant's integrity; establishing requirements of contingency plans; addressing the issue of whether the Agency must prepare an environmental impact statement; addressing the need to finalize the designation of the North Atlantic Incineration Site; addressing the applicability of other federal statutes such as the Coastal Zone Management Act and the Endangered Species Act to a research permit; establishing appropriate sampling, analytical, and monitoring techniques; and establishing appropriate performance and operational standards.

The Agency believes that the more appropriate process for addressing and resolving these complex policy, technical and legal questions is through the Agency's ongoing rulemaking for development of comprehensive ocean incineration regulations. The Agency currently is reviewing and formulating decisions on the numerous issues raised in the rulemaking. Many of those issues relate directly to the appropriate procedures that should be followed in issuing any incineration permit and to the substantive requirements that should be imposed in such permits. The rulemaking proceeding offers the Agency a preferable forum in which to address and respond fully to the public concerns related to ocean incineration.

EPA recognizes that it initially proposed that research be conducted prior to the promulgation of ocean incineration regulations. That decision reflected the Agency's response to public concerns about the need to verify information gathered during the past burns regarding the effects of incineration on human health and the marine environment. The Agency, therefore, developed its Research Strategy. While information that would be developed pursuant to the Research Strategy would be useful in the development of ocean incineration regulations, the Agency does not believe such data is a necessary prerequisite to their issuance. Many of the most controversial issues related to the establishment of a permitting program are complex issues of policy and law that do not depend for resolution on the type of information intended to be gathered through the Research Strategy.

The Agency's decision that is not necessary to initiate implementation of its Research Strategy until after promulgation of the ocean incineration regulations removes any need for issuance of a research permit at this time. An essential finding required by 33 U.S.C. 1412a(b) (section 2 of Pub. L. 96–572) for issuance of a research permit is a finding of need. The Agency has determined that sufficient need does not exist at this time to warrant issuance of a research permit. EPA continues to support the goals of the Research Strategy and believes that the information intended to be gathered by the proposed research permit remains important to the development of an operating incineration program. However, such information can and should be obtained at a later date.

VII. Conclusion

The Agency intends to proceed at this time with development of the comprehensive ocean incineration regulations. Through this process, the Agency will carefully address and establish its position on the many issues identified in this decision. During this process the Agency will also work to better define the role of ocean incineration with respect to the Agency's hazardous waste management program. The Agency will continue with the development of its regulations and evaluation of ocean incineration because the Agency does not believe that existing information demonstrates that ocean incineration presents an unreasonable risk to human health or the environment. The Agency believes that ocean incineration offers a potentially valuable technology for disposal of this nation's increasing volumes of hazardous waste. However, if a research burn is to take place at sea, it will be after the Agency promulgates final ocean incineration regulations so that the public will know precisely how such an activity will be regulated.

The Agency will continue to work closely with all interested persons in the development of its ocean incineration regulations and any future research and operational program that may be instituted.

Dated: May 28, 1986.

Lawrence J. Jensen,

Assistant Administrator for Water.

[FR Doc. 86–12542 Filed 6–3–86; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3025–9]

Science Advisory Board; Radiation Advisory Committee; Open Meeting

Under Pub. L. 92–463, notice is hereby given that a meeting of the Science Advisory Board's Radiation Advisory Committee will be held at the U.S.

Environmental Protection Agency, Conference Room #4 South (on the Ground Floor, near the EPA Washington Information Center) Waterside Mall, 401 M Street SW., Washington, DC on June 20, 1986. The meeting will begin at 8:00 a.m. and adjourn no later than 6:00 p.m.

There are four major parts to the meeting. The Office Radiation of Programs will update the Committee on its Activities, particularly those relating to radon in indoor air. The Office of Environmental Engineering and Technology will present its research plan on the mitigation of radon in houses for review later this summer. The Radioepidemiology Subcommittee will report on its review of epidemiological work on radon in indoor air planned by the Office of Health Research. Graduate students from Carnegie-Mellon University will present a project on radon in indoor air.

The meeting is open to the public; however, seating is limited. Any member of the public wishing to attend or obtain information should contact Mrs. Kathleen Conway, Executive Secretary, or Mrs. Dorothy Clark, Staff Secretary, (A101-F) Radiation Advisory Committee, Science Advisory Board, by the close of business on June 17, 1986. The telephone number is (202) 382-2552.

Dated: May 28, 1986.

Kathleen Conway,

Acting Director, Science Advisory Board.

[FR Doc. 86-12541 Filed 6-3-86; 8:45 am]

BILLING CODE 6560-50-M

EXPORT-IMPORT BANK OF THE UNITED STATES

Advisory Committee of the Export-Import Bank of the United States; Meeting

SUMMARY: The advisory Committee was established by Pub. L. 98-181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the reports of the Export-Import Bank to the United States Congress.

TIME AND PLACE: Monday , June 23, 1986 from 9:30 a.m. to 12 noon. The meeting will be held in Room 1141, 811 Vermont Avenue, NW., Washington, DC 20571.

Agenda

The meeting agenda will include a discussion of Eximbank's Financial Report, objectives of Eximbank's reorganization, Charter renewal legislation update, Advisory Committee comments on 1985 Competitiveness Report, and foreign content issues.

Public Participation

The meeting will be open to public participation; and the last 20 minute will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. In order to permit the Export-Import Bank to arrange suitable accommodations, members of the public who plan to attend the meeting should notify Joan P. Harris, Room 935, 811 Vermont Avenue, NW., Washington, DC 20571, (202) 566-8871, not later than June 16, 1986.

Further Information

For further information, contact Joan P. Harris, Room 935, 811 Vermont Avenue, NW., Washington, DC 20571, (202) 566-8871.

Hart Fessenden,

General Counsel.

[FR Doc. 86-12575 Filed 6-3-86; 8:45 am]

BILLING CODE 6690-01-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

May 29, 1986.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Copies of this Submission are available from Doris Benz, FCC, (202) 632-7513. Comments should be sent to David Reed, Office of Management and Budget, Room 3235, NEOB, Washington, DC 20503 (202) 395-7231.

OMB No.: 3060-0102

Form No.: FCC 915

Title: Priority Request and Certification

Action: Extension

Estimated Annual Burden: 225 Responses; 225 Hours

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-12482 Filed 6-3-86; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Delegation of Authority With Respect to the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency, Federal Insurance Administration.

ACTION: Delegation of authority regarding community probation.

FOR FURTHER INFORMATION CONTACT: Frank Thomas, Assistant Administrator, Federal Emergency Management Agency, Federal Insurance Administration, 500 C Street SW., Washington, DC 20472, telephone (202) 646-2717.

Notice is hereby given that pursuant to 44 CFR 2.51, the Regional Directors are hereby authorized to exercise the authority set forth at 44 CFR 59.24(b). Under that section, the Regional Directors shall exercise all authorities and responsibilities involved in placing communities on and taking communities off probation status in the National Flood Insurance Program. The Federal Insurance Administrator shall retain responsibility for making the necessary adjustments to insurance rates for flood insurance policies covering properties located in affected communities.

This delegation supersedes all prior delegations of such authority.

EFFECTIVE DATE: This delegation shall be effective as of May 25, 1986.

Julius W. Becton, Jr.,

Director.

[FR Doc. 86-12485 Filed 6-3-86; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; American President Lines et al.

The Federal Maritme Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for

comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–010949.

Title: Container Stevedoring and Terminal Services Agreement between American President Lines, Ltd., Eagle Marine Services, Ltd., and Toyofuji Kaiun Kaisha, Ltd.

Parties:

American President Lines, Ltd. (Eagle)
Eagle Marine Services, Ltd. (Eagle)
Toyofuji Kaiun Kaisha, Ltd. (Carrier).

Synopsis: The proposed agreement would permit Eagle to provide container stevedoring and terminal services in behalf of Carrier's vessels berthed at terminal facilities separately arranged for by Carrier and located at the Port of Oakland, Middle Harbor Terminal, Berths C & D. The term of the agreement shall be for one (1) year, and automatically renewable for successive years. Carrier or Eagle may terminate the agreement at any time by giving the other 90 days' written notice. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Dated: May 30, 1986.

Tony P. Kominoth,

Assistant Secretary.

[FR Doc. 86–12560 Filed 6–3–86; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Arthur State Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than June 27, 1986.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Arthur State Bancshares, Inc.*, Union, South Carolina; to become a bank holding company by acquiring at least 80 percent of the voting shares of Arthur State Bank, Union, South Carolina.

2. *Chesnee State Bancshares, Inc.*, Chesnee, South Carolina; to become a bank holding company by acquiring at least 80 percent of the voting shares of Chesnee State Bank, Chesnee, South Carolina.

3. *Woodruff State Bancshares, Inc.*, Woodruff, South Carolina; to become a bank holding company by acquiring at least 80 percent of the voting shares of Woodruff, State Bank Woodruff, South Carolina.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *First Brundidge Bancshares, Inc.*, Brundidge, Alabama; to become a bank holding company by acquiring 80 percent of the voting shares of The First National Bank of Brundidge, Brundidge, Alabama.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Prairie Bankshares, Inc.*, Georgetown, Illinois; to acquire 100 percent of the voting shares of The First National Bank of Ogden, Ogden Illinois.

D. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Friendship Bancshares, Inc.*, Friendship, Tennessee; to become a bank holding company by acquiring at least 80 percent of the voting shares of Bank of Friendship, Friendship, Tennessee.

Board of Governors of the Federal Reserve System, May 29, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–12459 Filed 6–3–86; 8:45 am]

BILLING CODE 6210–01–M

First Wisconsin Corporation et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23 (a)(1) of the Board's Regulation Y (12 CFR 225.23 (a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843 (c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding compaines. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompained by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 25, 1986.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Wisconsin Corporation*, Milwaukee, Wisconsin; to engage *de novo* through its joint venture subsidiary Elan Life Insurance Company, Phoenix, Arizona, in the underwriting as reinsurer of credit life and credit accident and health insurance that is directly related to extensions of credit by the banking and nonbanking subsidiaries of Applicant pursuant to § 225.25(b)(9) of the Board's Regulation Y. The remaining interest in the joint venture will be acquired by CLICO Management, Inc., Springfield, Ohio, a wholly-owned subsidiary of The Credit Life Companies, Inc., Springfield, Ohio.

These activities will be conducted in the State of Wisconsin.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoening, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Brookwood Bancshares, Inc.*, Oklahoma City, Oklahoma; to engage directly in mortgage banking activities pursuant to § 225.25(b)(1) of the Board's Regulation Y. These activities will be conducted in the State of Oklahoma.

Board of Governors of the Federal Reserve System, May 29, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-12450 Filed 6-3-86; 8:45 am]

BILLING CODE 6210-01-M

Norwest Corporation et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than June 26, 1986.

A. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota; to retain assets acquired from three Household Finance Corporation offices in Alaska and thereby engage in consumer finance, sales finance and commercial finance activities pursuant to § 225.25(b)(1) of the Board's Regulation Y. These activities will be conducted in the State of Alaska.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *AmeriWest Bancor, Inc.*, Phoenix, Arizona; to acquire Beeson, Inc., Scottsdale, Arizona, and thereby engage in management consulting to depository institutions pursuant to § 225.25(b)(11) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 29, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-12461 Filed 6-3-86; 8:45 am]

BILLING CODE 6210-01-M

WM Bancorp; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 26, 1986.

A. **Federal Reserve Bank of Richmond.** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *WM Bancorp*, Cumberland, Maryland; to become a bank holding company by the consolidation of GNB Bancshares, Oakland, Maryland, and LTC Bancorp, Cumberland, Maryland, and thereby indirectly acquire Garrett National Bank, Oakland, Maryland, and Liberty Bank of Maryland, Cumberland, Maryland.

Applicant has also applied to engage through its subsidiary Community Finance, Inc., Cumberland, Maryland, in consumer and commercial financial activities, including the extension of direct loans to consumers, the discount of retail and installment notes or contracts, the extension of direct loans to dealers for financing of inventory (floor planning) and to act as agent for the sale of life, accident and health insurance directly related to the extensions of credit through an agent arrangement pursuant to § 225.25(b)(1) and (b)(8)(i) of the Board's Regulation Y. These activities will be conducted in the State of Maryland.

Board of Governors of the Federal Reserve System, May 29, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-12462 Filed 6-3-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Secretary's Private/Public Sector Advisory Committee on Catastrophic Illness; Advisory Committee Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet in 1986:

Name: Secretary's Private/Public Sector, Advisory Committee on Catastrophic Illness.

Date: June 19, 1986, 7:00 p.m. until 9:00 p.m.

Place: Humphrey Auditorium, 200 Independence Ave., SW., Washington, DC 20201.

Purpose: The purpose of the Private/Public Sector Advisory Committee on Catastrophic Illness will be to: (1) Solicit input from all interested parties regarding how government and the private sector can work together to address the problems of affordable insurance for catastrophic illness: and (2) Reflect periodically the views of the interested parties as well as the constituencies represented on the Committee regarding the report on catastrophic health care which the Secretary of Health and Human Services must submit to the Preisdent by the end of the year.

Agenda: The meeting of the Private/Public Sector Advisory Committee and the Health and Human Services Executive Advisory Committee will be an interim Report Session. The Private/Public Sector Advisory Committee will discuss major points and private sector inputs enunciated in the public forums. The Executive Advisory Committee will present a status report of what has been accomplished by midstudy. The Agenda will consist of: a welcome and opening remarks by James Balog, Chairman of the Private-Public Sector Advisory Committee; remarks from the Chairman of the Executive Advisory Committee and the Technical Work Groups; a review of purpose, scope and membership of the catastrophic illness study and discussion.

Anyone wishing to obtain a roster of members or other relevant information should write to or call Ms. Jean-Craft Comolli, Staff Director, Private/Public Sector Advisory Committee on Catastrophic Illness, or Ms. Nancy Hobbs, Public Forum Coordinator, 602E, Humphrey Building, 200 Independence Ave., SW., Washington, DC, (202) 245–2641.

Joseph Antos,

Vice Chairman, Executive Advisory Committee.

[FR Doc. 86–12561 Filed 6–3–86; 8:45 am]

BILLING CODE 4150-04-M

Secretary's Private/Public Sector Advisory Committee on Catastrophic Illness; Advisory Committee Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet in 1986:

Name: Secretary's Private/Public Sector, Advisory Committee on Catastrophic Illness.

Date: June 20, 1986, 9:00 a.m. until 4:00 p.m.

Place: Humphrey Auditorium, 200 Independence Ave., SW., Washington, DC 20201.

Purpose: The purpose of the Private/Public Sector Advisory Committee on Catastrophic Illness will be to: (1) Solicit input from all interested parties regarding how government and the private sector can work together to address the problems of affordable insurance for catastrophic illness: and (2) to reflect periodically the views of the interested parties as well as the constituencies represented on the Committee regarding the report on catastrophic health care which the Secretary of Health and Human Services must submit to the President by the end of the year.

Agenda: The forum of the Private/Public Sector Advisory Committee on Catastrophic Illness will consist of a welcome and opening remarks by Chairman James Balog and members of the Committee. Presenters will include:

The Honorable French Slaughter, Jr., U.S. House of Representatives
The Honorable David Dreier, U.S. House of Representatives
The Honorable Tarky Lombardi, New York State Senate
National Federation of Independent Businesses
Group Health Association
Peter Ferrara
National Association of Manufacturers
National Foundation for Long Term Care, National Medical Directors Association
American Association of Homes for the Aging
American Academy of Pediatrics
American Society of Internal Medicine
Oley Foundation
National Association of Children's Hospitals
Health Services, Inc.
American Nurses' Association
National Association of Rehabilitation Facilities
National Association of Social Workers
Maryland Office on Aging
Central Arkansas Area Agency on Aging
National Mental Health Association
Cancer Care, Inc.
Older Women's League
National Alliance for the Mentally Ill.

Anyone wishing to obtain information, a roster of members, or other relevant information should write to or call Ms. Jean-Craft Comolli, Staff Director, Private/Public Sector Advisory Committee on Catastrophic Illness, or Ms. Nancy Hobbs, Public Forum Coordinator, 602 E, Humphrey Building, 200 Independence Ave., SW., Washington, DC 20201, (202) 245–2641.

Joseph Antos,

Vice Chairman, Executive Advisory Committee.

[FR Doc. 86–12562 Filed 6–3–86 8:45 am]

BILLING CODE 4150-04-M

Centers for Disease Control

Grants for Centers for Research and Demonstration of Health Promotion and Disease Prevention

Program Announcement and Notice of Availability of Funds for Fiscal Year 1986

The Centers for Disease Control (CDC) announces that competitive grant applications are being accepted for centers for research and demonstration of health promotion and disease prevention, hereinafter referred to as "Prevention Centers." The Catalog of Federal Domestic Assistance number is 13.135.

Objectives

Recent biomedical and behavioral research has demonstrated new leads toward the causation and prevention of health problems. This new knowledge has emphasized the need for a broadened approach, utilizing many disciplines heretofore not part of the prevention team. There are also important evaluation questions and methodological issues affecting disease prevention and health promotion programs. The specific objectives are:

1. To stimulate and support academic-based centers for research and demonstration of health promotion and disease prevention.

2. To establish linkages, where applicable, between ongoing basic research in a wide array of fields and

applied research in disease prevention and health promotion.

3. To bring the knowledge and expertise of academic health centers to bear on practical public health problems.

4. To field test and rigorously evaluate for cost-effectiveness various methods and strategies for preventing unnecessary illness and promoting good health.

5. To shorten the time lag between the development of new and proven effective disease prevention and health promotion techniques and their widespread application.

Type of Assistance

The award instrument to be used resulting from this announcement will be grants.

Availability of Funds

In Fiscal Year 1986, $1,400,000 is available to fund two to four awards. The awards will range from approximately $250,000 to $700,000 with the average award being approximately $450,000.

Authority

This program is authorized under Section 1706 of the Public Health Service Act (42 U.S.C. 300u–5).

The grant administration policies of the Department of Health and Human Services and the Public Health Service are applicable to the Prevention Centers Program.

Eligibility Requirements

Eligible applicants are schools of medicine, schools of osteopathy, and schools of public health. Eligible applicants may enter into contracts, including consortia agreements (as described in the PHS Grants Policy Statement), as necessary to meet the essential requirements of this program, and to strengthen the overall application.

Essential Requirements:

Section 1706 of the PHS Act stipulates that a Prevention Center shall:

1. Be located in an academic health center with—

a. A multidisciplinary faculty with expertise in public health and which has working relationships with relevant groups in such fields as medicine, psychology, nursing, social work, education and business;

b. Graduate training programs relevant to disease prevention;

c. A core faculty in epidemiology, biostatistics, social sciences, behavioral and environmental health sciences, and health administration;

d. A demonstrated curriculum in disease prevention;

e. A capability for residency training in public health or preventive medicine.

2. Conduct—

a. Health promotion and disease prevention research, including retrospective studies and longitudinal prospective studies in population groups and communities;

b. Demonstration projects for the delivery of services relating to health promotion and disease prevention to defined population groups using, as appropriate, community outreach and organization techniques and other methods of educating and motivating communities; and

c. Evaluation studies on the efficacy of demonstration projects conducted under 2.b. above.

Other Characteristics:

A number of other characteristics, which are not specified by law, are desirable and will also be used in the evaluation of applications:

1. The availability of highly qualified professsional staff to perform proposed activities with relevant experience in such fields as infectious and chronic diseases, injuries, occupational safety and health, environmental health, maternal and child health, international health, and health promotion and risk reduction;

2. The designation of a Director who is a recognized leader in health promotion and disease prevention, who has well-defined authorities and responsibilities, and who will devote sufficient time to accomplish the Prevention Center's objectives;

3. A continuing base of peer-reviewed projects or activities funded from other sources relevant to the goals of the prevention center and its central theme;

4. Demonstrated experience in successfully conducting and evaluating research, demonstration, and/or special projects relating to health promotion and disease prevention;

5. Commitment of the parent institution to the prevention center, so that the center will be recognized as a major element within the organizational structure; and manifested by various combinations of personnel, facilities, and activities funded from other sources;

6. Facilities and organizational arrangements that promote and foster collaboration among the staff and components of the prevention center;

7. A history of successful intramural cooperation among a variety of disciplines and, as appropriate, involving staff who will be part of the prevention center;

8. Effective working relationships with State and local health departments and other organizations (e.g., care providers, voluntary organizations, etc.) whose active support and participation are essential to successful implementation of proposed activities.

9. Effective mechanisms for linking prevention center activities with public health and biomedical and behavioral researchers and with recognized experts in proposed areas of emphasis;

10. Relevant data and experience for rigorously evaluating the efficacy and cost benefits of demonstrations and other center activities requiring rigorous evaluation; and

11. Plans for the establishment of a health promotion and disease prevention adivsory committee or other suitable mechanisms for obtaining input from a variety of perspectives on the major aspects of the prevention center program.

12. Plans to become self-sustaining.

Applications

1. Copies—Place of Submission

Applications should be submitted on Form PHS–398 (revised May 1982). Applications should also adhere to the Errata to the Instruction Sheet for PHS–398 contained in the Grant Application Kit. The original and two copies of the application must be submitted on or before July 14, 1986, to the: Grants Management Officer, Procurement and Grants Office, Centers for Disease Control, 255 E. Paces Ferry Road, NE., Room 321, Atlanta, Georgia 30305.

Application kits are available from the CDC Grants Management Officer.

An applicant organization has the option of having specific salary and fringe benefit amounts for individuals omitted from the copies of the application that are made available to outside reviewing groups. If the applicant elects to exercise this option, use asterisks on the original and two copies of the application to indicate those individuals for whom salaries and fringe benefits are being requested; the subtotals must still be shown.

In addition, submit an additional copy of page four of Form PHS–398, completed in full with the asterisks replaced by the amount of the salary and fringe benefits requested for each individual listed. This budget page will be reserved for internal CDC staff use only.

2. Deadlines

Applications shall be considered as meeting the deadline if they are either:

a. Received at the above address on, or before, the deadline date, or

b. Sent on, or before, the deadline date and received in time for submission to the peer review committee. (Applicants should request a legibly-dated U.S. Postal Service postmark or obtain a legibly-dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing).

3. Late Applications

Applications which do not meet the criteria in either paragraph 2. a. or b. immediately above are considered late applications and will not be considered in the current competition and will be returned to the applicant.

4. Reviews

Applications are not subject to the review requirements of the National Health Planning and Resource Development Act of 1974 as amended (42 CFR parts 122 and 123), and are not subject to Inter-Governmental Review pursuant to Executive Order 12372.

5. Content of Application

Applications must include a narrative which details the following information:

a. The proposed theme for the center. Whether the proposed theme is broadly conceived or narrowly focused on one or a few closely related areas, activities to be conducted in conjunction with the center's theme should be clearly explained in terms of overall thrust, areas of emphasis, need, scientific basis, expertise, expected interactions, and anticipated outcomes.

While creativity and flexibility in selecting a theme are essential to stimulating innovative approaches and interactions, the center's proposed theme should be consistent with the Nation's health priorities or emerging health needs as defined by, "Promoting Health/Preventing Disease: Objectives For the Nation" (Department of Health and Human Services, 1980). In selecting a theme, applicants should also consider:

(1) The leading causes of preventable illness/injuries, premature death, and medical expenditures in the nation as a whole, as well as identified target populations; and/or

(2) Major cross-cutting issues affecting current or future health promotion and disease prevention efforts in the United States. The proposed theme should also reflect the interests and capabilities of the applicant and the health needs of community groups involved.

b. Clearly defined and measurable objectives consistent with the applicant's proposed theme and activities and the goals of the National program outlined under the Objectives section of this document. The center's proposed theme and objectives should likewise promote clarity of purpose and facilitate integration of center activities into a conceptual whole.

c. A detailed program plan describing the means by which the center's objectives will be achieved. The program plan must include a description of multidisciplinary interactions, developmental research, formal studies, community demonstrations, and shared expertise. For this purpose of this announcement, these terms are defined as:

(1) "Multidisciplinary interactions" means such investigations, surveys, literature searches, dislogues, assessments, initiatives, and other intramural or extramural activities as the applicant may propose in order to clearly explain, nurture, and further delineate specific needs and opportunities for furthering the aims of the prevention center program. The need for such interactions and now they will contribute to the center's objectives must be clearly defined.

(2) "Developmental research" means that series of steps leading to the development of specific studies or research projects. In addition to determining the need for further scientific research and methods development, developmental research includes identifying and synthesizing available scientific evidence or data about a specific health problem, population group, or health care setting. Applicants must clearly define the areas to be investigated and the methods to be used. The need for developmental research and how it will contribute to the center's objectives must be clearly defined.

(3) "Formal study" means an identified research project which is intended and designed to establish, discover, develop, clarify, or confirm information on the underlying mechanisms relating to a specific health problem, population group or health care setting. In the context of this program, formal studies include research on methods, retrospective studies and longitudinal prospective studies in defined populations, and controlled intervention trials. Proposed studies must adhere to the scienfitic method and fall within the framework of the Public Health Service's definition of "prevention research" as defined in (6) below. Grant funds cannot be used to support "prevention-relevant research" as defined in (7) below. The need for new studies, their contribution to the center's objectives, and the relevancy of ongoing studies conducted by core faculty must be clearly defined.

(4) "Community demonstration" means a time-limited project aimed at testing the public health impact of an unproven intervention in remedying or reducing the underlying causes and/or influencing factos of one or more preventable health problems in a well-defined community or target population. Testing the public health impact of a trial intervention, method, or approach on a community basis requires rigorous evaluation as well as quality control. The scientific basis and projected cost benefit of the intervention must be clearly delineated in the application along with a clear statement of the problem and methdology. Such demonstrations must also be consistent with the Public Health Service definition of "preventation research" as defined in (6) below. The need for each identified community demonstration and how it will contribute to the center's objectives must be clearly defined.

(5) "Shared expertise" means consultation to government public health agencies and other organizations in planning and evaluating health promotion and disease prevention activities matching the center's capabilities and theme. The mechanisms for offering such assistance, particularly as it relates to designing and/or conducting formal evaluations, and how it will enhance the center's objectives must be clearly defined.

(6) "Prevention research" includes only that research designed to yield results directly applicable to interventions to prevent occurrence of disease or disability, or progression of detectable but asymptomatic disease.

(a) Pre-intervention:

—Identification of risk factors for disease or disability.

—Development of methods for identification of disease controllable in the asymptomatic stage.

—Refinement of methodological and statistical procedures for quantitatively assessing risk and measuring the effects of preventive interventions.

(b) Intervention:

—Development of biologic interventions to prevent occurrence of disease or disability, or progression of asymptomatic disease.

—Development of environmental interventions to prevent occurrence of disease or disability, or progression of asymptomatic disease.

—Development of behavioral interventions to prevent occurrence of disease or disability, or progression of asymptomatic disease.

—Conduct of clinical and community trials and demonstrations to assess preventive interventions and to encourage their adoption.

Some interventions may be applicable to primary prevention as well as to disease treatment (e.g., diet and exercise as components of rehabilitation for coronary heart disease). Research into such intervention is considered prevention research.

(7) "Prevention-relevant research" includes that research which has a high probability of yielding results which will likely be applicable to disease prevention. Included are studies aimed at clearly explaining the chain of causation—the etiology and mechanism—of acute and chronic diseases. Such basic reserach efforts generate the fundamental knowledge which contributes to the development of future preventive interventions.

Applicants have broad flexibility in determining the appropriateness, scope and blend of these and other proposed activities, but at least twenty-five (25) percent of the center's resources must be allocated to defined formal studies/research projects and community demonstration as defined in parts c.(3) and c.(4) above. The need for such "other activities" that the applicant may consider necessary to accomplish its stated objectives must also be clearly defined along with expected outcomes.

d. A method of evaluation aimed at monitoring progress in meeting the center's objectives.

e. A description of the center director's role and authority relative to staffing the prevention center, coordination of effort, and control over center space and equipment.

f. A description of the core faculty and its role in implementing and evaluating the proposed program. Whether paid from the grant or other sources, the core faculty must include full or part-time faculty in epidemiology, biostatistics, social sciences, behavioral sciences, environmental health sciences, and one of the health disciplines which addresses the administration of health programs. The applicant may also include as a part of the core faculty other disciplines (e.g., health economics, biomedical ethics, occupational safety and health, health law, health education, medicine, and nursing) as needed to achieve the center's proposed objectives.

g. A list of staff, including the center director and core faculty, who are expected to participate in the center, including titles, tenure status, areas of expertise, and the amount of time devoted to each component of the proposed program, and whether paid from the grant or other sources.

h. A list of relevant current funded and/or pending grants and/or contracts for the core faculty (PHS 398, "Other Support") under part e. above. For each grant or contract include:

(1) Source of funds;

(2) Amount of funding;

(3) Identifying numbers;

(4) Whether funded or pending;

(5) Date of funding, initiation, and termination; and

(6) Relationship to the center's proposed theme, objectives and implementation plan.

i. Documentation of the involvement of appropriate public health agencies, care providers, community organizations, and other interested parties, including letters of support and a clear statement of their role, if applicable.

j. A description of how the applicant plans to obtain continuing input and advice from a variety of perspectives (e.g. scientists, public health officials, primary care providers, voluntary health organizations, and consumers) as counsel is needed, to maximize participation and "ownership" in prevention center activities and to obtain resources from other sources. Toward this end, applicants may establish an advisory committee or use other mechanisms suitable to their needs.

k. Documentation of the source, allocation and planned full use of State, local government, foundation, or institutional funds made available to the center and an indication of the discretion which the center has with these funds.

l. Charts showing the proposed organizational structure of the center and its relationship to the applicant institution and, where applicable, to affiliated institutions or collaborating organizations.

m. A detailed budget for the prevention center.

n. In regard to the Research Plan, instructions apply to community demonstration projects as well as formal research studies.

o. In citing preliminary studies or prior findings, the six phases of prevention research and demonstrations are:

(1) Hypothesis development;

(2) Methods development;

(3) Controlled intervention trials;

(4) Defined population studies;

(5) Demonstrations; and

(6) Wide-scale application of successful results.

The phase(s) to be conducted should be clearly delineated.

p. For community demonstration projects, also describe the scientific strength of the proposed interventions; the target population; projected cost benefits; data gathering activities and evaluations procedures; and possible future strategies for wide-scale application of the results if the specific aims of the project are accomplished.

q. Plans to become self-sustaining.

6. Review Criteria

Applications will be reviewed and evaluated by a dual review process.

a. A *peer review* will be conducted on all applications. The review process may include a site visit. Applications will be reviewed and evaluated in the peer review based on the evidence submitted which specifically describes the applicant's ability to meet the following criteria:

(1) The degree to which the applicant satisfies the essential requirements described under Eligibility Requirements section of this document.

(2) The degree to which the applicant possesses Other Characteristics described under Eligibility Requirements section of this document.

(3) The quality of the program's measurabale objectives and the overall match between the applicant's proposed theme, activities, and objectives and the goals of the National program.

(4) The scientific merit of the overall application relative to the types of research, demonstration, and other activities proposed.

(5) The need for, significance of, proposed studies and demonstrations, such that at least 25 percent of the grant award will be directed toward the conduct of defined formal studies/research projects and community demonstrations.

(6) The adequacy of the methods for coordinating the overall program and its components and the consistency of proposed activities with the Public Health Service's definition of "prevention research."

(7) The adequacy of the methods for evaluating achievement of the program's measureable objectives.

(8) Overall qualifications, adequacy, and appropriateness of personnel to accomplish proposed activities.

(9) The degree of commitment by the parent institution as manifested by the organizational status of the prevention center and combinations of center personnel, facilities and activities funded from other sources, and the likelihood that this commitment will be sustained or expanded in future years.

(10) The degree of commitment and cooperation manifested by other

interested parties, including State and local health departments, and community organizations where applicable. The degree of this commitment will also be measured by the likelihood that it will be sustained or expanded in future years.

(11) The reasonableness of the proposed budget in relation to the proposed program.

b. A *secondary review* of all applications will be conducted by a CDC committee based on:

(1) The results of the peer review.

(2) The significance of proposed prevention center activities, including areas of emphasis for research and demonstration.

(3) National needs and geographic balance.

(4) Balance between multi-disciplinary interactions, research projects, community demonstrations, and other proposed activities.

(5) Budgetary considerations.

(6) Plans to become self-sustaining.

7. Awards

Awards will be made based on priority score ranking, secondary review, availability of funds, and such other significant factors deemed necessary and appropriate by the Director, CDC.

Information

Information on application procedures, copies of application forms, and other material may be obtained from Betty Feeley, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 321, Atlanta, Georgia 30305, or by calling (404) 262-6575 or FTS 236-6575.

Technical assistance may be obtained from Tom G. Ortiz, Acting Director, Center for Professional Development and Training, Centers for Disease Control, Atlanta, Georgia 30333, or by calling (404) 262-6671 or FTS 236-6671.

Dated: May 30, 1986.

Donald R. Hopkins,

Deputy Director, Center for Disease Control.

[FR Doc. 86-12614 Filed 6-3-86; 8:45am]

BILLING CODE 4160-18-M

Food and Drug Administration

Blood Products Advisory Committee; Notice of Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the renewal of the Blood Products Advisory Committee by the Secretary of Health and Human Services. This notice is issued under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)).

DATE: Authority for this committee will expire on May 13, 1988, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: May 29, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-12491 Filed 6-3-86; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 86G-0086]

Gattefosse Etablissements; Filing of Petition for Affirmation of Gras Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a petition (GRASP 6G0308) has been filed on behalf of Gattefosse Etablissements proposing to affirm that glyceryl behenate is generally recognized as safe (GRAS) as an excipient in food prepared as tablets.

DATE: Comments by August 4, 1986.

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

FOR FURTHER INFORMATION CONTACT: Lawrence J. Lin, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-8950.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))) and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35), notice is given that a petition (GRASP 6G0308) has been filed on behalf of Gattefosse Etablissements, 36 Chemin de Genas, Saint Priest, France, proposing to affirm that glyceryl behenate is GRAS for use as an excipient in food prepared as tablets.

The petition has been placed on display at the Dockets Management Branch (address above).

Any petition that meets the format requirements outlined in § 170.35 is filed by the agency. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for GRAS affirmation.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c), as published in the **Federal Register** of April 26, 1985 (50 FR 16636).

Interested persons may, on or before August 4, 1986, review the petition and/or file comments (two copies, identified with the Docket number found in brackets in the heading of this document) with the Dockets Management Branch (address above). Comments should include any available information that would be helpful in determining whether the substance is, or is not, GRAS. A copy of the petition and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 15, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86-12488 Filed 6-3-86; 8:45 am]

BILLING CODE 4160-01-M

Social Security Administration

Issuance of Social Security Acquiescence Rulings

AGENCY: Social Security Administration, HHS.

ACTION: Notice.

SUMMARY: As of April 30, 1986, the Social Security Administration (SSA) had issued 14 Social Security Acquiescence Rulings which are available to the public. Social Security Acquiescence Rulings are published under the authority of the Commissioner of Social Security. They are effective upon the date of publication. As additional Social Security Acquiescence Rulings are issued, we will periodically publish a notice to that effect in the **Federal Register.**

These rulings explain the manner in which SSA applies decisions of the United States Courts of Appeals, which

conflict with SSA policy, in adjudicating claims under title II and title XVI of the Social Security Act and Part B of the Black Lung Benefits Act.

Included in this notice are the following rulings which are available to the public.

AR 86–1(9)

Effective Date; January 23, 1986.

Summy v. *Schweiker*, 688 F.2d 1233 (9th Cir. 1982); Third party payments for medical care or services—Title XVI of the Social Security Act.

Issue

Whether the payment adjustment made by the Veterans Administration (VA) under its pension program in recognition of past unusual medical expenses qualifies as a third-pary payment for medical care or services, and therefore, does not constitute income under the Supplement Security Income (SSI) program.

Explanation of How SSA Will Apply the Decision Within the Circuit

The ruling applies only to cases where the individual resides in Washington, Idaho, Montana, California, Oregon, Nevada, Arizona, Alaska Hawaii, or the Northern Mariana Islands at the time of the determination or decision at any level of administrative review, i.e., initial, reconsideration, administrative law judge hearing or Appeals Council review.

When a case involves an individual who has received an additional pension or compensation payment from the VA as a result of unreimbursed medical expenses, the additional pension or compensation payment from the VA is not income for SSI purposes.

AR 86–2(2)

Effective Date: January 23, 1986.

Rosenberg v. *Richardson*, 538 F.2d 487 (2d Cir. 1976);

Capitano v. *Secretary of HHS*, 732 F. 2d 1066 (2d Cir. 1984) Entitlement of a Deemed Widow When a Legal Widow is Entitled on the Same Earning Record Title II of the Social Security Act.

Issue

Whether a "deemed widow" may be found entitled to Title II survior Social Security benefits when a legal widow is entitled to Title II survivor Social Security benefits on the same deceased person's Social Security earnings record and, if so, what is the appropriate amount of the "deemed widow's" benefits? This ruling also applies to widowers.

Explanation of How SSA Will Apply the Decision Within the Circuit

The ruling applies only to cases where the deemed widow resides in Connecticut, New York or Vermont at the time of the determination or decision at any level of administrative review, i.e., initial, reconsideration, administrative law judge hearing or Appeals Council review.

When a case involves a legal widow and a deemed widow as defined in 20 CFR 404.345 and 404.346(a), both have filed widow's claims on the same worker's earnings record and the legal widow is found entitled to receive less than a "full" widow's benefit, for whatever reason, the difference between the benefit amount the legal widow is entitled to receive and the amount of the full benefit will be paid to the deemed widow, subject to any reductions applicable to the deemed widow. As in any case involving auxiliary benefits, the family maximum cannot be exceeded.

AR 86–3(5)

Effective Date: January 23, 1986.

Martinez v. *Heckler*, 735 F.2d 795 (5th Cir. 1984) Disability Program—Individuals Who Are Illiterate and Unable to Communicate in English—Titles II and XVI of the Social Security Act.

Issue

Whether the Social Security disability vocational rules applicable to individuals who are illiterate or unable to communicate in English are applicable to individuals who are illiterate *and* unable to communicate in English.

Explanation of How SSA Will Apply the Decision Within the Circuit

This ruling applies only to cases in which the individual resides in Texas, Mississippi or Louisiana at the time of the determination or decision at any level of administrative review, i.e., initial, reconsideration, administrative law judge hearing or Appeals Council review. For such individuals seeking disability benefits or continuation of disability benefits under title II or title XVI, when illiteracy and inability to communicate in English are alleged or appear to be in question, findings with respect to both issues must be made. Where individuals limited to sedentary work, age 18 to 44 with unskilled or no work history are found to be both illiterate *and* unable to communicate in English, the lowest category of the grid regulations [20 CFR Part 404 Subpart P, Appendix 2] which might be applied to such individuals, namely Rule 201.23, cannot be applied under the holding of the *Martinez* decision. The grid regulations may be used only as guidance for decisionmaking. (See Appx. 2, 200.00(a))

In addition, under the court's decision, Rule 202.16 can also no longer be applied. Rule 202.16 applies to individuals limited to light work who are younger with unskilled or no work history and illiterate or unable to communicate in English. Following the court's rationale, Rule 202.16 cannot be applied to individuals who are both illiterate *and* unable to communicate in English. Again, the grid regulations may be used only as guidance for decisionmaking.

AR 86–4(3)

Effective Date: March 24, 1986.

Paskel v. *Heckler*, 768 F.2d 540 (3d Cir. 1985) Necessity of a Determination under Sections 225(b) and/or 1631(a)(6) of the Social Security Act for Disability Benefits Recipient Engaged in an Approved Vocational Rehabilitation Program Prior to Cessation of His/Her Benefits Based on Medical Recovery—Titles II and XVI of the Social Security Act.

Issue

Whether a disability benefits recipient, who was expected to recover and despite evidence that his/her medical condition was no longer disabling, is entitled to a determination under Sections 225(b) and/or 1631(a)(6) of the Social Security Act prior to cessation of his/her benefits, when the recipient is engaged in an approved vocational rehabilitation program.

Explanation of How SSA Will Apply the Decision Within the Circuit

This ruling applies only to cases involving the suspension or termination of disability benefits to an individual whose disability has ceased and who was, at the time of the suspension or termination, or who is participating in an approved VR program and who resides in Delaware, New Jersey, Pennsylvania or the Virgin Islands at the time of the determination or decision at any level of administrative review, i.e., initial, reconsideration, administrative law judge hearing or Appeals Council review. Since there is no SSI program in the Virgin Islands, this Ruling will apply only to Social Security disability claims there.

Disability benefits to such an individual cannot be terminated or suspended if the individual is participating in an approved VR program and the Commissioner of Social Security determines that specified continuation or completion of such programs will increase the likelihood

that such individual may be permanently removed from the disability benefit rolls. Such a "likelihood determination" must be made for the above described individual regardless of whether at the time he/she began the VR program his/her medical recovery was expected prior to the completion date.

AR 86-5(9)

Effective Date: March 24, 1986.

Leschniok v. *Heckler*, 713 F.2d 520 (9th Cir. 1983) Necessity of a Determination under Sections 225(b) and/or 1631(a)(6) of the Social Security Act for a Disability Benefits Recipient Engaged in an Approved Vocational Rehabilitation Program Prior to Cessation of His/Her Benefits Based on Medical Recovery—Titles II and XVI of the Social Security Act.

Issue

Whether a disability benefits recipient, who was expected to recover and despite evidence that his/her medical condition was no longer disabling, is entitled to a determination under Sections 225(b) and/or 1631(a)(6) of the Social Security Act prior to cessation of his/her benefits, when the recipient is engaged in an approved vocational rehabilitation program.

Explanation of How SSA Will Apply the Decision Within the Circuit

This ruling applies only to cases involving the suspension or termination of disability benefits to an individual whose disability has ceased and who was, at the time of the suspension or termination, or who is participating in an approved VR program and who resides in Alaska, Arizona, California, Guam, Hawaii, Idaho, Montana, Nevada, Northern Mariana Islands, Oregon or Washington at the time of the determination or decision at any level of administrative review, i.e., initial, reconsideration, administrative law judge hearing or Appeals Council review. Since there is no SSI program in Guam, this Ruling will apply to Social Security disability claims there.

Disability benefits to such an individual cannot be terminated or suspended if the individual is participating in an approved VR program and the Commissioner of Social Security determines that specified continuation or completion of such program will increase the likelihood that such individual may be permanently removed from the disability benefit rolls. Such a "likelihood determination" mus be made for the above decribed individual regardless of whether at the time he/she began the VR program his/her medical recovery was expected prior to the completion date.

AR 86-6(3)

Effective Date: April 2, 1986.

Aubrey v. *Richardson*, 462 F.2d 782 (3rd Cir. 1972);

Shelnutt v. *Heckler*, 723 F.2d 1131 (3rd Cir. 1983)—Interpretation of the Secretary's Regulation Regarding Presumption of Death—Title II of the Social Security Act.

Issue

Whether a presumption of death which must be rebutted by SSA arises under 20 CFR 404.721(b) once a claimant shows that an individual has been absent from his or her residence and has not been heard from for 7 years or whether the presumption only arises if the claimant also proves there is no apparent reason for the absence.

Explanation of How SSA Will Apply the Decision Within the Circuit

This ruling applies only in cases in which the claimant resides in Delaware, New Jersey, Pennsylvania or the Virgin Islands at the time of the determination or decision at any level of administrative review, i.e., initial, reconsideration, administrative law judge hearing or Appeals Council review.

In cases which involve 20 CFR 404.721(b), the presumption of death arises if the claimant presents evidence that the individual has been absent from his or her residence and not heard from for 7 years. The agency then must bear the burden of rebutting the presumption either by presenting evidence that the missing individual is alive or by providing an explanation, other than death, to account for the individual's absence in a manner consistent with continued life rather than death.

AR 86-7(5)

Effective Date: April 2, 1986.

Autrey v. *Harris*, 639 F.2d 1233 (5th Cir. 1981);

Wages v. *Schweiker*, 659 F.2d 59 (5th Cir. 1981)—Interpretation of the Secretary's Regulation Regarding Presumption of Death—Title II of the Social Security Act.

Issue

Whether a presumption of death which must be rebutted by SSA arises under 20 CFR 404.721(b) once a claimant shows that an individual has been absent from his or her residence and has not been heard from for 7 years or whether the presumption only arises if the claimant also proves there is no apparent reason for the absence.

Explanation of How SSA Will Apply the Decision Within the Circuit

This ruling applies only in cases in which the claimant resides in Texas, Louisiana or Mississippi at the time of the determination or decision at any level of administrative review, i.e., initial, reconsideration, administrative law judge hearing or Appeals Council review.

In cases which involve 20 CFR 404.721(b), the presumption of death arises if the claimant presents evidence that the individual has been absent from his or her residence and not heard from for 7 years. The agency then must bear the burden under the *Autrey* and *Wages* holdings of rebutting the presumption, either by presenting evidence that the missing individual is alive or by providing an explanation, other than death, to account for the individual's abense in a manner consistent with continued life rather than death.

AR 86-8(6)

Effective Date: April 2, 1986.

Johnson v. *Califano*, 607 F.2d 1178 (6th Cir. 1979)—Interpretation of the Secretary's Regulation Regarding Presumption of Death—Title II of the Social Security Act.

Issue

Whether a presumption of death which must be rebutted by SSA arises under 20 CFR 404.721(b) once a claimant shows that an individual has been absent from his or her residence and has not been heard from for 7 years or whether the presumption only arises if the claimant also proves there is no apparent reason for the absence.

Explanation of How SSA Will Apply the Decision Within the Circuit

This ruling applies only in cases in which the claimant resides in Michigan, Ohio, Kentucky or Tennessee at the time of the determination or decision at any level of administrative review, i.e., initial, reconsideration, administrative law judge hearing or Appeals Council review.

In cases which involve 20 CFR 404.72(b), the presumption of death arises if the claimant presents evidence that the individual has been absent from his or her residence and not heard from for 7 years. The agency then must bear the burden of rebutting the presumption, either by presenting evidence that the missing individual is alive or by providing an explanation, other than death, to account for the individual's absence in a manner consistent with continued life rather than death.

AR 86–9(9)

Effective Date: April 2, 1986.

Secretary of Health, Education and Welfare v. *Meza*, 368 F.2d 389 (9th Cir. 1966); *Gardner* v. *Wilcox*, 370 F.2d (9th Cir. 1966)—Interpretation of the Secretary's Regulation Regarding Presumption of Death—Title II of the Social Security Act.

Issue

Whether a presumption of death which must be rebutted by SSA arises under 20 CFR 404.721(b) once a claimant shows that an individual has been absent from his or her residence and has not been heard from for 7 years or whether the presumption only arises if the claimant also proves there is no apparent reason for the absence.

Explanation of How SSA Will Apply the Decision Within the Circuit

This ruling applies to cases where the claimant resides in Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Washington, Guam, or the Northern Mariana Islands at the time of the determination or decision at any level of administrative review, i.e., initial, reconsideration, administrative law judge hearing or Appeals Council review.

In cases which involve 20 CFR 404.721(b), the presumption of death arises if the claimant presents evidence that the individual has been absent from his or her residence and not heard from for 7 years. The agency then must bear the burden of rebutting the presumption, either by presenting evidence that the missing individual is alive or by providing an explanation, other than death, to account for the individual's absence in a manner consistent with continued life rather than death.

AR 86–10(10)

Effective Date: April 2, 1986.

Edwards v. *Califano*, 1619 F.2d (10th Cir. 1980)—Interpretation of the Secretary's Regulation Regarding Presumption of Death—Title II of the Social Security Act.

Issue

Whether a presumption of death which must be rebutted by SSA arises under 20 CFR 404.721(b) once a claimant shows that an individual has been absent from his or her residence and has not been heard from for 7 years or whether the presumption only arises if the claimant also proves there is no apparent reason for the absence.

Explanation of How SSA Will Apply the Decision Within the Circuit

This ruling applies only in cases in which the claimant resides in Colorado, Kansas, New Mexico, Oklahoma, Utah or Wyoming, at the time of the determination or decision at any level of administrative review, i.e., initial, reconsideration, administrative law judge hearing or Appeals Council review.

In cases which involve 20 CFR 404.721(b), the presumption of death arises if the claimant presents evidence that the individual has been absent from his or her residence and not heard from for 7 years. The agency than must bear the burden of rebutting the presumption, either by presenting evidence that the missing individual is alive or by an explanation, other than death, to account for the individual's absence in a manner consistent with continued life rather than death.

AR 86–11(11)

Effective Date: April 2, 1986.

Autrey v. *Harris*, 639 F.2d 1233 (5th Cir. 1981)—Interpretation of the Secretary's Regulation Regarding Presumption of Death—Title II of the Social Security Act.

Issue

Whether a presumption of death which must be rebutted by SSA arises under 20 CFR 404.721(b) once a claimant shows that an individual has been absent from his or her residence and has not been heard from for 7 years or whether the presumption only arises if the claimant also proves there is no apparent reason for the absence.

Explanation of How SSA Will Apply the Decision Within the Circuit

This ruling applies only in cases in which the claimant resides in Alabama, Florida, or Georgia at the time of the determination or decision at any level of administrative review, i.e., initial, reconsideration, administrative law judge hearing or Appeals Council review.*

In cases which involve 20 CFR 404.721(b), the presumption of death arises if the claimant presents evidence that the individual has been absent from his or her residence and not heard from for 7 years. The agency then must bear the burden under the *Autrey* holding of rebutting the presumption, either by presenting evidence that the missing individual is alive or by providing an explanation, other than death, to account for the individual's absence in a manner consistent with continued life rather than death.

AR 86–12(9)

Effective Date: April 8, 1986.

Hutcheson v. *Califano*, 638 F.2d 96 (9th Cir. 1981)—Determination of Stepchild and Resulting Entitlement to Auxiliary Benefits—Title II of the Social Security Act.

Issue

Definition of stepchild for purposes of entitlement to child's insurance benefits on the earnings record of a recipient of old-age insurance benefits.

Explanation of How SSA Will Apply the Decision Within the Circuit

This ruling applies only to cases in which the child resides in California, Arizona, Nevada, Oregon, Washington, Idaho, Montana, the Northern Mariana Islands, Alaska, Hawaii, or Guam at the time of the determination or decision at any level of administrative review, i.e., initial, reconsideration, administrative law judge hearing or Appeals Council. SSA will apply the State law of the insured wage earner's domicile at the time the application is filed, or, if the wage earner is dead, the wage earner's domicile at the time of death.

When a case involves the issue of whether or not a person is a stepchild of an insured individual for purposes of section 202(d)(1) of the Social Security Act, 42 U.S.C. 402(d)(1), the definition of "stepchild" as provided by State law rather than the Social Security regulation will be controlling, consistent with the *Hutcheson* decision.

AR 86–13(3)

Effective Date: April 8, 1986.

McNeal v. *Schweiker*, 711 F.2d 18 (3d Cir. 1983)—Child's Benefits—Contributions for Support—Title II of the Social Security Act.

Issue

Whether the Secretary must, in his evaluation of the worker's "contributions to the support" of an illegitimate child, consider the worker's means and the income of the family in which the child resided.

Explanation of How SSA Will Apply the Decision Within the Circuit

This ruling applies only to cases where the child resides in Pennsylvania, New Jersey, Delaware, or the U.S. Virgin Islands at the time of determination or decision at any level of administrative review, i.e., initial, reconsideration, administrative law judge hearing or Appeals Council.

**Autrey* is a Fifth Circuit Case. However, the Eleventh Circuit formerly was part of the Fifth Circuit and Fifth Circuit decisions issued before October 1, 1981, which *Autrey* was, are precedent for the Eleventh Circuit. See *Bonner v. City of Prichard, Alabama*, 661 F. 2d 1206 (11th Cir. 1981).

In a claim for surviving child's benefits under section 202(d)(3) and 216(h)(3)(C)(ii) of the Social Security Act (42 U.S.C. 402(d)(3) and 416(b)(3)(C)(ii)) where the worker's income had been irregular or insubstantial, the substantiality and regularity of the worker's contributions to the child 's support must be evaluated in light of the financial resources of *both* the worker and the household in which the child resides.

AR 86-14(4)

Effective Date: April 8, 1986.

Jones v. *Secretary of Health, Education and Welfare*, 629 F.2d 334 (4th Cir. 1980)—Child's Benefits—Contributions for Support—Title II of the Social Security Act.

Issue

Whether the Secretary must, in his evaluation of the worker's "contributions to the support" of an illegitimate child, consider the worker's means and the income of the family in which the child resided.

Explanation of How SSA Will Apply the Decision Within the Circuit

This ruling applies only to cases where the child resides in North Carolina, South Carolina, Virginia, West Virginia or Maryland at the time of determination or decision at any level of administrative review, i.e., initial, reconsideration, administrative law judge hearing or Appeals Council.

In a claim for surviving childs benefits under section 216(h)(3)(C)(ii) of the Social Security Act (42 U.S.C. 416(h)(3)(C)(ii)) where the worker's income had been irregular or insurbstantial, the substantiality and regularity of the worker's contributions to the applicant's support must be evaluated in light of the financial resources of *both* the worker and the household in which the child resides.

FOR FURTHER INFORMATION CONTACT: Philip Berge, Legal Assistant, 3-B-4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594-7452.

Paperwork Reduction Act

This notice does not impose recordkeeping or reporting requirements on the public.

Dated: May 28, 1986.

Martha A. McSteen,

Acting Commissioner of Social Security.

[FR Doc. 86-12550 Filed 6-3-86; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6664-B]

Alaska Native Claims Selection; The English Bay Corporation

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), will be issued to The English Bay Corporation for 2.77 acres. The lands involved are in the vicinity of English Bay, Alaska.

U.S. Survey No. 4780, Alaska.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the ANCHORAGE TIMES. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until July 7, 1986 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Joe J. Labay,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86-12518 Filed 6-3-86; 8:45 am]

BILLING CODE 4310-JA-M

[C-6-86]

California; Filing of Plat of Survey

May 21, 1986.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Mono County

T. 4 S., R. 28 E.

2. This supplemental plat of the SE¼ section 2, Township 4 South, Range 28 East, Mount Diablo Meridian, California, is based upon the plat approved January 28, 1857 and the plat accepted January 22, 1986, was accepted May 12, 1986.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This supplemental plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 86-12524 Filed 6-3-86; 8:45 am]

BILLING CODE 4310-40-M

[Group 942]

California; Filing of Plat of Survey

May 21, 1986.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

San Bernardino Meridian, Imperial County

T. 13 S., R. 19 E.

2. This plat, representing the dependent resurvey of the west boundary of section 16, and the independent resurvey of a portion of the subdivisional lines, and the survey of the withdrawal boundary for the U.S. Navy in sections 5 and 8, T. 13 S., R. 19 E., San Bernardino Meridian, California, under Group No. 942 California, was accepted May 15, 1986.

The subdivisional lines shown on this plat are independent of and supersede corresponding lines depicted on the plat approved January 25, 1857. The plat approved January 25, 1857 will be cancelled upon approval of this plat (See File 9600 (C-942), Group 942), and the remaining affected lands (except any valid existing rights) have the status of unsurveyed public lands.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State

Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 86–12525 Filed 6–3–86; 8:45 am]

BILLING CODE 4310–40–M

[C–5–86]

California; Filing of Plat of Survey

May 21, 1986.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Kern County

T. 32 S., R. 26 E.

2. This supplemental plat of section 12, Township 32 South, Range 26 East, Mount Diablo Meridian, California, designating the 18.51 acres area as Lot 1, is based on the plats approved June 1, 1855, and February 3, 1868, and the diagram dated June 12, 1888; plat was accepted May 12, 1986.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This supplemental plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 86–12526 Filed 6–3–86; 8:45 am]

BILLING CODE 4310–40–M

[Group 859]

California; Filing of Plat of Survey

May 21, 1986.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Kern County

T. 27 S., R. 36 E.

2. This plat, representing the independent resurvey of a portion of the subdivisional lines of Township 27 South, Range 36 East, Mount Diablo Meridian, California, under Group No. 859, California, was accepted May 15, 1986.

The subdivisional lines shown on this plat are independent of and supersede corresponding lines depicted on the plat approved January 6, 1883. The subdivisional lines, except the easterly tier (sections 1, 12, 13, 24, 25 and 36), shown on said 1883 plat, are canceled upon approval of this plat (see File 9600 (C–942), Group No. 859), and the remaining affected lands (except any valid mineral claims) have the status of unsurveyed public lands. The dependent resurvey of sections 12, 13, 24, and 25, executed concurrently with the resurvey under Group 858, California, are as shown on the plat approved April 22, 1986.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This was executed to meet certain administrative needs of the United States Forest Service.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 86–12527 Filed 6–3–86; 8:45 am]

BILLING CODE 4310–40–M

Research Natural Area and Area of Critical Environmental Concern; Cedar Roughs Area, California; Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of amendment.

SUMMARY: This notice amends errors in the legal description for the Cedar Roughs Research Natural Area, Area of Critical Environmental Concern as published in 49 FR 302248.

FOR FURTHER INFORMATION CONTACT: Timothy P. Julius, Planning and Environmental Coordinator, P.O. Box 940, Ukiah, California 95482. Telephone (707) 462–3873.

SUPPLEMENTARY INFORMATION: The legal description for the Cedar Roughs RNA/ACEC should be amended as follows:

T. 8 N., R. 4W., M.D.M.,
Sec. 1: SW¼SW¼, E½SW¼;
Sec. 2: Lots, 2, 3, 4, 5, 8, SW¼NE¼, S½NW¼, SE¼SE¼, SW¼SW¼;
Sec. 10: N½, N½S½, S½SE¼.
T. 9 N., R. 4 W., M.D.M.;
Sec. 28: SW¼SW¼;
Sec. 35: W½SW¼, SE¼SW¼.

Dated: May 23, 1986.

Van W. Manning,

District Manager.

[FR Doc. 86–12494 Filed 6–3–86; 8:45 am]

BILLING CODE 4310–40–M

[Serial No. I–22814]

Idaho; Proposed Withdrawal and Opportunity for Public Meeting; Correction

May 27, 1986.

In FR Doc. 86–8117 filed April 10, 1986, appearing on page 12574 of the issue for April 11, 1986, the following correction should be made:

T. 41 N., R. 5 E.,
Sec. 19, NE¼SE¼NE¼.

Should read:

T. 41 N., R. 5 E.,
Sec. 19, NW¼SE¼NE¼.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 86–12492 Filed 6–3–86; 8:45 am]

BILLING CODE 4310–84–M

AA–6662–A

Alaska Native Claims Selection; Choggiung Ltd.

The notice to issue conveyance to the Alaska Native Claims Selection; Choggiung, Ltd., published in the **Federal Register** on April 29, 1986, page number 15963, is revoked and reissued as follows:

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1611, and 1613, will be issued to Choggiung Limited for approximately six acres. The lands involved are in the vicinity of Ekuk, Alaska.

Seward Meridian, Alaska

T. 16 S., R. 56 W. (Surveyed),
Sec. 12, those lands within Sec. 3(e) application AA–12636 excluded from Interim Conveyance No. 239, dated September 17, 1979.

A notice of the decision will be published once a week for four (4) consecutive weeks in the ANCHORAGE TIMES. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the

decision shall have until July 7, 1986, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Joe J. Labay,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86-12630 Filed 6-3-86; 8:45 am]

BILLING CODE 4310-JA-M

National Park Service

Availability of Draft Land Protection Plan; Kenai Fjords National Park

AGENCY: National Park Service, Interior.

ACTION: Notice of availability of draft land protection plan.

SUMMARY: This notice announces the availability of the draft land protection plan for Kenai Fjords National Park, Alaska. The document will be available for public comment for 60 days. Public meetings are scheduled for Seward, Port Graham and English Bay, Alaska. Following consideration of public comments a final land protection plan will be prepared. This document dicusses nonfederal lands in and around the park and the proposed methods of protecting park resources and visitor uses.

DATES AND ADDRESSES: Comments on the draft document should be received no later than August 4, 1986, and should be addressed to: Superintendent, Kenai Fjords National Park, P.O. Box 1727, Seward, Alaska 99664.

Copies of the document are available upon request from the above address.

For further information contact park superintendent David Moore at the above address or at telephone number (907) 224-3874.

Dated: May 19, 1986.

Robert Peterson,

Acting Regional Director, Alaska Region.

[FR Doc. 86-12512 Filed 6-3-86; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-IA-231]

Certain Soft-Sculpture Dolls Popularly Known as Cabbage Patch Kids, Related Literature and Packaging Therefor; Commission Decision Not To Review Initial Determination Terminating Investigation as to Two Respondents on the Basis of a Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Termination of investigation as to two respondents on the basis of a settlement agreement.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) (Order No. 17) granting a joint motion to terminate the investigation as to respondents Osco Drug, Inc., and Sav-On-Drugs, Inc., on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Stephen A. McLaughlin, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0421.

SUPPLEMENTARY INFORMATION: On October 1, 1985, Original Appalachian Artworks, Inc. (OAA), and Coleco Industries, Inc., filed a section 337 complaint with the Commission alleging unfair methods of competition and unfair acts in the importation and sale of certain Cabbage Patch Kids dolls, together with the related literature and packaging. The unfair acts alleged were infringement of OAA's copyrights, failure to mark country of origin, and violation of 17 U.S.C. 601(a). On March 3, 1986, OAA, Coleco, Osco, and Sav-On jointly moved to terminate the investigation as to Osco and Sav-On pursuant to rule 210.51 on the basis of a settlement agreement. The motion was supported by the Commission investigative attorney. On April 25, 1986, the presiding administrative law judge (ALJ) issued an ID (Order No. 17) granting the joint motion and terminating the investigation as to Osco and Sav-On on the basis of the settlement agreement. No petitions for review or comments from the public or Government agencies concerning the ID were received.

Termination of the investigation as to respondents Osco and Sav-On the basis of the settlement agreement furthers the public interest by conserving Commission resources and those of the parties involved.

This action is taken under the authority of setion 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and the Commission's rule 210.53 (19 CFR 210.53).

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's IDD terminal on 202-724-0002.

Issued: May 29, 1986.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-12591 Filed 6-3-86; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Release of Waybill Data for Use in Conducting Certain Competitive Analyses

The Commission has received a request from Economists Incorporated, who has been retained by the Diamond Shamrock Corporation, for permission to use the 1981-1984 and, when available, 1985 ICC Waybill Sample to conduct certain competitive analyses for a proceeding before the Federal Trade Commission involving the competitive consequences of an acquisition of Diamond Shamrock's chlorine/caustic soda plants by Occidental Chemical Corporation. The waybill sample will be used to identify the relevant antitrust geographic market. This involves identifying the degree to which producers of cholorine in one region are able to supply customers in other regions. This can be ascertained, in part, by observing existing rail shipment patterns over a period of time and, thus, the need for the 1981-1985 Waybill Sample. It should be noted that Diamond Shamrock is primarily engaged in the production of chemical, rubber, and plastic products and is not engaged in the provision of any commercial motor carrier services.

The Commission required rail carriers to file waybill sample information if in any of the past three years they terminated on their lines at least: (1) 4,500 revenue carloads or (2) 5 percent of revenue carloads in any one State (49

CFR Part 1244). From this waybill information, the Commission has developed a Public Use Waybill File that has satisfied, the majority of all our waybill data requests while protecting the confidentiality of proprietary data submitted by the railroads. However, if confidential waybill data are requested, as in this case, we will consider releasing the data only after certain protective conditions are met and public notice is given. More specifically, under the Commission's current policy for handling waybill requests, we will not release any confidential waybill data until after: (1) Public notice is provided so affected parties have an opportunity to object and (2) certain requirements designed to protect the data's confidentiality are agreed to by the requesting party (48 FR 40328, September 6, 1983).

Accordingly, if any parties object to this request, they should file their objections (an original and 2 copies) with the Director of the Commission's Office of Transportation Analysis (OTA) within 14 calendar days of the date of this notice. They should also include all grounds for objection to the full or partial disclosure of the requested data. The Director of OTA will consider these objections in determining whether to release the requested waybill data. Any parties who object will be timely notified of the Director's decision.

Contact: Elaine Kaiser, (202) 275-7003.

James H. Bayne,

Secretary.

[FR Doc. 86-12513 Filed 6-3-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-16,418]

Ertl Co.; Dyersville, Iowa; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 28, 1986, applicable to all workers of Ertl Company, Dyersville, Iowa. The Notice of Certification was published in the Federal Register on March 18, 1986 (51 FR 9290).

Based on additional information furnished to the Department on worker layoffs, the Office of Trade Adjustment Assistance reviewed the certification and supporting documents. The additional information revealed that layoffs of workers impacted by increased imports occurred at least two weeks prior to the January 2, 1985 impact date in the certification document.

The intent of the certification is to cover all workers who were adversely affected by increased import competition. Therefore, the notice is amended by providing a new impact date of December 1, 1984.

The amended notice applicable to TA-W-16,418 is hereby issued as follows:

All workers Ertl Company, Dyersville, Iowa who became totally or partially separated from employment on or after December 1, 1984 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 23rd day of May 1986.

Robert A. Schaerfl,

Director, Office of Program Management, UIS.

[FR Doc. 86-12471 Filed 6-3-86; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-16,522]

Foote Mineral Co.; New Haven, WV; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at the Foote Mineral Company, New Haven, West Virginia. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued:

TA-W-16,522; Foote Mineral Company, New Haven, West Virginia (May 7, 1986)

Signed at Washington, DC, this 27th day of May 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 86-12472 Filed 6-3-86; 8:45 am]

BILLING CODE 4510-30-M

Robe Tex, Inc., et al.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period May 19, 1986-May 23, 1986.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-16,759; Robe, Tex, Inc., Brooklyn, NY

TA-W-16,658; Pocono Foundry, Inc., Stroudsbury, PA

TA-W-16,749; Cyclops Corp., Cytemp Div., Bridgeville, PA

TA-W-16,669; Pascoe Building Systems, Wathena, KS

TA-W-17,177; Monsanto Electronics Materials Co., Moore, SC

TA-W-16,619; Monsanto Electronics Materials, Co., St. Peters, MO

TA-W-16,703; Reserve Mining Co., Babbitt, MN, Silver Bay, MN

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-17,161; W.F. Davis Motor Co., Whitesburg, KY.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-16,679; Olsten Temporary Services, Akron, OH

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-16,675; Kenwall Products Corp., Twinsburg, OH

Separations from the subject firm result from a transfer of production to another domestic facility.

TA–W–16,681; Parker-Hannifin, Saddlebrook, NJ

Separations from the subject firm resulted from a transfer of production to another domestic facility.

TA–W–16,970; Commercial Shearing, Inc., Salt Lake City, UT

Separations from the subject firm resulted from a transfer of production to another domestic facility.

Affirmative Determinations

TA–W–16,626; Shopsmith, Inc., Dayton, OH

A certification was issued covering all workers of the firm separated on or after February 1, 1985.

TA–W–17, 095; Florsheim Shoe Co., Cape Girardeau, MO

A certification was issued covering all workers of the firm separated on or after December 31, 1985.

TA–W–16,710; RTE Powermate Co., Hackensack, NJ

A certification was issued covering all workers of the firm separated on or after November 4, 1984.

TA–W–17,078; Pawtucket Dress Corp., Pawtucket, RI

A certification was issued covering all workers of the firm separated on or after December 8, 1984 and before January 13, 1986.

TA–W–16,680; Howard Fashion Industries, Orangeburg Garment Co., Orangeburg, SC

A certification was issued covering all workers of the firm separated on or after October 10, 1984 and before March 31, 1985.

TA–W–16,670; Creative Industries, Div. of Santa Claus Industries, Waterloo, IA

A certification was issued covering all workers of the firm separated on or after July 15, 1985 and before January 1, 1986.

TA–W–16,676; Mayfair of Massachusetts, Inc., Indiana Orchard, MA

A certification was issued covering all workers of the firm separated on or after November 5, 1984 and before July 21, 1985.

TA–W–16,677; Mayfair Mills, Inc., New York, NY

A certification was issued covering all workers of the firm separated on or after June 21, 1985 and before July 21, 1985.

TA–W–16,605; Spiegel-Bogene Corporation, Lebanon, PA

A certification was issued covering all workers of the firm separated on or after September 15, 1984 and before December 31, 1985.

TA–W–16,693; Sea Gems Beachwear, Inc., Long Island City, NY

A certification was issued covering all workers of the firm separated on or after January 1, 1985 and before June 10, 1985.

TA–W–16,690; Markay Sportswear, Inc., Long Island City, NY

A certification was issued covering all workers of the firm separated on or after November 8, 1984 and before May 15, 1985.

TA–W–17,098; Regency Electronics, Inc., Indianapolis, IN

A certification was issued covering all workers of the firm separated on or after December 12, 1984.

TA–W–16,689; LaFarge Calcium Aluminates, Inc., (Formerly Lone Star LaFarge, Inc.), Cheseapeake, VA

A certification was issued covering all workers of the firm separated on or after July 1, 1985 and before March 31, 1986.

TA–W–16,558; CG Mfg Co., Taunton, MA

A certification was issued covering all workers of the firm separated on or after September 25, 1984 and before November 22, 1985.

TA–W–16,723; U-Brand Corp., Ashland, OH

A certification was issued covering all workers of the firm separated on or after January 25, 1986.

TA–W–16,724; U-Brand Corp., Shelby, OH

A certification was issued covering all workers of the firm separated on or after January 25, 1986.

TA–W–16,699; Rexnord, Inc., Springfield, MA

A certification was issued covering all workers of the firm separated on or after January 1, 1985.

TA–W–16,756; P & L Sportswear Co., Inc., Boston, MA

A certification was issued covering all workers of the firm separated on or after December 2, 1984 and before January 31, 1986.

TA–W–16,667; Jackson Sportswear, Worcester, MA

A certification was issued covering all workers of the firm separated on or after November 5, 1984 and before October 3, 1985.

TA–W–16,618; Marion Manufacturing Co., Marion, NC

A certification was issued covering all workers of the firm separated on or after October 23, 1984.

TA–W–16,967; Textron, Inc., CWC Castings Div., Plant #3, Muskegon, MI

A certification was issued covering all workers of the firm separated on or after December 6, 1984.

TA–W–16,623; Motorola, Inc., Austin, TX

A certification was issued covering all workers of the firm separated on or after January 1, 1985.

TA–W–16,666; Harrison Sportswear Co., Boston, MA

A certification was issued covering all workers of the firm separated on or after November 5, 1984 and before December 11, 1985.

TA–W–16,694; Allied Chemical, Solvay, NY

A certification was issued covering all workers of the firm separated on or after January 1, 1985.

TA–W–16,694A; Allied Chemical, Jamesville, NY

A certification was issued covering all workers of the firm separated on or after January 1, 1985.

TA–W–16,673; General Tire, Inc., Waco, TX

A certification was issued covering all workers of the firm separated on or after January 1, 1985.

TA–W–16,707; General Tire, Inc., Mayfield, KY

A certification was issued covering all workers engaged in employment related to the production of truck tires separated on or after January 1, 1985.

I hereby certify that the aforementioned determinations were issued during the period May 19, 1986–May 23, 1986. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213, during normal business hours or will be mailed to persons who write to the above address.

Dated: May 27, 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 86–12484 Filed 6–3–86; 8:45 am]

BILLING CODE 4510–30–M

Job Training Partnership Act; Within-State Incentive Grants for Service to Hard-to-Serve Individuals and Programs Exceeding Performance Standards

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of proposed policy; request for comments.

SUMMARY: The Department of Labor proposes a policy to clarify the use of Job Training Partnership Act (JTPA) within-State incentive grants (so-called "6 percent funds") for purposes specifically set forth in JTPA. Some States have requested that they be permitted to use the funds for other purposes.

DATE: Comments must be submitted on or before June 19, 1986.

ADDRESS: Submit comments to: Assistant Secretary for Employment and Training, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213. Attention: Dr. Fred Romero, Administrator, Office of Strategic Planning and Policy Development.

FOR FURTHER INFORMATION CONTACT: Mr. Herman Williams. Telephone: (202) 376-6700.

SUPPLEMENTARY INFORMATION:

Statutory Background

Section 202(b)(3) of the Job Training Partnership Act (JTPA) provides that:

(3)(A) Six percent of the allotment of each State for each fiscal year shall be available to carry out subparagraph (B) of this paragraph.

(B) The amount reserved under subparagraph (A) of this paragraph shall be used by the Governor to provide incentive grants for programs exceeding performance standards, including incentives for serving hard-to-serve individuals. The incentive grants made under this paragraph shall be distributed among service delivery areas within the State exceeding their performance standards in an equitable proportion based on the degree by which the service delivery areas exceed their performance standards. If the full amount reserved under subparagraph (A) is not needed to make incentive grants under this subparagraph, the Governor shall use the amount not so needed for technical assistance to service delivery areas in the State which do not qualify for incentive grants under this subparagraph.

[29 U.S.C. 1602(b)(3).]

The above-described incentive grants are referred to as "six percent funds."

Discussion

On January 14, 1986, the Department of Labor (DOL) published at 51 FR 1576 proposed revisions to the Job Training Partnership Act (JTPA) federal reporting requirements for Program Year (PY) 1986 (July 1, 1986—June 30, 1987). Those proposed revised instructions would require States and/or service delivery areas (SDAs) to collect and report on post-program employment and earnings information. Many commenters expressed concern over the additional costs involved with starting up new post-program data collection systems or refining existing automatic data processing (ADP) systems to include new post-program reporting instructions. As a result, some States have requested that DOL allow a broad interpretation of the use of six percent funds to support new post-program data collection and reporting activity.

At the outset of JTPA programs, Governors were permitted to use the full amount of the six percent funds for technical assistance (TA), since there was no previous period of performance for which to award incentives. TA was interpreted to include costs for developing Management Information Systems (MIS) necessary to carry out performance standards responsibilities.

No further guidance on use of six percent funds was provided to the Governors other than in Training and Employment Information Notice (TEIN) No. 40-84 (April 25, 1985), which indicated, consistent with 20 CFR 627.1, that "the Governor has the authority to interpret and issue determinations. The DOL will accept these interpretations unless they are inconsistent with the Act and pertinent regulations." However, several States have set policies and expended six percent funds on a continuing basis in ways which were intended clearly to be acceptable only during the initial nine months of the JTPA programs, such as for MIS support and purchase of ADP hardware. Use of six percent funds to comply with the new post-program reporting requirements would be a further misuse of those funds.

Proposed Policy

In an effort to prevent the misuse of six percent funds, and to identify appropriate funding sources for reporting costs, DOL proposes the following policy:

Effective October 1, 1986, six percent funds shall not be used for any purposes other than to provide incentive grants to SDAs which exceed performance standards, including incentives for serving hard-to-serve individuals, and, if the full amount of six percent funds is not needed to make incentive grants, to provide technical assistance to SDAs which do not qualify for incentive grants. Six percent funds shall not be used for MIS or post-program data collection or other activities properly chargeable to administration. Actions in violation of this policy are inconsistent with JTPA and the JTPA regulations. See 20 CFR 627.1.

The October 1, 1986, effective date is provided to allow States a reasonable transition period to make required adjustments to cost assignment arrangements to conform to the new policy. Funds expended prior to the effective date for purposes contrary to the above policy and other expenditures which are inconsistent with JTPA or pertinent regulations (see 20 CFR 627.1) may be questioned in the audit process. Such costs will be reviewed on a case-by-case basis in accordance with TEIN No. 40-84, but, in general, the above-cited policy will not be applied retroactively.

Signed at Washington, DC, this 20 of May, 1986.

Roger D. Semerad,

Assistant Secretary for Employment and Training.

[FR Doc. 86-12607 Filed 6-3-86; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-86-62-C]

Consol Pennsylvania Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consol Pennsylvania Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1404-1 (braking system) to its Bailey Mine (I.D. No. 36-07230) located in Greene 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 a trailing locomotive or equivalent devices be used on trains that are operated on ascending grades.

2. As an alternate method, petitioner proposes to equip all locomotives with devices capable of applying sand to all rails in either direction of travel; safe seating facilities; an audible warning device and a sealed beam headlight on either end.

3. Ropes and or chains will be provided between each car and the locomotive to prevent a runaway if an unplanned uncoupling occurs.

4. All operators of locomotives will be instructed to keep their locomotive under control and to operate at a safe rate of speed consistent with track conditions.

5. Petitioner states that the proposed alternate method will provide the same degree 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 July 7, 1986. Copies of the petition are available for inspection at that address.

Dated: May 22, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-12465 Filed 6-3-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-66-C]

Consol Pennsylvania Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consol Pennsylvania Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1100-2(e)(2) (quanity and location of firefighting equipment) to its Bailey Mine (I.D. No. 36-07230) located in Greene 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 one portable fire extinguisher and 240 pounds of rock dust be provided at each temporary electrical installation.

2. Petitioner states that the rock dust and sacks deteriorate because of the humid conditions in the mine.

3. As an alternate method, petitioner proposes to use two multipurpose dry chemical-type fire extinguishers in lieu of rock dust for fire protection at temporary electrical installations.

4. Petitioner states that the proposed alternate method will provide the same degree 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 July 7, 1986. Copies of the petition are available for inspection at that address.

Dated: May 22, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-12466 Filed 6-3-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-64-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburg, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1100-2(e)(2) (quantity and location of firefighting equipment) to its Dilworth Mine (I.D. No. 36-04281) located in Greene County, Pennsylvania, its Franklin 125 Mine (I.D. No. 33-00963) located in Harrison County, Pennsylvania, its Oak Park Mine (I.D. No. 33-01158) located in Harrison County, Ohio, its Ireland Mine (I.D. No. 46-01438), its McElroy Mine (I.D. No. 46-01437) and its Shoemaker Mine (I.D. No. 46-01436) all 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 one portable fire extinguisher and 240 pounds of rock dust be provided at each temporary electrical installation.

2. Petitioner states that the rock dust and sacks deteriorate because of the humid conditions in the mine.

3. As an alternate method, petitioner proposes to use two multipurpose dry chemical-type fire extinguishers in lieu of rock dust for fire protection at temporary electrical installations.

4. Petitioner states that the proposed alternate method will provide the same degree 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 July 7, 1986. Copies of the petition are available for inspection at that address.

Dated: May 22, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-12467 Filed 6-3-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-65-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 75.105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its Osage No. 3 Mine (I.D. No. 46-01455) located in Monongalia 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 requirements that air currents used to ventilate structures of areas enclosing electrical installations be coursed directly into the return.

2. Petitioner states that the Osage No. 3 Mine cannot ventilate all permanent pump houses in an area along the mainline haulage. Falls and water in areas adjacent to the pump houses cause hazardous conditions when trying to run new vent pipes to the return. Because of the age of the haulageway and adjacent entries, the returns have deteriorated and are no longer effective to create a sufficient pull on the vent pipe.

3. As an alternate method, petitioner proposes to:

a. House the pumps in a sealed fireproof enclosure with steel doors;

b. Mount a dry powder chemical fire extinguisher over the pump. The extinguisher will operate automatically when the heat from the fire is sufficient to activate its automatic mechanism assembly; and

c. Course the intake air ventilating these enclosures outside by use of the Brand, Dolls Run and Statler Fans.

4. Petitioner states that the proposed alternate method will provide the same degree 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 July 7, 1986. Copies of the petition are available for inspection at that address.

Dated: May 28, 1986.

Patricia W. Silvey,

Director, Office of Standards Regulations and Variances.

[FR Doc. 86-12468 Filed 6-3-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-27-C]

Croner, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Croner, Inc., R.D. 4, Box 83 C, Berlin, Pennsylvania 15530 has filed a petition to modify the application of 30 CFR 77.1109(e) (quantity and location of firefighting equipment) to its Pine Hill No. 2 Mine (I.D. No. 36-02690) located in Somerset 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 requirements that two portable fire extinguishers be provided near the transfer pump of each buried combustible liquid storage tank.

2. Petitioner states that the fuel storage tanks are above ground. All of the tanks are in areas within the mine sites, located away from other buildings and personnel. If a fire were to occur, the tanks could burn without causing any damage to property or personnel.

3. All equipment being refueled carry adequate fire protection. Except during refueling, no personnel are in the vicinity of tanks. All personnel are instructed to leave the area and call the fire department in the event of fuel tank fire.

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 July 7, 1986. Copies of the petition are available for inspection at that address.

Dated: May 22, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-12469 Filed 6-3-86; 8:45 am]

BILLING CODE 4510-43-M

NUCLEAR REGULATORY COMMISSION

Bi-Weekly Notice; Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular bi-weekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This bi-weekly notice includes all amendments issued, or proposed to be issued, since the date of publication of the last bi-weekly notice which was published on May 21, 1986 (51 FR 18676), through May 23, 1986.

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

By July 7, 1986, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

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 the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a 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. Contentions shall be limited to matters within the scope of the amendment under consideration. 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.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determinatin is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition 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 the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342.6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to *(Branch Chief):* petitioners' name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the local public document room for the particular facility involved.

Arizona Public Service Company et al., Docket No. STN 50–529, Palo Verde Nuclear Generating Station (PVNGS), Unit No. 2, Maricopa County, Arizona

Date of amendment request: April 15, 1986.

Description of amendment request: The proposed amendment would allow: (i) Co-owner El Paso Electric Company (El Paso) to transfer all or a portion of its fee interest in PVNGS Unit 2 to equity investors and (ii) the simultaneous transfer by the equity investors back to El Paso of a long term (approximately 27½ years) possessory leasehold interest of this share under the terms described in this application. It is comtemplated that the equity investors will be third parties not affiliated with El Paso. These equity investors might include electric utilities, or affiliates or subsidiaries thereof, in which case antitrust consideration may be present. Under the proposed transaction, it is represented that El Paso will remain in possession of its present interests in PVNGS Unit 2 under a leasehold rather than by virtue of ownership.

The proposed amendment is similar to a request filed on October 18, 1985, by Arizona Public Service Company (APS) regarding the sale and leaseback transactions by Public Service Company of New Mexico (PNM) of a portion of PNM's ownership interests in PVNGS Unit 1. See 50 FR 45955 (1985). By Order of December 12, 1985, the Commission approved the proposed sale and leaseback transactions and authorized the amendment of the PVNGS Unit 1 license subject to certain conditions. On December 26, 1985, the PVNGS Unit 1 license was amended and conditioned pursuant to the Commission's order. See 51 FR 1883 (1986). The Commission also has under consideration requests for additional similar transactions related to sale and leaseback of Palo Verde Units 1 and 2 ownership shares by PNM. See 51 FR 8259, 51 FR 8587, and 51 FR 9125 (1986).

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

A discussion of these standards as they relate to the amendment request follows:

Standard 1—Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

No change is involved to any of the design or criteria of the plant. The amendment does not, therefore, significantly increase the probability or consequences of an accident.

Standard 2—Create the Possibility of a New or Different Kind of Accident From Any Accident Previously Evaluated

The proposed amendment does not vary or affect any plant operating condition or parameter. For this reason, the NRC staff has determined that the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Standard 3—Involve a Significant Reduction in a Margin of Safety

The requested amendment does not change the design basis for any equipment in the plant. For this reason,

the NRC staff has determined that the change does not involve a significant reduction in any margins of safety.

Furthermore, the proposed amendment would maintain El Paso in possession of its present interests in PVNGS and El Paso would continue to be obligated to pay its share of all costs of construction, maintenance, operation, capital improvements and decommissioning. The equity investors would not have any rights of possession in, absent further license amendment, or control over PVNGS Unit 2. Arizona Public Service Company would continue to be the sole licensee authorized to use and operate the facility.

Based on the above consideration, the Commission proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room Location: Phoenix Public Library, Business, Science and Technology Department, 12 East McDowell Road, Phoenix, Arizona 85004.

Attorney for licensees: Mr. Arthur C. Gehr, Snell & Wilmer, 3100 Valley Center, Phoenix, Arizona 85007.

NRC Project Director: George W. Knighton.

Arizona Public Service Company et al., Docket No. STN 50–529, Palo Verde Nuclear Generating Station (PVNGS), Unit No. 2, Maricopa County, Arizona

Date of amendment request: May 2, 1986.

Description of amendment request: The proposed amendment would allow: (i) Co-owner Arizona Public Service Company (APS) to transfer all or a portion of its fee interest in PVNGS Unit 2 to equity investors and (ii) the simultaneous transfer by the equity investors back to APS of a long term (approximately 29½ years) possessory leasehold interest of this share under the terms described in this application. It is contemplated that the equity investors may be third parties affiliated with APS. These equity investors might include electric utilities, or affiliates or subsidiaries thereof, in which case antitrust considerations may be present. Under the proposed transaction, it is represented that APS will remain in possession of its present interests in PVNGS Unit 2 under a leasehold rather than by virtue of ownership. However, APS would continue to be the sole licensed operator of the facility.

The proposed amendment is similar to a request filed on October 18, 1985, by Arizona Public Service Company (APS) regarding the sale and leaseback transactions by Public Service Company of New Mexico (PNM) of a portion of PNM's ownership interests in PVNGS Unit 1. See 50 FR 45955 (1985). By Order of December 12, 1985, the Commission approved the proposed sale and leaseback transactions and authorized the amendment of the PVNGS Unit 1 license subject to certain conditions. On December 26, 1985, the PVNGS Unit 1 license was amended and conditioned pursuant to the Commission's order. See 51 FR 1883 (1986). The Commission also has under consideration requests for additional similar transactions related to sale and leaseback of Palo Verde Units 1 and 2 ownership shares by PNM. See 51 FR 8259, 51 FR 8587, and 51 FR 9125 (1986). Also, a request for a similar transaction related to sale and leaseback of Palo Verde Unit 2 ownership shares by El Paso Electric Company (request dated April 15, 1986) has been filed with the Commission.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amended to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

A discussion of these standards as they relate to the amendment request follows:

Standard 1—Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

No change is involved to any of the design or criteria of the plant. The amendment does not, therefore, significantly increase the probability or consequences of an accident.

Standard 2—Create the Possibility of a New or Different Kind of Accident From Any Accident Previously Evaluated

The proposed amendment does not vary or affect any plant operating condition or parameter. For this reason, the NRC staff has determined that the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Standard 3—Involve a Significant Reduction in a Margin of Safety

The requested amendment does not change the design basis for any equipment in the plant. For this reason, the NRC staff has determined that the change does not involve a significant reduction in any margins of safety.

Furthermore, the proposed amendment would maintain APS in possession of its present interests in PVNGS and APS would continue to be obligated to pay its share of all costs of construction, maintenance, operation, capital improvements and decommissioning. The equity investors would not have any rights of possession in, absent further license amendment, or control over PVNGS Unit 2. Arizona Public Service Company would continue to be the sole licensee authorized to use and operate the facility.

Based on the above considerations, the Commission proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room Location: Phoenix Public Library, Business, Science and Technology Department, 12 East McDowell Road, Phoenix, Arizona 85004.

Attorney for licensees: Mr. Arthur C. Gehr, Snell & Wilmer, 3100 Valley Center, Phoenix, Arizona 85007.

NRC Project Director: George W. Knighton.

Arkansas Power and Light Company, Docket No. 50–313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: April 30, 1986.

Description of amendment request: The amendment would revise the Technical Specifications (TSs) to provide for a modification that would change the Combustible Gas Control System in Arkansas Nuclear One, Unit 1 (ANO–1) from a system based on a redundant Hydrogen Purge System (with capability to install an external hydrogen recombiner) to a system based on a redundant Internal Hydrogen Recombiner System as the means for controlling combustible gas concentrations in containment following a postulated Loss of Coolant Accident (LOCA).

Specifically, the amendment would change Specification 3.14, "Hydrogen Purge System" and specification 4.12, "Hydrogen Purge System Surveillance" to be consistent with the "Standard Technical Specifications for Babcock and Wilcox Pressurized Water Reactors," NUREG–0103 (Rev. 4, Fall, 1980) for atmospheric containments as applicable to Westinghouse Electric Hydrogen Recombiners. Conforming changes would be made to the Table of Contents.

Both the existing system and the Internal Hydrogen Recombiner System are in compliance with regulatory requirements of 10 CFR 50.44, "Standards for Combustible Gas Control System in Light-Water-Cooled Power Reactors." Both systems are consistent with associated regulatory guidance:

—Regulatory Guide 1.7 (Rev. 2, November, 1978) and Safety Guide 7 (1971), as applicable.
—General Design Criteria 41, 42, and 43.
—Standard Review Plan 6.2.5, as applicable.

The Combustible Gas Control System is not being changed for regulatory reasons, but is being changed due to considerations of maintainabilty. No changes are being made to the required capabilities for mixing or measuring combustible gases.

Basis for proposed no significanct hazards consideration determination: The proposed changes have been reviewed against each of the criteria in 10.CFR 50.92, namely that the proposed changes would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or

(3) Involve a significant reduction in a margin of safety.

The proposed facility change from a redundant Hydrogen Purge System to a redundant Internal Hydrogen Recombiner System to control combustible hydrogen following an accident and the associated TS changes would in no way increase the probability or consequences of an accident previously evaluated. Installation of internal hydrogen recombiners improves hydrogen removal capability while minimizing the consequences of a postulated LOCA. The proposed system change would affect the type of equipment used to meet the regulatory requirement for control of combustible gas concentration in contaiment (10 CFR 50.44(b)(3)). The proposed system, consisting of hydrogen recombiners, is comprised of components which have been given a degree of regulatory preference. The proposed TSs would have no effect on the probabilty or consequences of an accident previously evaluated.

The proposed facility change and the associated changes in the TSs would not create the possiblity of a new or different kind of accident from any accident previously evaluated. The proposed hydrogen recombiners have been environmentally qualified, they are to be installed in locations which will ensure their effectiveness and no negative impact on other safety-related equipment, and they will be consistent with regulatory requirements relating to Combustible Gas Control Systems. The proposed TSs would not affect the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed facility modification and asssociated TS changes would not involve a significant reduction in a margin of safety. The proposed equipment change is from a type of system which allows controlled release of combustible gas from containment to a type of system that does not result in a release from containment (10 CFR 50.44(h)(2)). The recombiner system has been given regulatory preference bacause of its characteristic of not generating releases during a postulated LOCA. The recombiner system proposed to be installed has greater hydrogen removal capability than the current purge system, in the extent that it should be used. Although both systems meet the regulatory requirements, the proposed system is an improvement on the system currently in place. The proposed TSs are equivalent to or more conservative that the existing TSs for the Hydrogen Purge System and thus do not involve a reduction in margin of safety.

On these bases, the Commission proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Attorney for licensee: Nicholas S. Reynolds, Bishop, Libermen, Cook, Purcell and Reynolds, 1200 17th Street, NW., Suite 700, Washington, D.C. 20036.

NRC Project Director: John F. Stolz.

Carolina Power and Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: January 8, 1986.

Description of amendment request: The proposed amendment would revise Technical Specifications (TS) for the H.B. Robinson Steam Electric Plant, Unit No. 2. The proposed revision involves reducing the reporting requirements for primary coolant iodine spiking from a short-term report to an item included in the Annual Report. In addition, the reporting of challenges to primary safety and relief valves will be removed as a Special Report and included as part of the Annual Report in accordance with Generic Letter 82–16. The licensee inadvertently placed these reports under special reports in the Technical Specification rather than under annual reports.

As part of a continuing effort to reduce or delete unnecessary reporting requirements, the Commission issued Generic Letter (GL) 85–19. GL 85–19 provided guidance for licensees to reduce reporting requirements for primary coolant iodine spikes. In addition, the GL provided guidance for eliminating unnecessary Technical Specification requirements to shut down a plant if coolant iodine activity limits are exceeded for 800 hours in a 12-month period.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance in the form of examples of amendments that are not considered likely to involve significant hazards considerations (48 FR 14870). Example (i) states "a purely administrative change to the Technical Specifications: for example, a change to achieve consistency throughout the Technical Specificiations, correction of an error or a change in nomenclature."

As discussed above, the licensee's request to change reporting requirements for the safety and relieve valves was clearly due to an error. This change request is therefore identical to example (i). Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

The licensee's request for changing the reporting requirements for primary coolant iodine spiking does not match any of the examples. However, the licensee has determined and the NRC staff agrees that the proposed amendments will not:

(1) involve a significant increase in the probability or consequences of an accident previously evaluated because changing the reporting requirements and eliminating the coolant iodine limit would not adversely affect the accident analysis or safety margins as currently defined because other controls and operating limits currently implemented would prevent the Final Safety Analysis Report assumptions from being exceeded as a result of severely degraded fuel;

(2) create the possibility of a new or different kind of accident than that previously evaluated because changing reporting requirements does not involve any analyzed accident conditions;

(3) involve a significant reduction in a margin of safety because the requested reporting requirement change does not involve any safety analysis.

Accordingly, the Commission proposes to determine that this change does not involve significant hazards considerations.

Local Public Document Room Location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Attorney for licensee: Shaw, Pittman, Potts, and Trowbridge, 1800 M Treet, N.W., Washington, D.C. 20036

NRC Project Director: Lester S. Rubenstein.

Commonwealth Edison Company, Docket No. 50–10, Dresden Station, Unit 1, Grundy County, Illinois

Date of amendment request: January 7, 1986.

Description of amendment request: The licensee proposed: (1) That License No. DPR–2 for Dresden Station, Unit No. 1 (the facility), be amended to possess-but-not-operate status; (2) that License No. DPR–2 be amended to delete requirements that the licensee believed were no longer applicable at the shutdown facility; and (3) that the technical specifications be revised to reflect the permanently shutdown possess-but-not-operate status of the facility. Items (2) and (3) will be noticed separately in the **Federal Register**. This notice applies only to item (1).

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR Part 50.92 by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the license. The proposed action to amend License No. DPR–2 to possess-but-not-operate status is more restrictive than the present license because the present license would permit operation of the facility if certain conditions are met. Therefore, since the proposed amendment is encompassed by example (ii) of the Commissions guidance, the staff has determined that the proposed action does not involve a significant hazards consideration.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Attorney for licensee: Michael I. Miller, Isham, Lincoln and Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

NRC Project Director: Herbert N. Berkow.

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: May 14, 1986.

Description of amendment request: The proposed amendment would permit the performance of monthly surveillance tests on valve SI–NOV–24 (on the line from the refueling water storage tank) and on valve RH–MOV–874 (on the residual heat removal system pump discharge), in accordance with the licensee's application for amendment dated May 14, 1986. The monthly surveillance tests on the subject valves are required to assure the operability of a high pressure recirculation cooling mode following a certain range of small line break loss-of-coolant accidents.

Basis for proposed no significant hazards consideration determination: The proposed technical specification changes address a condition that was discovered as a result of the recent Haddam Neck Plant Probabilistic Safety Study, and for which an exemption for the single failure criterion was granted on April 28, 1986. The proposed changes are in additional to existing surveillance requirements and are being provided to increase the reliability of the high pressure safety injection (HPSI) method of high pressure recirculation cooling following a specific set of small break loss-of-coolant accidents.

The Commission has provided examples (48 FR 14870, April 6, 1983), of actions not likely to involve a significant hazards consideration. Example (ii) of this guidance states that a change that constitutes an additional limitation, restriction, or control not presently in the technical specifications; for example, a more stringent surveillance requirement would not likely constitute a significant hazard. The staff has reviewed the proposed license amendment and concluded that it falls within the envelope example of (ii) since the proposed amendment adds additional surveillance requirements to the plant technical specifications concerning the operability of the subject valves. Accordingly, the staff proposes to determine that the proposed changes do not involve a significant hazards considerations.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry and Howard, Counselors at Law, City Place, Hartford, Connecticut 06103–3499.

NRC Project Director: Christopher I. Grimes.

Consumers Power Company, Docket No. 50–155, Big Rock Point Plant, Charlevoix County, Michigan

Date of amendment request: May 1, 1986.

Description of amendment request: The proposed Technical Specification change would add a sentence to a Table which currently establishes the minimum requirements for shift crew composition during the various conditions of plant operation. The proposed sentence would provide flexibility for the Shift Supervisor to designate a Reactor Operator as the shift commander during his absence. This proposed change is also consistent with the intent of information previously submitted to and accepted by the NRC in response to NUREG–0737, Item I.A.1.2, Shift Supervisor Responsibilities.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c).

10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, about the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis.

The operation of Big Rock Point in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

This change will allow the Shift Supervisor, who holds the only required on-shift senior reactor operators license, the flexibility to leave the control room/Shift Supervisor Office area for short durations which will increase his ability to investigate and assimilate overall plant performance thereby allowing him to make better decisions in regards to safe operation of the plant. This change would therefore tend to decrease the probability of occurrence of previously evaluated accidents or their consequences.

The operation of Big Rock Point in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment will allow the Shift Supervisor to not be in the control room/Shift Supervisor Office

area at all times. However, short notice communications to or from the Shift Supervisor are available through the plant public address system and/or portable radios. Previously evaluated accidents or malfunctions do not place restrictions on where the Shift Supervisor is located at the time an accident may be initiated. Therefore, this change would not create the possibility of an accident or malfunction of a different type from those previously evaluated.

The operation of Big Rock Point in accordance with the proposed amendment will not involve a significant reduction in a margin of safety.

This proposed change enables the Shift Supervisor to make better, more complete, decisions in regards to safe operation of the plant which tends to reduce the probability of occurrence of an accident and therefore would tend to increase the margin of safety as defined in the technical specifications.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NCR Project Director: John A. Zwolinski.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: December 16, 1985.

Description of amendment request: The proposed amendments would change the expiration date in paragraph 2.L of Facility Operating License NPF–9 for Unit 1 from midnight on February 28, 2013, to midnight on June 12, 2021. Similarly, the expiration date in paragraph 2.K of Facility Operating License NPF–17 for Unit 2 would be changed from midnight on February 28, 2013, to midnight on March 3, 2023.

Basis for proposed no significant hazards consideration determination: McGuire Nuclear Station is currently licensed for a duration of 40 years commencing with issuance of the construction permits. The proposed amendments would provide a duration of 40 years beginning with issuance of the low power (5%) operating licenses.

Plant equipment, components and structures were designed considering a 40 year service life of the plant. Some equipment, such as the major components of the nuclear steam supply system, was designed for 40 years of service life. Other equipment is not expected to last for a full 40 years; however, in those cases, surveillance and maintenance procedures were implemented into the plant operation to assure that degradation is promptly identified and corrective actions, such as refurbishment and replacement, are taken. Those procedures were designed according to various industry codes and the plant Technical Specifications to ensure that plant structures, equipment and components would operate safely and as designed.

The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations and examples of actions likely to involve significant hazards considerations. The request involved in this case does not match any of those examples. However, the staff has reviewed the licensee's request for the above amendments and determined that should this request be implemented, it would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated because plant equipment, components, and structures were designed considering a 40 year service life, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the physical plant design would not be changed. Also, it would not (3) involve a significant reduction in a margin of safety because surveillance and maintenance procedures are implemented into the plant operation to assure that degradation is promptly identified and corrective actions are taken. Accordingly, the Commission proposes to determine that this change does not involve significant hazards considerations.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: B.J. Youngblood.

Mississippi Power & Light Company, Middle South Energy, Inc., South Mississippi Electric Power Association, Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: May 12, 1986.

Description of amendment request: The amendment would change Technical Specification Table 3.3.2–2, "Isolation Actuation Instrumentation Setpoints" by changing the trip setpoint and allowable value for the reactor core isolation cooling (RCIC) system steam line high flow.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evalated; or (3) Involve a significant reduction in a margin of safety.

The licensee has made an analysis of significant hazards considerations using the standards of 10 CFR 50.92 and has concluded that the proposed amendment does not involve a significant hazards consideration. The NRC staff has made a preliminary review of the licensee's analysis and associated bases. Staff's discussion of the proposed amendment as it relates to the three standards follows.

The RCIC steam line high flow trip setpoint would be changed from 363 inches of water to 56 inches of water and the allowable value would be changed from 371 inches of water to 64 inches of water. The change is needed to correct an error in the calculation of the present values. The specified values are differential pressures on flow meter in the RCIC steam supply line and are calculated based on 300 percent of rated RCIC steam flow. The present values were calculated for a four inch diameter steam line (which is the pipe size for other BWRs) rather than the six inch diameter steam line which is installed in the Grand Gulf Nuclear Staton, Unit 1. The calculational model and input values for the model other than the pipe diameter are correct and were used in the calculation of the values proposed in this amendment. The only change in the

calculation of the proposed values is the use of a six inch diameter pipe instead of a four inch diameter pipe.

The safety function of the isolation valve in the RCIC steam supply line is to close following a postulated break of the steam supply line thus isolating the containment. The flow rate assumed in the loss of coolant accident (LOCA) safety analysis was 300 percent of rated RCIC steam flow and is not changed in the calculation of the proposed instrument setpoint and allowable values. Because the safety analysis for the LOCA would remain the same, the proposed change would not involve a significant increase in the probability or consequences of an accident previously evaluated. The change would make the actuation instrumentation setpoints consistent with the as-built plant. The setpoints have been and continue to be administratively controlled to the proposed values by plant administrative procedures. Because the plant equipment and operating procedures remain the same, the proposed change would not create the possibility of a new or different kind of accident from any accident previously evaluated. Because the proposed values are more conservative than the presently specified values, the proposed change would not involve a significant reduction in a margin of safety.

Accordingly, the staff proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 17th Street, N.W., Washington, D.C. 20036.

NRC Project Director: Walter R. Butler.

Pacific Gas and Elecric Company, Docket No. 50–133, Humboldt Bay Power Plant, Unit No. 3, Eureka, California

Date of amendment request: May 14, 1986.

Description of amendment request: The licensee proposes an amendment to License No. DPR–7 to approve a revised security plan for Humboldt Bay Power Plant, Unit No. 3 (the facility). The proposed security plan is reduced in scope to cover only the storage of spent fuel. The facility is permanently shut down and authority to operate has been deleted by an amendment to allow possess-but-not operate status issued on July 16, 1985.

Basis for proposed no significant hazards consideration determination: The proposed change does not involve an increase in the probability or consequences of an accident previously evaluated because: (1) The security plan only eliminates areas, equipment and systems that are not operating with the facility permanently shutdown and (2) the spent fuel, which is the primary focus of the proposed plan, has a reduced potential for the probability or consequences of an accident because of the significant radioactive decay in the more than 9 years the facility has been shutdown.

The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated, because the method of storage of spent fuel has not changed, and with the reactor defueled and permanently shut down, no reactor accidents are possible.

The proposed change does not involve a reduction in a margin of safety because the security measures described in the plan are commensurate with the risks associated with the storage of fuel which have decreased because of radioactive decay of the fuel in the more than 9 years the facility has been shutdown.

Therefore, based on the above considerations the NRC staff has determined in accordance with 10 CFR Part 50.92 that this proposed amendment will not involve a significant hazards consideration.

Local Public Document Room location: Eureka-Humboldt County Library, 421 I Street (County Court House) Eureka, California 95501.

Attorney for licensee: Phillip A. Crane, Jr., Pacific Gas and Electric Company, Post Office Box 7442, San Francisco, California 94120.

NRC Project Director: Herbert N. Berkow.

Portland General Electric Company, et al., Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: April 7, 1986.

Description of amendment request: The proposed amendment would delete Trojan Technical Specification (TTS), Paragraph 3.4.10.1.d. Paragraph 3.4.10.1.d of TSS ¾ 4.10, "RCS Structural Integrity," currently allows the licensee to perform an evaluation of reduced structural integrity as an alternative to restoring structural integrity. By letter dated February 10, 1986 the staff requested the licensee review Paragraph 3.4.10.1.d and propose revised Technical Specifications based on the staff's concern that safety related components, especially those which are part of the reactor coolant pressure boundary or attached thereto, should not be placed into service with reduced structural integrity. The proposed amendment responds to the staff's request.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining that a proposed amendment involves no significant hazards consideration. Accordingly the licensee has performed the following analysis:

This change does not involve a significant increase in the probability or consequences of an accident previously evaluated because deleting TTS 3.4.10.1.d requires that strucutural integrity be restored in lieu of performance of an evaluation. This change constitutes an additional restriction not presently included in the TTS.

This change does not create the possibility of a new or different kind of accident from any accident previously evaluated because restoring structural integrity is more conservative than evaluating structural integrity from an accident analysis standpoint. By restoring structural integrity, assurance is provided that a new or different kind of accident will not occur.

This change does not involve a significant reduction in a margin of safety because restoring structural integrity in lieu of evaluating structural integrity assures that margins of safety are not reduced.

In the April 6, 1983 **Federal Register** (48 FR 14870), the NRC published a list of examples of amendments that are not likely to involve a significant hazards consideration. Example ii of that list applies to the changes proposed herein and states: "A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications, e.g., a more stringent surveillance requirement."

Since the above example is judged to apply to the proposed change, the proposed change is deemed not to involve a significant hazard consideration.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. The staff has, therefore, made a proposed determination that the licensee's request does not involve significant hazards considerations.

Local Public Document Room location: Multnomah County Library, 801 S.W. 10th Avenue, Portland, Oregon.

Attorney for licensee: J.W. Durham, Senior Vice President, Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204.

NRC Project Director: Steven A. Varga.

Portland General Electric Company, et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: April 9, 1986.

Description of amendment request: The proposed amendment request would revise the Trojan Technical Specifications (TTS) related to the reporting requirements for Reactor Coolant System specific activity as follows:

(1) TTS 3.4.8, Action, Modes 1, 2, and 3, Item a—The provision limiting operation with specific activity greater than 1.0 uCi/gram Dose Equivalent I-131 to 10 percent of the unit's total yearly operating time would be deleted. (The basis for this deleted provision also would be deleted.)

(2) TTS 3.4.8, Action, Modes 1, 2, 3, 4, and the 5, Item a—The requirement that the specific activity analysis results be submitted in the Annual Report would be added.

(3) TTS 6.9.1.5.d would be added to specify information regarding the specific activity analysis which must be included in the Annual Report.

The proposed amendment is in response to Generic Letter 85-19 which states the staff's determination that the reporting requirement for iodine spiking can be reduced from a short-term report (Special Report or Licensee Event Report) to an item which is to be included in the Annual Report. The information to be submitted in the Annual Report would more clearly designate the results to be included from the specific activity analysis and exclude information regarding fuel burnup by core region.

Additionally, Generic Letter 85-19 states the staff's determination that the requirement to shut down a plant if coolant iodine activity limits are exceeded for 800 hours in a 12-month period (expressed as 10 percent of total yearly operating time in the TTS) can be eliminated. Ths limit is no longer considered necessary on the basis that proper fuel management by licensees (with the quality of nuclear fuel greatly improved) and existing reporting requirements [10 CFR 50.72(b)(1)(ii)] should preclude ever approaching the limit.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining that a proposed amendment involves no significant hazards considerations.

Accordingly, the licensee has performed the following analysis:

1. Does the license amendment involve a significant increase in the probability or consequences of an accident previously evaluated? Changing reporting requirements is administrative only. The provision regarding a percentage of total yearly operating time is no longer considered necessary since proper fuel management, improved fuel quality, and existing reporting requirements [10 CFR 50.72(b)(1)(ii)] should preclude approaching the limit. Therefore, the change in reporting requirements and the elimination of the operating limit will not involve a significant increase in the probability or consequences of an accident.

2. Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated? Changing reporting requirements is administrative only. Those changes and the elimination of an unnecessary operating limit do not create the possibility of a new or different type of accident.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Changing reporting requirements is administrative only. Those changes and the elimination of the provision regarding a percentage of total yearly operating time do not involve a significant reduction in a safety margin since proper fuel management, improved fuel quality, and existing reporting requirements should preclude approaching the limit.

Based on the above analysis, the licensee concluded that the proposed amendment does not involve a significant hazards considerations. The staff has reviewed the licensee's determination and agrees with the licensee's analysis. The staff has, therefore, made a proposed determination that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Multnomah County Library, 801 S.W. 10th Avenue, Portland, Oregon.

Attorney for licensee: J.W. Durham, Senior Vice President, Portland General Electric Company, 121 S. W. Salmon Street, Portland, Oregon 97204.

NRC Project Director: Steven A. Varga.

Power Authority of the State of New York, Docket No. 50-286, Indian Point Unit No. 3, Westchester County, New York

Date of amendment request: April 18, 1986.

Description of amendment request: This application for revision to the Indian Point 3 Technical Specifications seeks to increase the maximum allowable total core peaking factor, F_Q. Presently, the Technical Specifications limit the full power F_Q to less than or equal to 2.13. This change will increase the full power F_Q limit to less than or equal to 2.20.

The February 11, 1980 NRC Confirmatory Order had limited the calculated fuel peak clad temperature (PCT) to a maximum of 2000°F under large break LOCA conditions. As a result of this limit, a substantial penalty on F_Q had to be imposed.

The application provides the Appendix K Emergency Core Cooling System (ECCS) reanalysis assuming a uniform 24% steam generator tube plugging level, which was transmitted to the NRC via the Authority's May 5, 1983 letter. The limiting Final Acceptance Criteria (FAC) analysis case was the Double Ended Cold Leg Guillotine (DECLG) break, $C_d=0.4$. For this limiting case, the PCT was calculated to be 2039°F for a full power F_Q of 2.20. This case was re-analyzed with a full power F_Q of 2.14. The resultant PCT was 1995°F and thereby assured compliance with the February 11, 1980 Order. This F_Q limit was incorporated into the Indian Point 3 Technical Specification via Amendment 48, dated January 13, 1984.

By Rescission of Order, dated July 5, 1985, the February 11, 1980 Confirmatory Order was rescinded. As such, the aforementioned limiting case analysis with an F_Q of 2.20 can now be utilized as the resultant PCT of 2039°F satisfies the PCT requirement of 10 CFR 50.46.

However, the aforementioned Appendix K reanalysis, assuming a F_Q of 2.20, was performed in support of reactor operations with uniform 24% steam generator tube plugging. The Authority's March 14, 1986 letter transmitted Revision 1 to WCAP-10705, "Safety Evalution for Indian Point 3 with Asymmetric Tube Plugging Among Steam Generators (Non-proprietary)," which documented sensitivity of asymmetric steam generator tube plugging level on the LOCA and non LOCA transients. Enclosure 2 to this Safety Evaluation details the sensitivity of asymmetric tube plugging on calculated ECCS performance. The full power F_Q of 2.20 for the ECCS reanalysis

performed for a uniform 24% steam generator tube plugging level is not adversely impacted by asymmetric effects.

The Authority's April 23, 1985 letter transmitted proposed revisions to the Technical Specifications in support of the Cycle 5 refueling, which involved a fuel design transition from the Westinghouse 15×15 low parasitic (LOPAR) design to the 15×15 Optimized Fuel Assembly (OFA) design. The greater hydraulic resistance of the 15×15 OFA will cause an approximate reduction of 2.2% in reflood flow rate. This will result in an approximate 10°F increase in PCT under large break LOCA conditions. As a result of this increase in PCT, the F_Q limit had to be lowered from 2.14 to 2.13 so that the Confirmatory Order requirement of 2000°F PCT would not be exceeded. These revisions were incorporated into the Indian Point 3 Technical Specifications via Amendment 61, dated August 27, 1985.

Including the 10°F increase to account for the OFA design results in a PCT of 2049°F for a F_Q of 2.20 under the LOCA conditions. The limits of 10 CFR 50.46 are not exceeded. The F_Q assumed in all of the small break LOCA and non-LOCA transient analyses was 2.32. Asymmetric steam generator tube plugging and the OFA design did not necessitate any reductions in this assumed F_Q value. Hence F_Q of 2.20 assumed in the large break LOCA is limiting.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

A discussion of these standards as they related to this amendment follows:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change seeks to increase the F_Q limit to 2.20. The revised limit will not increase the probability of an accident previously analyzed as this limit is an operational restriction to limit the consequences of the accident.

The analyses results are within the safety limits provided by 10 CFR 50.46.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Increasing the F_Q limit to 2.20 will not introduce the possibility of an accident of a different type than previously analyzed.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

In issuing Amendment 48 to the Indian Point 3 Technical Specifications, dated January 13, 1984, the NRC in their safety evaluation report reviewed and approved the ECCS reanalysis assuming a F_Q of 2.14, which results in a PCT of 1995°F. The proposed change increasing the F_Q limit of 2.20 will result in a PCT of 2039°F. The presence of OFA fuel in the core will result in a PCT of 2049°F.

The analyses results are within the safety limits specified in 10 CFR 50.46.

Based on the above, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Steven A. Varga.

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of amendment request: December 18, 1984 , as revised April 26, 1985, supplemented May 22, 1985, and superseded October 30, 1985.

Description of amendment request: The amendment would revise the Technical Specifications to establish Limiting Conditions for Operation (LCOs) for the utilization of the Decay Heat Removal System (DHRS) to cool the spent fuel pool. This is required because the spent fuel pool has a single loop heat removal system. If this loop becomes unavailable for removing heat from the fuel pool, one of the DHRS loops can be utilized to assure that the pool temperature is kept low enough to prevent boiling.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for a no significant hazards determination by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the Technical Specifications. The proposed amendment would add limitations and controls by adding LCOs for the use of the DHRS for cooling the fuel pool. The implementation of the proposed LCOs would provide additional controls and limitations not included in the current Technical Specifications. For this reason, the Commission proposes to determine that the application does not involve a significant hazards consideration.

Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California 95814.

Attorney for licensee: David S. Kaplan, Sacramento Municipal Utility District, 6201 S Street, P.O. Box 15830, Sacramento, California 95813.

NRC Project Director: John F. Stolz.

South Carolina Electric and Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of amendment request: June 10, 1985, as supplemented December 6, 1985.

Description of amendment request: The amendment would: (1) Combine diesel generator (DG) Technical Specification (TS) Surveillance requirements 4.8.1.1.2.a.3 and 4 into one reqirement, 4.8.1.1.2.a.3; (2) change the DG TS surveillance requirement regarding the 24 hour run, such that the requirement to operate for 2 hours at the 2 hour DG load rating can be performed at anytime during the 24 hours instead of during the first 2 hours of the 24-hour run; (3) add to the Bases section for DG TS 3/4.8 a reference to the June 10, 1985 and December 6, 1985, amendment requests; (4) change the DG load rejection test in the TS surveillance from 830 kW to 729 kW; and (5) add a note to TS 3.8.1.2 to clarify that the Engineered Safety Feature (ESF) Load Sequencer may be de-energized in Modes 5 and 6.

The initial application dated June 10, 1985, was noticed in the **Federal Register** on July 17, 1985 (50 FR 29016). Additional information and new changes were submitted by letter dated December 6, 1985. Upon review, the NRC has determined that some of the initial changes requested, along with the new changes, require renoticing.

Basis for proposed no significant hazards consideration determination: The license is proposing to change the requirement to perform the DG two hour test at the beginning of the 24 hour run

and allow it to be performed at any time during the 24 hour period (item 2 above). This proposal is in accordance with the requirements of Regulatory Guide 1.108, item C.2.a(3), which states that testing should, "demonstrate full-load carrying capability for an interval of not less than 24 hours, of which 22 hours should be at a load equivalent to the continuous rating of the diesel generator and 2 hours at a load equivalent to the 2 hour rating of the diesel generator."

TS surveillance requirement 4.8.1.1.2.e.2 requires a load rejection test of greater than or equal to the maximum single loan placed on the diesel generators (item 4 above). As listed in the Virgil C. Summer Nuclear Station Final Safety Analysis Report (FSAR), Table 8.3–3, (Channel A), the largest load is 729 kW and is associated with the charging pump. Accordingly, the licensee proposes that the Technical Specifications should be changed from 830 kW to 729 kW to reflect this load.

The licensee also requested an additional clarifying note be added to TS 3.8.1.2 to indicate that the ESF Load Sequencer may be de-energized in Modes 5 and 6 (item 5 above). The solid state protection system, which the automatic signals that start the diesel go through at the plant, is not required to be operable in Modes 5 and 6. Therefore, to be consistent with the other solid state protection TS (see Table 3.3–3, "Engineered Safety Feature Actuation System Instrumentation," items 1 and 7), this note is necessary to provide clarification for the determination of the diesel generators' operability in Modes 5 and 6.

The remaining changes, combining two TS line items into one (item 1 above), and referencing both amendment requests in the bases (item 3 above), are administrative in nature.

The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. One of the examples relates to a purely administrative change to Technical Specifications such as a change to achieve consistency throughout the Technical Specifications. Three of the changes (items 1, 3 and 5) involved here are similar to this example. The other two changes (items 2 and 4) do not match any of the examples. However, the staff has reviewed the licensee's request for these two changes and has determined that should they be implemented, they will not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the load run and load reject tests will be conducted based on Regulatory Guide 1.108 and the FSAR, respectively. Also, they will not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the physical plant design is not changed. Finally, they will not (3) involve a significant reduction in a margin of safety because the changes are based on a regulatory guide and the FSAR, respectively. Accordingly, the Commission proposes to determine that these changes do not involve significant hazards considerations.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Attorney for licensee: Randolph R. Mahan, South Carolina Electric and Gas Company, P.O. Box 764, Columbia, South Carolina 29218.

NRC Project Director: Lester S. Rubenstein.

South Carolina Electric and Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of amendment request: January 9, 1986, supplemented April 14, 1986.

Description of amendment request: The amendment would change License Condition 2.C (24) in Operating License No. NPF–12. Currently, the condition states, "SCE&G shall continue the seismic monitoring program discussed in Section 2.5.3 of the Safety Evaluation Report until December 31, 1983, at which time there shall be a reevaluation of the need for further monitoring to be made an additional licensing requirement." The amendment would change the condition to read, "SCE&G shall maintain responsibility for a seismic monitoring program as discussed in Section 2.5.3 of the Safety Evaluation Report until a request is made by the Licensee and approved by the NRC staff for reduction or elimination of the program."

Basis for proposed no significant hazards consideration determination: The University of South Carolina (USC) has indicated an interest in maintaining and operating the licensee's microseismic network to ensure continued monitoring in the future. The licensee has negotiated a contract (grant) with the USC Geology Department to provide complete operation, maintenance, and data analysis.

The original license condition required a reevaluation of the need for monitoring after December 31, 1983. Monitoring has continued since that time and by the recently negotiated contract will continue for some time into the future. Therefore, the license condition is being changed to reflect maintenance of a seismic monitoring program until a request is made by the licensee and approved by the NRC staff for reduction or elimination of the program.

The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. The request involved in this case does not match any of those examples. However, the staff has reviewed the licensee's request for the above amendment and determined that should this request be implemented, it will not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the microseismic monitoring network is not part of the plant, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the physical plant design is not being changed. Also, it will not (3) involve a significant reduction in a margin of safety because the microseismic monitoring will continue under improved controls. Accordingly, the Commission proposes to determine that this change does not involve significant hazards considerations.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Attorney for licensee: Randolph R. Mahan, South Carolina Electric and Gas Company, P.O. Box 764, Columbia, South Carolina 29218.

NRC Project Director: Lester S. Rubenstein.

South Carolina Electric and Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of amendment request: March 17, 1986.

Description of amendment request: The amendment would change Technical Specification 6.2.2, "Administrative Controls—Unit Staff," to clarify that the Director, Nuclear Plant Operations does not need to review individual overtime during extended shutdown periods. The amendment would also change Technical Specification 3.5.3, "ECCS Subsystems—Tavg Less than 350°F," to clarify that the residual heat removal system can be aligned to the reactor coolant system during Mode 4 operation and manual alignment to the refueling water storage tank would be utilized upon receipt of a safety injection signal.

Basis for proposed no significant hazards consideration determination: Technical Specification (TS) 6.2.2.d states that, "Except during extended shutdown periods, the use of overtime should be considered on an individual basis. . . ." The amendment would clarify that individual overtime does not need to be reviewed by the Director, Nuclear Plant Operations during extended shutdown periods.

TS 3.5.3.d would be changed to be more like the Westinghouse Standard Technical Specifications, thereby clarifying that the residual heat removal system can be aligned to the reactor coolant system during Mode 4 operation.

The Commission has provided certain examples (48 FR 14870) of actions likely to involve no signficant hazards considerations. The request involved in this case does not match any of those examples. However, the staff has reviewed the licensee's request for the above amendment and determined that should this request be implemented, it will not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated because both changes clarify existing Technical Specification requirements, and (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the physical plant design is not being changed. Also, it will not (3) involve a significant reduction in a margin of safety because Technical Specification requirements are not being changed. Accordingly, the Commission proposes to determine that this change does not involve significant hazards considerations.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Attorney for licensee: Randolph R. Mahan, South Carolina Electric and Gas Company, P.O. Box 764, Columbia, South Carolina 29218.

NRC Project Director: Lester S. Rubenstein.

Southern California Edison Company, et al. Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of amendment request: January 25, 1984 and October 25, 1985 (Reference PCN–84).

Description of amendment request: The proposed change would delete License Condition 2.C(5) of the San Onofre Nuclear Generating Station (SONGS) Units 2 and 3 Operating Licenses, NPF–10 and NPF–15, respectively. These license conditions define the requirements for the environmental qualification program for safety related electrical equipment. On February 23, 1983, the Commission issued a new rule, 10 CFR 50.49, which defines the requirements for environmental qualification of safety related electrical equipment and supersedes the SONGS 2 and 3 license conditions.

Specifically, License Condition 2.C(5)a requires that SCE be in compliance with the provisions of NUREG–0588 "Interim Staff Position on Environmental Qualification of Safety Related Equipment," Revision 1 dated July 1981. 10 CFR 50.49 encompasses the requirements of NUREG–0588 and states that equipment qualified in accordance with NUREG–0588 need not be requalified in accordance with the provisions of 10 CFR 50.49. However, replacement equipment must be qualified under the provisions of 10 CFR 50.49. License Condition 2.C(5)b requires that complete and auditable records, which describe the environmental qualification status of all safety related electrical equipment, be available and maintained and that such records be updated and maintained current as equipment is replaced or further tested. 10 CFR 50.49 encompasses the record keeping requirements of this license condition. License Condition 2.C(5)c requires implementation of an environmental qualification maintenance procedures program. Additionally, License Condition 2.C(5)d requires the implementation of an improved environmental qualification surveillance program to detect age-related degradation and any improved maintenance program procedures required by such a surveillance program. 10 CFR 50.49 encompasses these requirements by requiring that qualified equipment will meet its specified performance requirements when it is subjected to the conditions predicted to be present when it must perform its safety function, up to the end of its qualified life, and requires that replacement equipment must also be qualified. By letters dated August 23, 1983 and April 10, 1985, SCE affirmed that maintenance program procedures had been implemented and that an improved surveillance program had been implemented.

Basis for No Significant Hazards Considerations Determination: The Commission has provided guidance concerning the application of standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870) of amendments that are considered not likely to involve significant hazards considerations. Example (vi) relates to a change which either results in some increase to the probability or consequences of a previously analyzed accident or may reduce, in some way, a safety margin but where the results of the change are clearly within all acceptance criteria with respect to the system or component specified in the Standard Review Plan (SRP); for example, a change resulting from a small refinement of a previously used calculational model or design method. Example (vii) relates to a change to make a license conform to changes in the regulations where the license change results in a very minor change to facility operations currently within keeping with the regulations.

10 CFR 50.49, which was promulgated after the issuance of the SONGS 2 and 3 operating licenses, defines the Commission requirements for an acceptable environmental qualification program. Specifically, this rule identifies record keeping requirements, implementation schedule, and environmental qualification criteria. The rule supersedes previous Staff criteria for environmental qualifications such as those contained in NUREG–0588. License Conditions 2.C(5)a and 2.C(5)b identify schedule, environmental qualification criteria and record keeping requirements. These requirements have been superseded by 10 CFR 50.49; therefore, the proposed deletion of License Condition 2.C(5)a and 2.C(5)b makes the licenses conform to changes in the regulations. Thus, this change is similar to example (vii) of 48 FR 14870.

SRP Section 3.11, "Environmental Qualification of Mechanical and Electrical Equipment," describes the general requirements for the design and environmental qualification of all equipment. The specific acceptance criteria for assessing the acceptability of an environmental qualification program for safety related electrical equipment is provided by reference to NUREG–0588. 10 CFR 50.49 has superseded NUREG–0588 and thus specific SRP acceptance criteria are now found in 10 CFR 50.49. The proposed change deletes License Conditions 2.C(5)c and 2.C(5)d which define the requirements for an environmental qualification maintenance and surveillance program and requires the affirmation of implementation of the improved surveillance and maintenance procedures. 10 CFR 50.49 requires safety related electrical equipment remain qualified for its qualified life and that replacement equipment also be qualified. These two aspects of 10 CFR 50.49, while not specifically identifying

the means of accomplishing these requirements, achieve the same goal as License Conditions 2.C(5)c and 2.C(5)d; thus, while deletion of these license conditions removes the specificity of how equipment will be maintained in a qualified condition of its life, the same ultimate requirement is mandated by 10 CFR 50.49. Since the requirements of 10 CFR 50.49 must be met and since they define an acceptable environmental qualification program, the environmental qualification program will continue to meet the acceptance criteria even with the deletion of License Conditions 2.C(5)c and 2.C(5)d. Therefore, the proposed change is similar to example (vi) of 48 FR 14870.

Local Public Document Room Location: General Library, University of California at Irvine, Irvine, California 92713.

Attorney for Licensees: Charles R. Kocher, Esq., Southern California Edison Company, 2244 Walnut Grove Avenue, P.O. Box 800, Rosemead, California 91770 and Orrick, Herrington & Sutcliffe, Attn.: David R. Pigott, Esq., 600 Montgomery Street, San Francisco, California 94111.

NRC Project Director: George W. Knighton.

Southern California Edison Company, et al, Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California.

Date of amendment request: February 7, 1986 (Reference: PCN–210).

Description of amendment request: The proposed change would delete, in its entirety, Technical Specification 3/4.6.2.2, "Iodine Removal System," and replace it with a new technical specification requiring trisodium phosphate in the containment emergency sump area.

Technical Specification 3/4.6.2.2, "Iodine Removal System," requires that a spray additive tank, containing at least 1456 gallons of between 40 and 44% by weight of NaOH solution, and two chemical addition pumps be operable in Modes 1, 2 and 3. The original purpose of this iodine removal system was to ensure that in the event of a LOCA a sufficient amount of NaOH will be added to the containment spray to raise the pH to between 8 and 9 during the initial phase of the spray. The effects of the increased pH levels are to increase the iodine removal capability of the spray and the iodine retention in the sump.

An additional function of the NaOH in the iodine removal system, during the long term recirculation phase, is to maintain the pH level of sump at greater than or equal to 7.0 to minimize the potential for chloride induced stress corrosion of austenitic stainless steel.

A new analysis utilizing recent changes in NRC methodology (NUREG–0800, Section 6.5.2, Rev. 1), combined with knowledge gained from recent studies on the behavior of iodine in the post-LOCA environment, demonstrates that the deletion of the spray additive tank does not significantly change the calculated offsite thyroid doses. The pH of the containment spray does not need to be increased during the initial phase of containment spray during a LOCA to enhance iodine removal.

However, in the post-LOCA recirculation phase, the emergency core cooling system (ECCS) solution pH must be increased to greater than or equal to 7.0 to minimize chloride induced stress corrosion cracking of austenitic stainless steel components, and to minimize the hydrogen produced by the corrosion of galvanized surfaces and zinc based paints. To accomplish this increase in the ECCS solution pH, a new technical specification is proposed to replace Technical Specification 3.6.2.2. This new technical specification requires the presence of a specified amount of trisodium phosphate in the containment area. This amount of trisodium phosphate will maintain long term pH control in the ECCS recirculation solution, thereby minimizing the potential for chloride induced stress corrosion and maximizing iodine retention in the sump solution.

Basis for Proposed No Significant Hazards Considerations Determination: The Commission has provided guidance for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870) of amendments that are considered not likely to involve significant hazards consideration. Example (vi) relates to a change which either may result in some increase in the probability or consequences of a previously-analyzed accident or may in some way reduce a safety margin, but where the results of the change are clearly within all acceptance criteria with respect to the system or component specified in the Standard Review Plan (SRP).

SRP Sections 6.1.1, "Engineered Safety Features Materials," 6.5.2, "Containment Spray as a Fission Product Cleanup System," an 15.6.5, "Loss of Coolant Accidents Resulting From Spectrum of Postulated Piping Breaks Within the Reactor Coolant System," define the pertinent acceptance criteria. SRP Section 6.1.1 requires that the composition of containment spray and core cooling water be controlled to ensure a minimum pH of 7.0 following a loss of coolant accident to inhibit initiation of stress corrosion cracking. SRP Section 6.5.2 defines conditions under which the containment spray system can be credited for fission product removal. SRP Section 15.6.5 defines, by reference to 10 CFR 100, the post accident dose limits.

The only impact that the proposed technical specification change has on this system is the deletion of the use of NaOH in the initial containment spray phase following a postulated LOCA, and the substitution of trisodium phosphate for NaOH in the sump solution during the long term recirculation phase. Consistent with SRP Section 6.5.2, no credit is taken for containment spray removal of elemental iodine. The current analysis, taking credit for NaOH addition, calculates a 0–2 hour exclusion area boundary (EAB) thyroid dose of 86.0 rem and a 0–30 day low population zone (LPZ) thyroid dose of 11.5 rem.

The 10 CFR 100 acceptance criteria are 300 rem for both categories. For the new analysis, the corresponding conservative case EAB thyroid dose is 76.2 rem and the LPZ thyroid dose is 12.2 rem. An optimized case resulted in calculated EAB thyroid dose of 57.7 rem and LPZ thyroid dose of 8.7 rem. Depending on the degree of conservatism in the new analysis, the deletion of the spray additive tank may slightly increase or decrease the calculated thyroid dose at the LPZ, and will in all cases reduce the thyroid dose at the exclusion area boundary. It should be noted that in all cases there is significant margin between the calculated thyroid doses and the limits defined in 10 CFR 100, and this margin is essentially independent of whether the spray additive tank is operable, or if the SAT is deleted and the sump pH control system is operable. Thus, the proposed change meets the dose acceptance criteria of SRP Section 15.6.5.

The proposed requirements will assure a post accident sump pH greater than or equal to 7.0, thereby meeting the SRP 6.1.1 requirements to minimize the potential for chloride stress corrosion, the generation of hydrogen or the environmental qualification of equipment. Therefore, because the proposed change meets the SRP acceptance criteria, it is similar to example (vi) of 48 FR 14870.

Local Public Document Room Location: General Library, University of California at Irvine, California 92713.

Attorney for Licensees: Charles R. Kocher, Esq., Southern California Edison Company, 2244 Walnut Avenue, P.O.

Box 800, Rosemead, California 91770 and Orrick, Herrington & Sutcliffe, Attn.: David R. Pigott, Esq., 600 Montgomery Street, San Francisco, California 94111.

NRC Project Director: George W. Knighton.

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, (KNPP), Kewaunee County, Wisconsin

Date of amendment request: April 29, 1986.

Description of amendment request: The licensee proposes one major revision related to a recent determination that the copper and nickel content of reactor vessel belt line welds is greater than initially assumed. This discovery results in a needed revision to the reactor coolant system heatup and cooldown rates curves in the Technical Specifications (TS). In addition, the discovery also resulted in eight changes regarding error corrections, minor administrative changes and changes to attain consistency between different sections of the TS.

Basis for proposed no significant hazards consideration determination: The major change requested in this proposed license amendment consists of revisions to the heatup and cooldown limit curves due to recently discovered higher amounts of nickel and copper in the limiting reactor vessel weld.

This proposed change does not involve a significant hazards consideration because operation of the KNPP in accordance with this change would not:

(1) Significantly increase the probability or consequences of an accident previously evaluated. The revised heatup and cooldown limit curves meet the applicable regulatory requirements that ensure the conservatism of the curves. The revised safety factor applied to the thermal stress intensity factor meets the requirements of the ASME Boiler and Pressure Vessel Code and the criteria in the NRC Standard Review Plan Section 5.3.2. The use of updated material information that had been revised in the conservative direction is also not a concern because this data agrees with the guidance set forth in Draft Regulatory Guide 1.99, Revision 2 (current version). With the preparation of the limit curves in accordance with the latest criteria and guidance, there is no significant hazards concern for any postulated change in the probability or consequences of an accident previously evaluated.

(2) Create the possibility of a new or different type of accident from any previously analyzed. The revised heatup and cooldown curves do not create the possibility of a new or different type of accident. The curves were prepared in accordance with regulatory requirements and require plant operation within more limiting requirements to allow operation to 15 EFPY instead of 10 EFPY. Thus, no new or different type of accident has been created.

(3) Significantly reduce the margin of safety as defined in the basis for any Technical Specification. The safety factors and margins used in the preparation of the limit curves meet the requirements of the ASME Code and the guidance of Draft Regulatory Guide 1.99, Revision 2. The safety factor which was applied to the thermal stress intensity factor meets the requirements of the ASME code and the criteria in the Standard Review Plan. The use of updated material information does not present a safety concern as this data agrees with the guidance set forth in Draft Regulatory Guide 1.99, Revision 2. In addition, the margins added to the material reference temperature were consistent with the draft regulatory guide.

Regarding the remaining eight proposed changes the Commission has provided guidance for the application of standards for determining whether a significant hazards consideration exists by providing examples of amendments that are considered not likely to involve significant hazards considerations (48 FR 14870). One of these examples (i) is a purely administrative change to technical specifications: For example a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature. All eight of the remaining changes fall into these categories. Based on our evaluation of the first change involving revised heatup and cooldown limit curves, we have determined that this change does not involve a significant hazards consideration. The remaining eight proposed changes are similar to an example for which no significant hazards consideration exists. As a consequence of the above the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Attorney for Licensee: Steven E. Keane, Esquire, Foley and Lardner, 777 E. Wisconsin Avenue, Milwaukee, Wisconsin 53202.

NRC Project Directorate: George E. Lear.

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices because time did not allow the Commission to wait for this bi-weekly notice. They are repeated here because the bi-weekly notice lists all amendments proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: May 5, 1986.

Brief description of amendment: The amendments would extend for Unit 1 only on a one-time basis and until the first refueling outage, certain 18-month or 24-month surveillances which can be conducted only when Unit 1 is shut down.

Dated of publication of individual notice in **Federal Register:** May, 21, 1986 (51 FR 18705).

Expiration date of individual notice: June 19, 1986.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment request: April 30, 1986.

Brief description of amendment request: The proposed amendments would permit plant operation with the reactor coolant pump and steam generator supports redesigned in accordance with the recently noticed amendment to General Design Criterion 4 (GDC-4), 10 CFR Part 50, Appendix A (51 FR 12502), which will be effective May 12, 1986.

Dated of publication of individual notices in **Federal Register:** May 9, 1986 (51 FR 17266).

Expiration date of individual notice: June 9, 1986.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the 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.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the Federal Register as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see: (1) The applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. 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 local public document rooms for the particular facilities involved. 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.

Arkansas Power and Light Company, Docket No. 50–313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of application for amendment: September 3, 1985.

Brief description of amendment: The amendment revises the ANO–1 TSs by removing those TSs related to the Reactor Vessel Material Surveillance Program.

Date of issuance: May 20, 1986.

Effective date: May 20, 1986.

Amendment No.: 98.

Facility Operating License No. DPR–51. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 6, 1985 (50 FR 26209).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 20, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of Application for amendment: May 30, 1984, as supplemented December 19, 1985.

Brief description of amendment: The amendment revises the Technical Specification operability and surveillance requirements for Snubbers. The changes were requested by NRC Generic Letter 84–13 dated May 3, 1984. The incorporation of this amendment clarifies and increases snubber surveillance, defies snubber testing and acceptance criteria, and includes a snubber service life program.

Date of issuance: May 19, 1986.

Effective date: Immediately to be implemented within 30 days.

Amendment No.: 112.

Facilities Operating License No. DPR–26: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 24, 1984 (49 FR 29906) and February 12, 1986 (51 FR 5273).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 19, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Consumers Power Company, Docket No. 50–155, Big Rock Point Plant, Charlevoix County, Michigan

Date of application for amendment: July 30, 1984 as revised May 24, 1985.

Brief description of amendment: The amendment adds the definition "Reportable Event," adds the term where appropriate and deletes specific reporting requirements from the Technical Specifications in response to the Commission's Generic Letter 83–43, Reporting Requirements of 10 CFR 50, Sections 50.72 and 50.73.

Date of issuance: May 12, 1986.

Effective date: May 12, 1986.

Amendment No. 85.

Facility Operating License No. DPR–6. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 28, 1984 (49 FR 38397).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 12, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, *City of Dalton, Georgia, Docket No. 50–321, Edwin I. Hatch Nuclear Plant, Unit No. 1, Appling County, Georgia*

Date of application for amendment: March 7, 1986.

Brief description of amendment: The amendment revises the main steam line high radiation scram and isolation setpoints, on a one time short term basis, to facilitate test injections of hydrogen into the reactor coolant.

The test is expected to be completed within about 20 days of its start.

Date of issuance: May 21, 1986.

Effective date: within 30 days of issuance.

Amendment No.: 125.

Facility Operating License No. DPR–57. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 26, 1986 (51 FR 10461).

The Commission's related evaluation of the amendments is contained in a Safey Evaluation dated May 21, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

GPU Nuclear Corporation, Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: November 7, 1985, as revised by March 3, 1986 (TSCR 135).

Brief description of amendment: The amendment approves changes to the Appendix A Technical Specifications (TS) pertaining to the facility licensed operator staffing requirements. The changes revise the facility staffing requirements in TS Section 6.2.2 for the minimum number of licensed operators in the control room during the various modes of reactor operation. It adds requirements on the number of licensed operators to specifically allow more such operators in the control room.

Date of issuance: May 12, 1986.

Effective date: May 12, 1986.

Amendment No. 102.

Provisional Operating License No. DPR–16. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 18, 1985 (50 FR 51624); March 26, 1986 (51 FR 10459).

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated May 12, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

Indiana and Michigan Electric Company, Docket No. 50–316, Donald C. Cook Nuclear Plant, Unit No. 2, Berrien County, Michigan

Date of application for amendment: March 14 and March 27, 1986, as supplemented by letters dated May 1 and May 5, 1986.

Brief description of amendment: The amendment revises the Technical Specifications for changes related to the cycle 6 reload, clarifications to make Unit 2 Specifications consistent with Unit 1 and the Standard Technical Specifications, and editorial changes.

Date of issuance: May 21, 1986.

Effective date: May 21, 1986.

Amendment No.: 82.

Facility Operating License No. DPR–74. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 9, 1986 (51 FR 12249).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 21, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of application for amendment: December 20, 1984, as supplemented February 22, 1985 and February 19, 1986.

Brief description of amendment: The amendment revises the Technical Specifications (TS) for: (1) Average power range monitor (APRM) flow transmitter calibration, (2) definition of "OPERABLE—OPERABILITY," (3) automatic depressurization system actuation logic and (4) Cooper Nuclear Station organizational changes.

Date of issuance: May 19, 1986.

Effective date: May 19, 1986.

Amendment No.: 99.

Facility Operating License No. DPR–62. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 27, 1985 (50 FR 12148) and April 9, 1986 (51 FR 12251).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 19, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: January 28, 1986.

Brief description of amendment: The amendment modifies the Technical Specifications to eliminate the requirement for Emergency Cooling System operability during hydrostatic testing with the reactor not critical and reactor coolant temperature greater than 212°F.

Date of issuance: May 12, 1986.

Effective date: May 12, 1986.

Amendment No.: 82.

Facility Operating License No. DPR–63. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 26, 1986 (51 FR 10468).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 12, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: State University College at Oswego, Penfield Library—Documents, Oswego, New York 13126.

Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: January 3, 1986.

Brief description of amendment: The amendment restricts the replacement of dry tubes associated with the intermediate range monitor (IRM) and source range monitor (SRM) instrumentation.

Date of issuance: May 22, 1986.

Effective date: May 22, 1986.

Amendment No.: 83.

Facility Operating License No. DPR–63. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 26, 1986 (51 FR 10466).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 22, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: State University College at Oswego, Penfield Library—Documents, Oswego, New York 13126.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: February 14, 1986.

Brief description of amendments: These amendments revise the Technical Specification 5.3.1, "Fuel Assemblies" to increase the reload fuel maximum enrichment from 3.5 to 4.5 weight percent U–235.

Date of issuance: May 13, 1986.

Effective date: May 13, 1986.

Amendment Nos.: 7 and 5.

Facility Operating License Nos. DPR–80 and DPR–82: Amendments revised the Technical Specifications.

Date of initial in **Federal Register:** April 9, 1986 (51 FR 12235).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 13, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: California Polytechnic State University Library, Documents and Maps Department, San Luis Obispo, California 93407.

South Carolina Electric & Gas Company, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1 Fairfield County, South Carolina

Date of application for amendment: March 15, 1985.

Brief description of amendment: The amendment modifies the Technical Specifications to reflect administrative changes—changes to a position title, changes to an Index, clarification of monitoring instruments and changes in reporting.

Date of issuance: May 16, 1986.

Effective date: Seven days after date of issuance.

Amendment No. 49.

Facility Operating License No. NPF–12. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 31, 1985 (50 FR 31072).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 16, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Fairfield County Library, Garden and Washington streets, Winnsboro, South Carolina 29180.

South Carolina Electric & Gas Company, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1 Fairfield County, South Carolina

Date of application for amendment: June 10, 1985.

Brief description of amendment: The amendment would revise Technical specification ¾ 8.1, "A.C. Sources," and its bases, and is based on NRC Generic Letter 84–15, "Proposed Staff Actions to Improve and Maintain Diesel Generator Reliability." The proposed revision will reduce the number and severity of diesel generator starts, thereby decreasing engine wear and increasing reliability, and will also restructure the action and surveillance requirements for clarity and useability.

Date of issuance: May 20, 1986.

Effective date: Within 7 days from date of issuance.

Amendment No. 50.

Facility Operating License No. NPF–12. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 17, 1985 (50 FR 29016)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 20, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Fairfield County Library, Garden and Washington streets, Winnsboro, South Carolina 29180.

Southern California Edison Company et al., Docket No. 50–206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of application for amendment: May 17, 1984, as amended March 17, 1986.

Brief description of amendment: The proposed change modifies the Technical Specifications to incorporate Reactor Coolant System pressure-temperature limits that have been updated to account for recently measured irradiation effects on the reactor pressure vessel's nil ductility temperature.

Date of issuance: May 21, 1986.

Effective date: May 21, 1986.

Amendment No. 92.

Provisional Operating License No. DPR–13. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 24, 1984 (49 FR 29921) and April 9, 1986 (51 FR 12239).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 21, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713.

Southern California Edison Company, et al. Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Dates of Application of Amendments: January 25, April 27, and November 30, 1984.

Brief Description of Amendments: The amendments revise the following: (1) Technical Specification 3/4.6.3, "Containment Isolation Valves" and includes the Limiting Condition for Operation, Action Statements and Surveillance Requirements; (2) Table 3.3–5 of Technical Specification 3/4.3.2, "Engineered Safety Feature Actuation System Instrumentation and Technical Specification 3/4.7.1.5, "Main Steam Isolation Valves"; and Limiting Condition for Operating 3.6.4.1, Hydrogen Monitors and Surveillance requirement 4.6.4.1.

Date-of-Issuance: May 16, 1986.

Effective Date: May 16, 1986, to be fully implemented within 30 days of issuance.

Amendment Nos.: 46 and 35.

Facility Operating License Nos. NPF–10 and NPF–15: Amendments revised the Technical Specifications.

Date of Initial Notice in **Federal Register**: February 12, 1986, June 4, 1985 and July 3, 1985 (51 FR 5278, 50 FR 23550 and 50 FR 27509).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 16, 1986.

No significant hazards consideration comments were received: No.

Local Public Document Room Location: San Clemente Library, 242 Avenida Del Mar, San Clemente, California.

Virginia Electric and Power Company, et al., Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and 2, Louisa County, Virginia

Date of application for amendments: August 6, 1985.

Brief description of amendments: The amendments delete the redundancy of reporting requirements presently specified in the North Anna, Units 1 and 2 Technical Specification 6.5.3.1.

Date of issuance: May 19, 1986.

Effective date: May 19, 1986.

Amendment Nos.: 79 and 68.

Facility Operating License Nos. NPF–4 and NPF–7. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: September 25, 1985 (50 FR 38923).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 19, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room locations: Board of Supervisors Office, Louisa County Courthouse, Lousia, Virginia 23093, and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Virginia Electric and Power Company, Docket Nos. 50–280 and 50–281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of application for amendments: August 9, 1985, as superseded December 20, 1985.

Brief description of amendments: These amendments delete the snubber listings in T.S. Tables 4.17–1 and 4.17–2, and provide editorial changes in TS 3.20 and TS 4.17 to reflect the deletion of the snubber tables, and the implementation of an administratively controlled listing.

Date of issuance: May 15, 1986.

Effective date: May 15, 1986.

Amendment Nos. 107 and 197.

Facility Operating License Nos. DPR–32 and DPR–37: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 9, 1986 (51 FR 12241).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 15, 1986.

No significant hazards consideration comments received: No.

Local Public Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Washington Public Power Supply System, Docket No. 50-397, WNP-2, Richland, Washington

Date of application for amendment: January 17, 1986.

Brief description of amendment: This amendment will revise the WNP-2 Technical Specifications by changing the operation of value FPC-V-149 from manual to automatic. Valve FPC-V-149 is the interface between the Suppression Pool Cleanup System and the Fuel Pool Cooling (FPC) System. At present it is manually closed and locked during normal power operation. The change will provide a motorized isolation valve in the suppression pool cleanup return line and allow use of the FPC filter-demineralizers for suppression pool cleanup during reactor operations.

Date of Issuance: May 13, 1986.

Effective Date: May 13, 1986.

Amendment No. 24.

Facility Operating License No. NPF-21: Amendment revised the Technical Specifications.

Date of Initial Notice in the **Federal Register:** March 12, 1986 (51 FR 8503).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 13, 1986.

No significant hazards consideration comments received: No.

Local Public Room Location: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

Washington Public Power Supply System, Docket No. 50-397, WNP-2, Richland, Washington

Dates of application for amendment: March 28, 1986, as supplemented May 7 and 8, 1986.

Brief description of amendment: This action amends a license condition of the WNP-2 Operating License NPF-21. Attachment 2, Paragraph 3.(a) of License Condition 2.C.(16) now requires that the licensee shall implement (install or upgrade) requirements of Regulatory Guide 1.97, Rev. 2, with the exception only of flux monitoring, prior to startup following the first refueling outage. This amendment permits implementation of this Regulatory Guide requirement to be delayed for the Suppression Pool Level Monitoring System until startup following the second refueling outage.

Date of Issuance: May 23, 1986.

Effective Date: May 23, 1986.

Amendment No. 25.

Facility Operating License No. NPF-21: Amendment revises Attachment 2, Paragraph 3. of License Condition 2.C.(16).

Date of Initial Notice in the **Federal Register:** April 23, 1986 (51 FR 15418).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 23, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

Washington Public Power Supply System, Docket No. 50-397, WNP-2, Richland, Washington

Dates of application for amendment: January 17, 1986, and February 18, 1986.

Brief description of amendment: This action amends the WNP-2 Technical Specification Table 3.6.3-1, "Primary Containment isolation Valves" to: (1) Reflect corrections and additions to and deletions from the Excess Flow Check Valve listings, Traversing Incore Probe System valve listings, Residual Heat Removal System valve listings and equipment qualification limits; (2) reidentify certain valves in accordance with current Supply System practices; (3) add valves previously omitted; (4) provide clarification to notes in the table; (5) correct typographical errors; and (6) delete maximum isolation time listings for valves not performing an automatic containment isolation function.

Date of Issuance: May 23, 1986.

Effective Date: May 23, 1986.

Amendment No. 26.

Facility Operating License No. NPF-21: Amendment revises the Technical Specifications.

Date of Initial Notice in the **Federal Register:** April 23, 1986 (51 FR 15416).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 23, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Richard Public Library, Swift and Northgate Streets, Richland, Washington 99352.

Washington Public Power Supply System, Docket No. 50-397, WNP-2, Richland, Washington

Date of application for amendment: January 17, 1986.

Brief description of amendment: This action will amend the WNP-2 Technical Specifications by changing Technical Specification Table 3.8.4.3-1, "Motor Operated Valves Thermal Overload Protection" to add valves previously omitted, add valves as a result of system upgrades, and remove valves having no safety related function.

Date of Issuance: May 23, 1986.

Effective Date: May 23, 1986.

Amendment No. 27.

Facility Operating License No. NPF-21: Amendment revises the Technical Specifications.

Date of Initial Notice in the **Federal Register:** April 23, 1986 (51 FR 15416).

The Commission's related evaluation of the amendment is contained in a Safety Evalution dated May 23, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

Washington Public Power Supply System, Docket No. 50-397, WNP-2, Richland, Washington

Date of application for amendment: February 26, 1986, as supplemented on April 7, 24, 25, 30 and May 22, 1986.

Brief description of amendment: This action amends the WNP-2 Technical Specifications to support the operation of WNP-2 at full rated power during the next fuel cycle, Cycle 2. This reload amendment changes the Technical Specifications in the following areas: (1) Establishes operating limits for all fuel types for the upcoming Cycle 2 operation; (2) reflects the replacement of 128 initial core fuel assemblies with Exxon Nuclear Company (ENC) fuel assemblies for the upcoming Cycle 2 operation; and (3) modifies the Bases section of the Technical Specification to account for the use of Exxon fuel assemblies.

Date of Issuance: May 23, 1986.

Effective Date: May 23, 1986.

Amendment No. 28.

Facility Operating License No. NPF-21: Amendment revises the Technical Specifications.

Date of Initial Notice in the **Federal Register:** April 23, 1986 (51 FR 15417)

The Commission's related evaluation of the amendment is contained in a Safety Evalution dated May 23, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

Yankee Atomic Electric Company, Docket No. 50-29, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of application for amendment: May 26, 1981, as revised January 23, 1984 and February 26, 1985.

Brief description of amendment: The amendment modifies the Technical Specifications (TS) for: (1) Safety injection tank temperature; (2) steam generator blowdown monitor setpoint; (3) a main coolant system surveillance requirement to reflect removal of the Low Pressure Surge Tank as part of the containment boundary; (4) remove a charging system valve from the ECCS surveillance requirements to reflect the current flowpath; (5) modify the reactor vessel wall fluence exposure curve; (6) modify the high pressure carbon dioxide limiting condition for operation (LCO) to allow maintenance in specified plant areas; (7) modify containment isolation terminology; (8) modify the specified composition of the plant on-site review committee; (9) modify the radioactive effluent TS LCO to require operation only when flow exists; and (10) add an additional flow rate measuring device to the radioactive liquid effluent TS.

Date of Issuance: May 14, 1986.

Effective Date: May 14, 1986.

Amendment No. 92.

Facility Operating License No. DPR-3. Amendment revised the Technical Specifications.

Date of Initial Notice in the **Federal Register:** March 27, 1985, (50 FR 12168) and September 25, 1985 (50 FR 38924).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 14, 1986.

No significant hazard consideration comments received: No.

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

Yankee Atomic Electric Company, Docket No. 50-29, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of application for amendment: March 28, 1984, with additional information May 3, 1984, and supplemented May 7, 1985.

Brief description of amendment: The proposed change modifies the Technical Specifications (TS) to: (1) Allow movement of spent fuel pit building hatches (excluding the cask hatch cover) over the spent fuel pit after newly discharged spent fuel assemblies have discharged 60 days or less, depending on the number of assemblies discharged, as opposed to the current TS requirement of at least 90 days of decay; and (2) allow use of the travel crane to move the cask hatch over the spent fuel pit building, except that movement over fuel assemblies in the spent fuel pit will be prohibited.

Date of Issuance: May 20, 1986.

Effective date: May 20, 1986.

Amendment No. 93.

Facility Operating License No. DPR-3. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 14, 1985 (50 FR 32804).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 20, 1986.

No significant hazard consideration comments received: No.

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that 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.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing. For exigent circumstances, a press release seeking public comment as to the proposed no significant hazards consideration determination was used, and the State was consulted by telephone. In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant, a shorter public comment period (less than 30 days) has been offered and the State consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see: (1) The application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. 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 local public document room for the particular facility involved.

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.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By July 7, 1986, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a

notice of hearing or an appropriate order.

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 petitioer wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a 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. Contentions shall be limited to matters within the scope of the amendment under consideration. 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.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition 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 the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Branch Chief*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and /or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: May 9. 1986.

Brief description of amendment: This licensee amendment revises the technical specifications to permit operation of the facility during the remainder of Cycle 14 without removing tube 37–73 in the No. 2 steam generator from service by plugging.

Date of issuance: May 14, 1986.

Effective date: May 14, 1986.

Amendment No. 76.

Facility Operating License No. DPR–61. Amendment revised the technical specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendment and final no significant hazards considerations determination are contained in a Safety Evaluation dated May 14, 1986. The State of Connecticut was consulted concerning the waiver of compliance issued on May 8, 1986 and, at that time, expressed no concern from the standpoint of plant safety. On May 14, 1986, an attempt was made to notify the state representative of our intent to issue an emergency license amendment, however, he was unavailable due to official state business.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry and Howard, Counselors at Law. City Place, Hartford, Connecticut 06103–3499.

Local Public Document Room location: Russell Library, 124 Broad Street, Middletown, Connecticut 06457.

NCR Project Director: Christopher I. Grimes.

Dated at Bethesda, Maryland, this 28th day of May 1986.

For the Nuclear Regulatory Commission.

Robert M. Bernero,

Director Division of BWR Licensing.

[FR Doc. 86–12415 Filed 6–3–86; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Ad Hoc Subcommittee on TVA; Meeting

The ACRS Ad Hoc Subcommittee on TVA will hold a meeting on June 12 and 13, 1986. The June 12 discussion will be held in the Tennessee Valley Authority's Chattanooga Office Complex, Tennessee River Room, 1101 Market Street, Chattanooga, TN. The June 13 discussion will be held in the Sequoyah Nuclear Plant, Managers Conference Room, Daisy, TN.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, June 12, 1986—8:30 a.m. until the conclusion of business

Friday, June 13, 1986—8:30 a.m. until the conclusion of business

The Subcommittee will discuss TVA reorganization and related technical and management issues.

Oral statements may be presented by members of the public with the concurrence of the subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with

any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Dr. Richard Savio (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: May 29, 1986.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 86-12571 Filed 6-3-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-320 License No. DPR-73 EA 84-137]

GPU Nuclear (Three Mile Island, Unit 2); Notice of Hearing

Commissioners: Nunzio J. Palladino, Chairman, Thomas M. Roberts, James K. Asselstine, Frederick M. Bernthal, Lando W. Zech, Jr.

General Public Utilities Nuclear Corporation (GPU Nuclear or licensee), Parsippany, New Jersey is the holder of Operating License No. DPR-73 issued by the Nuclear Regulatory Commission (NRC). The license was issued on February 8, 1978 and modified by Order on July 20, 1979.

The NRC's Office of Investigations (OI) conducted nine investigations into allegations dealing with various items involving management integrity at the Three Mile Island Nuclear Station. The NRC staff subsequently reviewed the reports and other pertinent materials and documented its review in Supplement 5 to the Safety Evaluation Report (SER) on TMI-1 Restart (NUREG-0680, Supplement 5). As a result of the review, an apparent violation of NRC requirements was identified.

On August 12, 1985, the Director, Office of Inspection and Enforcement, pursuant to the authority in section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282), and 10 CFR 2.205, served on the licensee a Notice of Violation and Proposed Imposition of Civil Penalty. This Notice alleged that Richard D. Parks, a Bechtel employee, was discriminated against for engaging in protected activities in reporting safety problems to management, requesting assistance from the NRC, and commencing a proceeding with the Department of Labor. By letter dated October 21, 1985, the licensee denied the allegations.

On March 4, 1986 the NRC issued an Order Imposing Civil Monetary Penalty. 51 FR 8681 (March 12, 1986). The Order required the license to pay a civil penalty in the amount of $64,000 and provided an opportunity to request a hearing on the Order.

In a letter dated March 20, 1986 the licensee responded by requesting a hearing with respect to the Order Imposing Civil Monetary Penalty.

Pursuant to the Atomic Energy Act of 1954, as amended, and the regulations in Title 10, Code of Federal Regulations, Part 2, notice is hereby given that a hearing will be held before the Honorable Ivan W. Smith, Administrative Law Judge, at a time to be set by the Administrative Judge.

The issues before the Administrative Law Judge to be considered and decided will be, as stated in the March 4, 1986 Order Imposing Civil Monetary Penalty, (1) whether the licensee violated NRC requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty issued on August 12, 1985 and (2) whether, on the basis of such violation, the Order should be sustained.

Pursuant to 10 CFR 2.705, an answer to this Notice may be filed by the licensee within 20 days after service of this Notice of hearing.

A prehearing conference will be held by the Administrative Law Judge at a date and place to be set by the Administrative Law Judge to consider pertinent matters in accordance with the Commission's Rules of Practice. The date and place of hearing will be set at or after the prehearing conference and notice in the **Federal Register.**

Required papers shall be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Chief, Docketing and Service Branch, or by delivery to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC.

Pending further order of the Administrative Law Judge, parties are required to file, pursuant to the provisions of 10 CFR 2.708, an original and two (2) copies of each document with the Commission.

Pursuant to 10 CFR 2.785, the Commission authorizes an Atomic Safety and Licensing Appeal Board to exercise the authority and perform the review functions which would otherwise be exercised and performed by the Commission. The Appeal Board will be designated pursuant to 10 CFR 2.787, and notice as to membership will be published in the **Federal Register.**

Dated at Washington, DC, this 30th day of May, 1986.

For the Commission.[1]

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 86-12572 Filed 6-3-86; 8:45 am]

BILLING CODE 7590-01-M

Nuclear Waste Policy Act: Proposed Establishment of a Federally Funded Research and Development Center for Waste Management

ACTION: Notice of intent.

SUMMARY: The Nuclear Regulatory Commission (NRC) announces that it is considering the establishment and sponsorship of a Federally Funded Research and Development Center (FFRDC) for waste management technical assistance and research as a potential solution to problems of conflict of interest and continuity of technical assistance. The Commission has not made a commitment to sponsor the FFRDC. Final approval by the Commission will be subject to review of the comments received in the repsonse to Notice of Intent and to finding a highly qualified contractor to manage and operate the FFRDC. The comment period expired April 24, 1986. The list of respondents to the Notice of Intent and all comments received are available for public inspection at the U.S. Nuclear Regulatory Commission, Public Document Room, 1717 H Street, NW., Washington, DC 20555.

SUPPLEMENTARY INFORMATION:

Background

Under the Nuclear Waste Policy Act of 1982 (NWPA), the U.S. Nuclear Regulatory Commission (NRC) is responsible for licensing the construction, operation, and closure of facilities required for a high-level radioactive waste disposal system, which are to be designed, constructed, operated, and closed by the U.S.

[1] Commissioner Bernthal was absent when this item was affirmed, if he had been present, he would have approved it.

Department of Energy (DOE). The facilities of the DOE waste disposal system will include mined geologic repositories; monitored retrievable storage (MRS) facilities or other interim storage measures; and transportation vehicles, casks and handling equipment.

NRC's high-level waste licensing program currently faces two critical problems with respect to contracted technical assistance and research. First, the continued use of contractors who also have a contractual relationship with DOE's high-level waste program, or with any other party who might be a participant in NRC's high-level waste licensing hearings, may give rise to an organizational conflict of interest situation, and may draw into question the independence and freedom from bias of the contractor's work and, consequently, of NRC's licensing decisions. According to the definition in 41 CFR 20–1.54, an "organizational conflict of interest" means that:

> . . . a relationship exists whereby a contractor or prospective contractor has present or planned interests related to the work to be performed under an NRC contract which: (1) May diminish its capacity to give impartial, technically sound, objective assistance and advice or may otherwise result in a biased work product, or (2) may result in its being given an unfair competitive advantage.

Second, the long-term continuity of NRC's waste management technical assistance and research program over the next twenty years or more is threatened as a result of efforts to avoid organizational conflict of interest situations (contractors are required to choose between doing work for NRC's program or for DOE's much larger program) and by the possible recompetition of technical work. The loss of contractor expertise has a significant impact to NRC's technical program because of its evolving nature and NRC's need for contractor experts to appear as expert witnesses at adjudicatory hearings.

In light of the problems discussed above, the NRC believes that the long-term contractual support offered by a Federally Funded Research and Development Center (FFRDC) for waste management technical assistance and research is a potential solution for providing the special long-term contractual relationship needed by NRC in order to alleviate potential conflict of interest situations and provide long-term continuity.

Notice of Intent

This Notice of Intent indicates that NRC is considering the establishment and sponsorship of an FFRDC for waste management technical assistance and research as a solution to the problems of conflict of interest and long-term continuity. The FFRDC would be entitled, "The Center for Nuclear Waste Regulatory Analyses" (hereinafter referred to as the "Center"). The publication of this Notice of Intent, however, is not a commitment on the part of NRC to establish and sponsor an FFRDC. Any final decision to do so must be approved by the Commission and be in compliance with Office of Federal Procurement Policy (OFPP) Letter No. 84–1, "Federally Funded Research and Development Centers" (April 4, 1984).

Technical assistance and research tasks to be performed by the Center would encompass the following general areas: (1) Waste sytems engineering and integration; (2) long-term performance of a geologic setting; (3) long-term performance of an engineered barrier system; (4) performance of an MRS and repository during operation; (5) special analytical evaluations; and (6) transportation, environmental impacts, and other areas related to the Nuclear Waste Policy Act.

The period of performance for the Center would expand throughout the duration of NRC's high-level waste licensing responsibilities (estimated to be twenty years or more). The period of performance for the contract to manage and operate the Center would be for five years (to be renewed every five years, subject to comprehensive review by the NRC). The level of effort for the first five years would build up from about 20–25 staff years during the first year to about 50 staff years during the fifth year and may increase by up to 50%, depending upon program development and appropriations availability. ("Staff years" includes direct staff plus support staff.)

The NRC screening criteria for the Center are: (1) No conflict of interest with the high-level waste program; (2) operation of the Center as a not-for-profit organization free of control by any organization whose affiliations could give rise to conflict of interest; (3) capability to provide long-term continuity in resources to NRC throughout the duration of its high-level waste program under NWPA (e.g., 20 years or more); (4) multi-disciplined staff; (5) access to existing equipment and facilities (e.g., computational and experimental laboratories); (6) expertise in the areas of technical assistance and research identified above; and (7) capability to provide testimony by expert staff during NRC adjudicatory hearings.

Final Commission approval to issue a solicitation package will be subject to review of the public comments received in response to the draft solicitation package. The comment period expired April 24, 1986 and all comments received are available for public inspection at the U.S. Nuclear Regulatory Commission, Public Document Room, 1717 H Street, NW., Washington, DC 20555. Final Commission approval to establish and sponsor the Center will be subject to finding a highly qualified contractor to manage and operate the Center.

Dated at Bethesda, Maryland, this 28th day of May 1986.

For the U.S. Nuclear Regulatory Commission.

Victor Stello, Jr.,

Executive Director for Operations.

[FR Doc. 86–12604 Filed 6–3–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–247]

Consolidated Edison Co. of New York; Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Consolidated Edison (the licensee) to withdraw portions of its February 14, 1983 amendment application of the Indian Point Nuclear Generating Unit No. 2 (IP–2), located in Westchester County, New York. The proposed amendment would have revised the Technical Specifications to make certain positions as stringent as Standard Technical Specifications. The withdrawal affects the following Technical Specification sections.

Section 3.4—all changes.
Section 3.6—all changes.
Section 3.8—Paragraph 3.8.C.2.
Section 3.10—all changes.
Section 3.11—all changes.
Section 3.5—Paragraph 3.5.7, reference to 3.5.7 in paragraph 3.5.8, associated bases on page 3.5.5. Table 3.5–5 and associated bases on page 3.5–5.

The Commission issued a Notice of Consideration of Issuance of the Amendments in the **Federal Register** on September 21, 1983 (48 FR 43134). By letter dated May 14, 1985, the licensee requested, pursuant to 10 CFR 2.107, permission to withdraw portions of its application for the proposed amendment.

The Commission has considered the licensee's May 14, 1985 request and determined that permission to withdraw the identified portions of the February 14, 1983 application for amendment should be granted.

For further details with respect to this

action, see: (1) The Application for amendment dated February 14, 1983; (2) the licensee's letter dated May 14, 1985, requesting withdrawal of the application for license amendment; and (3) our letter dated May 29, 1986. All of the above documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Dated at Bethesda, Maryland, this 29th day of May 1986.

Steven A. Varga,

Director, PWR Project Directorate No. 3, Division of PWR Licensing-A, NRR.

[FR Doc. 86-12606 Filed 6-3-86; 8:45 am]

BILLING CODE 7590-01-M

Applications for Licenses to Export Nuclear Facilities or Materials; Transnuclear, Inc.

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application" please take notice that the Nuclear Regulatory Commission has received the following application for an export license. A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

A request for a hearing or petition for leave to intervene may be filed before July 3, 1986. any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, U.S. Department of State, Washington, D.C. 20520.

In its review of applications for licenses to export production or utilization facilities, special nuclear materials or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The table below lists all new major applications.

NRC Export Applications

Name of applicant, date of application, date received, application number	Material type	Material in kilograms		End-use	Country of desitnation
		Total element	Total isotope		
Transnucler, Inc., May 14, 1986, May 16, 1986 XSNM02241, Amend 01.	Enriched uranium	Add'l 52.500	Add'l 48.983	Additional fuel for HFR Greenoble Research Reactor.	France.

Dated this 29th day of May 1986 at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Marvin R. Peterson,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

[FR Doc. 86-12602 Filed 6-3-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-272 and 50-311]

Public Service Electric and Gas Co. et al., Salem Nuclear Generating Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of a partial exemption from the requirements of Appendix J to 10 CFR Part 50 to Public Service Electric and Gas Company (the licensee) for the Salem Nuclear Generating Station, Units 1 and 2, located at the licensee's site in Salem County, New Jersey.

Environmental Assessment

Identification of Proposed Actions. The proposed exemption would relieve the licensee from the requirement of conducting a full pressure airlock leakage test, pursuant to Paragraph III.D.2(b)(ii) of Appendix J to 10 CFR Part 50, whenever airlocks are opened during periods when containment integrity is not required. Licensee would rely, instead, on the seal leakage test described in Paragraph III.D.2(b)(iii) when the reactor is in cold shutdown (Mode 5) or refueling (Mode 6) and when no maintenance has been performed on the airlock.

Licensee's request for exemption and the bases therefor are contained in a letter dated April 11, 1986.

The Need for the Proposed Actions. The proposed exemption is from performance of the leakage rate test required by Paragraph III.D.2(b)(ii) of 10 CFR Part 50, Appendix J, which takes at least 8 hours per airlock. Exemption from full pressure leakage tests on airlocks opened during a period when containment integrity is not required would provide the licensee with greater plant availability over the lifetime of the plant.

Environmental Impact of Proposed Actions. The proposed exemption would permit the substitution of an airlock seal leakage test (Paragraph III.D.2(b)(iii) of Appendix J. 10 CFR Part 50) for the full pressure airlock test otherwise required by Paragraph III.D.2.(b)(ii) when the airlock is opened while the reactor is in a cold shutdown or refueling mode. If the tests required by III.D.2(b)(i) and (iii) are current, no maintenance having been performed on the airlock and with it properly sealed, this exemption will not affect containment integrity and does not affect the risk of facility accidents. Thus, post-accident radiological releases will not be greater than previously determined nor does the proposed exemption otherwise affect radiological plant effluents, nor result in any significant occupational exposure. Likewise, the exemption does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant radiological or non-radiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Actions. Because we have concluded that there is no measurable environmental impact associated with the proposed exemption, any alternatives to the exemption will have either no environmental impact or greater environmental impact.

The principal alternatives would be to deny the requested exemption. Such action would not reduce environmental impacts of Salem Units 1 and 2 operations and would result in reduced operational flexibility or unwarranted delays in power ascension.

Alternative Use of Resources. These actions do not involve the use of resources not previously considered in connection with the "Final

Environmental Statement Related to Operation of Salem Nuclear Generating Station, Units 1 and 2," dated April 1973.

Agencies and Persons Consulted. The NRC reviewed the licensee's request that supports the proposed exemption. The NRC staff did not consult other agencies or persons.

Findings of No Significant Impact

Based upon the foregoing environmental assessment, we conclude that the proposed exemption will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to the proposed actions, see the licensee's request for exemption dated April 11, 1986 which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Salem Free County Public Library, 112 W Broadway, Salem, New Jersey 08079.

Dated at Bethesda, Maryland, this 29th day of May 1986.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, PWR Project Directorate No. 3, Division of PWR Licensing—A.

[FR Doc. 86-12605 Filed 6-3-86; 8:45 am]

BILLING CODE 7590-01-M

Intent To Relocate Records for the Brunswick Steam Electric Plant

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of intent to relocate the records for the Brunswick Steam Electric Plant.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) is moving the Local Public Document Room (LPDR) records collection for the Brunswick Steam Electric Plant from the Brunswick County Library (Library), Southport, North Carolina, to another as yet undetermined location. Because of the size of the collection, which now measures almost 50 shelf feet of material, it has become increasingly difficult for the Brunswick County Library to provide the shelf space necessary to maintain this collection, and they have asked that it be relocated. The purpose of this notice is to invite public comment on possible LPDR sites.

DATE: Comment period expires July 3, 1986. Comments received after this date 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 this date.

ADDRESS: Written comments may be submitted o the Local Public Document Room Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Jona L. Souder, Chief, Local Public Document Room Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone 301-492-7536, or Toll Free 800-638-8081.

SUPPLEMENTARY INFORMATION: Since the early 1970's the Brunswick County Library, located at 109 W. Moore Street, Southport, North Carlina, has served as the Local Public Document Room repository for record relating to the Brunswick Plant. The document collection includes essentially all records considered by the NRC in the licensing and regulation of the Brunswick Plant. Because of the growth in the size of the collection, the Library no longer has the shelf space necessary to house the material and has asked that the LPDR collection be relocated.

Among the facotors the NRC will consider in selecting a new location for the collection are:

(1) The willingness and ability of the library to house and maintain the collection;

(2) The physical facilities available, including shelf space, workspace and copying and micrographics equipment;

(3) The willingness and ability of the library staff to assist the public to locating records;

(4) The public accessibility of the library, including parking, ground transportation, and hours of operation, particularly evenings and weekends hours;

(5) The proximity (within 50 miles) of the library to the Brunswick Plant located in Southport, North Carolina; and

(6) The proximity of the library to existing user groups of the collection, if known.

Public comments are requested on the desirability to moving the Brunswick LPDR collection to any appropriate library in the vicinity of the Brunswick Plant.

Dated at Bethesda, Maryland, this 30th day of May, 1986.

For the U.S. Nuclear Regulatory Commission.

Donnie H. Grimsley,

Director, Division of Rules and Records, Office of Administration.

[FR Doc. 86-12603 Filed 6-3-86; 8:45 am]

BILLING CODE 7590-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) Collection title: Self-Employment Questionnaire
(2) Form(s) submitted: AA-4
(3) Type of request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.
(4) Frequency of use: On occasion
(5) Respondents: Individuals or households
(6) Annual responses: 600
(7) Annual reporting hours: 158
(8) Collection description: Section 2 of the RRA provides for payment of annuities to qualified employees and their spouses. In order to receive an annuity, the applicant must stop all railroad work and all work for pay outside the railroad industry that is considered "last person service" (LPS). This collection obtains information about the applicant's self-employment work to be used in making an LPS determination.

Additional Information or Comments

Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312-751-4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Judy McIntosh (202-395-6880), Office of Management and Budget, Room 3208,

New Executive Office Building, Washington, DC 20503.

Pauline Lohens,

Director of Information and Data Management.

[FR Doc. 86-12498 Filed 6-3-86; 8:45 am]

BILLING CODE 7905-01-M

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) Collection title: Statement of Death by Funeral Director
(2) Form(s) submitted: G-273
(3) Type of request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection
(4) Frequency of use: On occasion
(5) Respondents: Businesses or other for-profit
(6) Annual responses: 12,000
(7) Annual reporting hours: 600
(8) Collection description: The Railroad Retirement Act provides for payment of benefits to qualified individuals due to the death of a railroad worker. The statement obtains information needed to support a claim for death benefits.

Additional Information or Comments

Copies of the proposed forms and supporting documents can be obtained from Pauline Lohens, the agency clearance officer (312-751-4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Judy McIntosh (202-395-6880), Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC. 20503.

Pauline Lohens,

Director of Information and Data Management.

[FR Doc. 86-12501 Filed 6-3-86; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22-15236]

Application and Opportunity for Hearing; Citicorp

Notice is hereby given that Citicorp (the "Applicant") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeships of United States Trust Company of New York (the "Trust Company") under four existing indentures, and a Pooling and Servicing Agreement (the "Agreement") dated as of March 1, 1986 under which certificates evidencing interests in a pool of mortgage loans have been issued, is not 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 the Trust Company from acting as Trustee under either of such indentures or the Agreement.

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 a conflicting interest, either eliminate the conflicting interest or resign as trustee. Subsection (1) of section 310(b) provides, 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 securities of an obligor upon the indenture securities are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of the subsection another indenture under which other securities of the same obligor are outstanding, if the issuer shall have sustanied the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under both the 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 one of such indentures.

The Applicant alleges that:

(1) The Trust Company currently is acting as Trustee under four indentures in which the Applicant is the obligor. The indenture dated as of February 15, 1972 involved the issuance of Floating Rate Notes due 1989, the indenture dated as of March 15, 1977 involved the issuance of various series of unsecured and unsubordinated Notes, the indenture dated as of August 25, 1977 involved the issuance of Rising-Rate Notes, Series A and the indenture dated as of April 21, 1980 involved the issuance of various series of unsecured and unsubordinated Notes. Said indentures were filed as, respectively, Exhibits 4(a), 2(b), and 2(a) to Applicant's respective Registration Statements Nos. 2-42915, 2-58355, 2-59396, and 2-64862 filed under the Securities Act of 1933, and have been qualified under the Trust Indenture Act of 1939. Said four indentures are hereinafter called the Indentures and the securities issued pursuant to the Indentures are hereinafter called the Notes.

(2) The Applicant is not in default in any respect under the Indentures or under any other existing indenture.

(3) On March 25, 1986, the Trust Company entered into a Pooling and Servicing Agreement dated as of March 1, 1986 (the "1986-C Agreement") with Citibank, N.A., Originator and Servicer, and Citicorp Homeowners, Inc., under which there were issued on March 25, 1986 Mortgage Pass-Through Certificates, Series 1986-C 7.00% Pass-Through Rate (the "Series 1986-C Certificates"), which evidence fractional individend interests in a pool of conventional one-to-four-family mortgage loans (the "1986-C Mortgage Pool") originated and serviced by Citibank, N.A. and having adjusted principal balances aggregating $51,911,869.11 at the close of business on March 1, 1986, which mortgage loans were assigned to the Trust Company as Trustee simultaneously with the issuance of the Series 1986-C Certificates. On March 25, 1986, Applicant, the parent of Citibank, N.A., entered into a guaranty of even date (the "1986-C Guaranty") pursuant to which applicant agreed, for the benefit of the holders of the Series 1986-C Certificates, to be liable for 4% of the initial aggregate principal balance of the 1986-C Mortgage Pool and for lesser amounts in later years pursuant to the provisions of the 1986-C Guaranty. The 1986-C Guaranty states that Applicant's obligations thereunder rank *pari passu* with all unsecured and unsubordinated indebtedness of Applicant, and accordingly, if enforced against Applicant, the 1986-C Guaranty would rank on a parity with the obligations evidenced by the Notes. The Series 1986-C Certificates were registered under the Securities Act of 1933 (Registration Statement on Forms S-11 and S-3, File No. 33-780) as part of a delayed or continuous offering of

$1,000,000,000 aggregate amount of Mortgage Pass-Through Certificates pursuant to Rule 415 under the Act. The Series 1986–C Certificates were offered by a Prospectus Supplement Dated March 20, 1986, supplemental to a Prospectus dated October 9, 1985. The 1986–C Agreement has not been qualified under the Trust Indenture Act of 1939.

(4) The obligations of Applicant under the Indentures and the 1986–C Guaranty are wholly unsecured, are unsubordinated and rank *pari passu*. Any differences that exist between the provisions of the Indentures and the 1986–C Guaranty are unlikely to cause any conflict of interest among the trusteeships of the Trust Company under the indentures and the 1986–C Agreement.

(5) The Applicant Company has waived notice of hearing, waived hearing, and waived any and all rights to special procedures under Rule 8(b) of the Commission's Rules of Practice in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, File No. 22–15236, which is a public document on file in the office of the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C.

Notice is Further Given that any interested person may, not later than June 23, 1986, 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 law or fact raised by said application which he desires to controvert, or 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 for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, purusant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

May 28, 1986.

[FR Doc. 86–12531 Filed 6–3–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC—15120 (812–6286)]

Merrill Lynch, Pierce, Fenner & Smith Inc., et al.; Notice of Filing of Application

Notice is hereby given that Merrill Lynch, Pierce, Fenner & Smith Incorporated, Shearson Lehman Brothers Inc., Prudential-Bache Securities Inc., Dean Witter Reynolds Inc., Paine Webber Incorporated ("Sponsors"); and all presently outstanding, or subsequently-issued, series ("Series") of Municipal Investment Trust Fund, The Municipal Income Fund, The Corporate Income fund, The Mortgage-Backed Income Fund, The Tax-Exempt Mortgage Fund, The International Bond Fund, The Government Securities Income Fund, The Equity Income Fund, Liberty Street Trust, The Fund of Stripped ("Zero") U.S. Treasury Securities and The Merrill Lynch Fund of Stripped ("Zero") U.S. Treasury Securities ("Funds"), c/o Merrill Lynch, Pierce, Fenner & Smith Incorporated, One Liberty Plaza, New York, N.Y. 10080; registered under the Investment Company Act of 1940 ("Act"), as unit investment trusts, filed an application on January 17, 1986, and amendments thereto on February 19, March 21, May 6, and May 20, 1986, requesting an order of the Commission pursuant to section 6(c) of the Act, exempting the Funds from the provisions of sections 2(a)(32), 2(a)(35), 22(c) and 26(a)(2)(C) of the Act, and Rule 22c–1 thereunder, to permit sales charges on units of beneficial interest of the Funds ("Units"), to be imposed on a deferred basis, including charges levied through a contingent deferred sales load ("CDSL"), and pursuant to section 11 of the Act, approving certain offers of exchange between Funds. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, and to the Act for the text of the applicable provisions thereof.

Applicants state that each of the Funds is sponsored by one or more of the Sponsors, and that the Sponsors will determine a sales charge per Unit, subject to existing limits under applicable laws and regulations, and to other relevant factors, including deferral of sales charges. It is further stated that the portion of the sales charge deferred is to be collected through deductions from distributions ("Distribution Deduction") over the period necessary to recover the uncollected balance of the sales charge initially determined ("Collection Period"), but that in no event will the total of these deductions exceed the amount of sales charge per Unit determined on the date of purchase, nor will any amount be added to the sales charge so deferred for interest, or any similar or related charge, to reflect, or adjust for, any "time-value of money" calculation.

Applicants represent that the CDSL would be imposed only if an investor sells Units to the Sponsors, or redeems Units, before the Collection Period on those Units has been completed. No CDSL would be imposed on sales or redemptions of Units on which collections have been completed, and, in determining whether a CDSL is applicable, those Units will be the ones to be redeemed first. Applicants represent that at no time will the CDSL, plus the Distribution Deductions, exceed the amount of the aggregate sales charge determined as of the date of purchase. The CDSL will be computed in accordance, with the assumption that the Units held for the longest period of time are to be liquidated first, in the amount of the uncollected balance of the original sales charge.

Applicants submit that this deferred sales charge proposal would permit investors to reap the benefit of having their capital fully invested from the date of purchase, noting that the CDSL would only be imposed if Units are redeemed before the attributable selling expenses are collected through Distribution Deductions. Applicants represent that the amount, computation and timing of the CDSL are designed to promote fair treatment of all investors, and that the material provisions of the sales loading will be fully disclosed in the prospectus of each applicable Series.

The Sponsors are authorized to waive the CDSL on sales or redemptions within one year following death or disability (as defined in section 72(m)(7) of the Internal Revenue Code of 1954 ("Code") of the investor; on distributions from qualified retirement plans following retirement (or upon attaining age 59½ in the case of IRA, Keogh and Code section 403 (b) plans), or on return of excess contributions; on exchanges of Units for any other Series which assesses a CDSL (in which case, the Distrubtion Deductions on the newly-acquired Units would continue only until the remaining balances of the sales charge on the Units formerly held had been collected), or of Units acquired in an exchange from a Series with a front-end load; and on sales, or redemptions, of Units acquired pursuant to employee benefit plans of the Sponsors or their affiliates. In support of these variations in the applicability of the CDSL, Applicants state that waiver in the case of death or disability would be

appropriate because the contingency is unforeseen; that waiver on distributions from a qualified retirement plan is consistent with policies reflected in the Code and prior provisions of Rule 22d–1 under the Act; that waiver of the CDSL on an exchange of Units would be appropriate because any uncollected balance of the sales charge would eventually be recovered through the CDSL, on the Units acquired, or because a full sales charge would have already been paid; and finally, that waiver on sales or redemptions by employees of the Sponsors and their affiliates would reflect savings in selling efforts and sales expenses in those circumstances.

Applicants also seek an order allowing a reduced sales charge on exchanges. The proposed reduced charge would generally be $15 per Unit ($15 per 1,000 Units, on $1 Units, or 1.5% of the offering side evaluation of the underlying securities). An adjustment would be made, however, on exchanges of Units occurring within five months of purchase for Units of a Series with a higher sales loading structure, or of Units which impose Distribution Deductions for Units of a Series which impose a front-end load at any time before the Distribution Deductions had at least equalled the per Unit sales charge then applicable to intermediate-term Series. In either such instance, the exchange fee will be the greater of the $15 per Unit charge (or its equivalent), or the difference between the sales charge collected and the normal sales charge on the Units being acquired. Applicants represent that these reductions are justified by cost savings. The Sponsors reserve the right to vary the sales charges and to modify, suspend, or terminate the exchange option at any time.

Applicants state that the CDSL, along with the Distribution Deductions, are intended to compensate the Sponsors for their expenses in offering Units for sale, and are therefore sales charges in the traditional sense except that they are not collected at the time of original investment. These expenses include those in organizing Series, disseminating advertising and sales literature, printing and distributing prospectuses, and compensating dealers and salesmen engaged in the selling effort. The CDSL is intended to help the Sponsors recoup these expenses on Units redeemed (or repurchased prior to a certain length of time by approximating the amount which would have been received if the charge had been collected in its entirety at the time of purchase. Applicants believe that this procedure will encourage the retention of Units for a longer term, and that it will generally be perceived by investors as a more fair and equitable technique for payment of the sales charge than loading these charges entirely at the inception of the investment.

Applicants assert, in addition, that the establishment of the CDSL would not prevent an investor from receiving his proportionate share of the current net assets of a Series, but rather, it would merely defer the deduction of the sales charges, and make it contingent upon an event which may never occur. Applicants submit further that the CDSL and the Distribution Deductions functionally qualify as "sales loads" within the meaning of section 2(a)(35) of the Act, inasmuch as they are paid to the Sponsors to reimburse them for expenses related to the sale of Units, and that by making the CDSL contingent upon an event which may never occur, Applicants do not alter this basic characteristic of the CDSL. Applicants also contend that the imposition of a CDSL upon redemption, instead of a sales charge at the time of purchase, would not cause an investor to receive a redemption price below that which would be determined by the current net asset value of the Units redeemed. Therefore, Applicants assert further that the proposed CDSL would not cause the Units to fall outside the meaning of "redeemable securities" as defined in section 2(a)(32) of the Act, and applied in Rule 22c–1 thereunder. It is stated that the price of Units upon redemption will continue to be based on their current net asset value. The CDSL will merely be deducted at the time of redemption in arriving at the investor's proportionate redemption proceeds. Applicants further submit that although a portion of the sales charge is deducted from each investor's income distributions until the investment is terminated, such charge should not be considered a Fund expense, and therefore should not be subject to the limits prescribed by section 26(a)(2) of the Act on payments to depositors and principal underwriters of unit investment trusts.

In summary, Applicants state that the proposed sales charge structure is consistent with all provisions of the Act; and that, while they believe that exemptive relief would not be required but for the proposed waivers of the CDSL, they have sought the exemptive relief described herein, in order to resolve any issues that may be raised by the proposed CDSL under sections 2(a)(32), 2(a)(35), 22(c) and 26(a)(2) of the Act, and Rule 22c–1 thereunder. They have also requested an order under section 11 of the Act which would permit offers of exchange without the imposition of a CDSL, on the grounds that consummation of exchanges on the basis of a fixed transaction fee of approximately $15 per $1000 Unit would not produce any inequitable results for the holders of Units.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 23, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for this request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investgment Management, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

May 29, 1986.

[FR Doc. 86–12532 Filed 6–3–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC—15122; 812–6283]

Merrill Lynch KECALP Growth Investments Limited Partnership 1983 et al.; Application

May 29, 1986.

Notice is hereby given that Merrill Lynch KECALP Growth Investments Limited Partnership 1983 ("1983 Partnership"), 165 Broadway, One Liberty Plaza, New York, New York 10080, Merrill Lynch KECALP L.P. 1984 ("1984 Partnership"), Merrill Lynch KECALP L.P. 1986 ("1986 Partnership"), ML Venture Partners I, L.P. ("Venture Partnership"), Merrill Lynch & Co., Inc. ("ML&Co."), Merrill Lynch Venture Capital Inc. ("MLVC") and Merrill Lynch Interfunding Inc. ("MLIF", and collectively with the above, "Applicants"), filed an application on January 15, 1986, and an amendment thereto on May 7, 1986, for an order of the Commission, pursuant to sections 17(b) and 57(c) of the Investment Company Act of 1940 ("Act"), exempting them from the provisions of section 17(a) and 57(a), and, pursuant to section 17(d) and Rule 17d–1 thereunder, permitting:

(i) The 1986 Partnership to purchase up to 7,634 shares of common stock of FGIC Corporation ("FGIC") from ML&Co.; (ii) the 1983 Partnership, the 1984 Partnership and the 1986 Partnership to purchase an aggregate of 35,000 shares of convertible preferred stock issued by Alliant Computer Systems Corporation ("Alliant") from MLIF; and (iii) the 1986 Partnership and the Venture Partnership to purchase an aggregate of 731,707 shares of convertible preferred stock issued by Viewlogic Systems, Inc. ("Viewlogic") from MLVC. 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, and to the Act for the complete text of the applicable provisions.

The application states that the 1983 Partnership, the 1984 Partnership and the 1986 Partnership (together, "KECALP Partnerships"), limited partnerships organized under the laws of Delaware, are non-diversified closed-end management investment companies registered under the Act. The investment objective of each Partnership is to seek long-term capital appreciation. Under the terms of the offerings as set forth in the registration statements of the KECALP Partnerships, units of limited partnership interest were offered exclusively to employees of ML&Co. and its subsidiaries and to non-employee directors of ML&Co. Applicants state that eligible employees must have received annualized compensation of at least $75,000 for the most recent year. Each of the KECALP Partnerships is an "employees' securities company" within the meaning of section 2(a)(13) of the Act, and operates in accordance with the terms of an exemptive order ("KECALP Exemptive Order") issued, pursuant to section 6(b) of the Act, in Investment Company Act Release No. 12363 (April 8, 1982).

Applicants state that the Venture Partnership, a limited partnership organized under the laws of Delaware, is a business development company under the Act organized in 1982, the investment objective of which is to seek long-term capital appreciation by making venture capital investments. The Venture Partnership has five general partners, four of whom are individuals ("Individual General Partners"). In accordance with section 56(a) of the Act, a majority of the Individual General Partners are persons who are not "interested persons" of the Partnership within the meaning of section 2(a)(19) of the Act; those persons are referred to herein as the "Independent General Partners".

The application indicates that the managing general partner for the Venture Partnership is Merrill Lynch Venture Capital Co., L.P. ("Managing General Partner"). The general partner of the Managing General Partner is MLVC, which is also the management company for the Venture Partnership. MLVC is an indirect subsidiary of ML&Co., a holding company which, through its subsidiaries, provides investment, financing, real estate, insurance and related services. MLIF, a Delaware corporation, is an indirect subsidiary of ML&Co. that is engaged in commercial financing transactions.

The application states that FGIC, a Delaware corporation, was organized in 1983 to provide, through one or more subsidiaries, insurance and financial guarantees for a variety of investment instruments. ML&Co. participated in the organization of FGIC and presently holds approximately 19% of FGIC's outstanding common stock and approximately 13% of FGIC's non-voting comulative convertible preferred stock. ML&Co. has agreed to sell to the 1986 Partnership up to 7,634 of the shares of common stock which it acquired in June, 1985; the price paid for those shares by ML&Co. was $131 per share. Applicants represent that the 1986 Partnership will not invest more than 10 percent of its limited partners' capital contributions in that stock.

The application indicates that the purchase price to be paid by the 1986 Partnership will be the lower of (i) the value of the investment on the date it is acquired by the 1986 Partnership (as determined by the board of directors of KECALP) or (ii) the cost to ML&Co. of purchasing and holding the investment. With respect to clause (ii), such cost shall be $131 per share plus carrying costs relating to such investment. For purposes of this transaction, carrying costs consist of interest charges computed at the lower of (i) the prime rate charged by Citibank, N.A. during the period from the date the Investment Committee approved the 1986 Partnership's purchase of FGIC common stock from ML&Co. until the 1986 Partnership acquires the investment or (ii) the effective cost of borrowings by ML&Co. during such period. The effective cost of borrowings by ML&Co. is its actual "Average Cost of Funds," which it calculates on a monthly basis by dividing its consolidated financing expenses by the total amount of borrowings during this period.

Applicants state that Alliant, a corporation formed in 1982, has developed a series of computers which apply parallel processing to certain existing computer software programs. Pursuant to a stock purchase agreement, Alliant sold 1,152,008 shares of Series D convertible preferred stock on December 18, 1985, for a purchase price of $10 per share. Applicants indicate that MLIF purchased an aggregate of 35,000 shares of that stock for $350,000 on behalf of the KECALP Partnerships as follows: 10,000 shares for the 1983 Partnership, 10,000 shares for the 1984 Partnership and 15,000 shares for the 1986 Partnership. Applicants represent that all of those shares were acquired by MLIF since the 1986 Partnership had not yet closed its initial offering and thus had no funds to purchase such securities; in addition, since MLIF participated in that transaction, neither the 1983 nor 1984 Partnerships could participate directly in that transaction without an exemptive order permitting those co-investments with an affiliate of ML&Co. To the knowledge of Applicants, no other investor in such offering is an affiliated person of ML&Co. Applicants also represent that the terms of the purchase of the three KECALP Partnerships will be identical in all respects.

The purchase price to be paid by the KECALP Partnerships to MLIF for the shares of Series D preferred stock of Alliant proposed to be acquired by the KECALP Partnerships will be the lower of (i) the value of the investment on the date it is acquired by each of the KECALP Partnerships (as determined by the board of directors of KECALP) or (ii) the cost to MLIF of purchasing and holding the investment. With respect to clause (ii), such cost shall be the original purchase price of $10 per share paid for such shares, plus carrying costs relating to such investment. For purposes of this transaction, carrying costs consist of interest charges computed at the lower of (i) the prime commercial lending rate charged by Citibank, N.A. during the period from the date MLIF purchased the investment until the KECALP Partnerships acquire the investment or (ii) the effective cost of borrowings by ML&Co. during such period, calculated as described above.

The application states that, Viewlogic, a corporation founded in 1984, was formed to build and market an integrated software system. Pursuant to a stock purchase agreement dated October 18, 1985, Viewlogic sold 1,829,269 shares of Class C preferred stock for a purchase price of $1.64 per share. Applicants state that MLVC purchased an aggregate of 731,707 shares of that stock; 609,756 were

purchased on behalf of the Venture Partnership and the balance, 121,951 shares, were acquired on behalf of the 1986 Partnership. Applicants represent that those shares were acquired by MLVC because the 1986 Partnership had not yet closed its initial offering and therefore had no funds to purchase the investment, and there was also a question under Section 17(d) and Rule 17d–1 thereunder as to whether the two Partnerships could co-invest in the offering without a Commission order. To the knowledge of Applicants, no other investor in such offering is an affiliated person of ML&Co. Applicants further represent that the terms of the purchases by the two Partnerships will be identical in all respects.

The application states that the purchase price to be paid by the Venture Partnership and the 1986 Partnership to MLVC for the shares of Class C preferred stock of Viewlogic will be the lower of (i) the value of the investment on the date it is acquired by each of the Venture Partnership and the 1986 Partnership (as determined by the board of directors of KECALP and the Independent General Partners of the Venture Partnership) or (ii) the cost to MLVC of purchasing and holding the investment. With respect to clause (ii), such cost shall be the original purchase price of $1.64 per share paid for such shares of Viewlogic stock, plus carrying costs relating to such investment. For purposes of this transaction, carrying costs consist of interest charges computed at the lower of (i) the prime commercial lending rate charged by Citibank, N.A. during the period from the date MLVC purchased the investment until the Venture Partnership and the 1986 Partnership acquire the investment or (ii) the effective cost of borrowings by ML&Co. during such period, calculated as described above.

Applicants state that the issuance of an order is justified by both the terms of the transactions and the fact that the proposed investments are not otherwise available to the Venture Partnership and the KECALP Partnerships. Applicants represent that, with respect to the terms of the transactions, the board of directors of KECALP, including the members of the Investment Committee and the Managing General Partner are sophisticated and experienced in valuing securities and evaluating financial transaction generally. In this regard, Applicants further represent that the board of directors and the Investment Committee, on behalf of the KECALP Partnerships with respect to the transactions in securities of FGIC, Alliant and Viewlogic, and the Independent General Partners, on behalf of the Venture Partnership with respect to the transactions in Viewlogic's seurities, considered all information deemed relevant, including the nature of the investments by affiliation of ML&Co. in FGIC, Alliant and Viewlogic, and the fairness of the purchase prices proposed to be paid by the KECALP Partnerships and the Venture Partnership.

According to the application, in evaluating the terms of the transactions, the Investment Committee of KECALP and the Independent General Partners of the Venture Partnership considered the fact that the proposed purchase prices to be paid by the KECALP Parternships and the Venture Partnership will include carrying costs incurred by an affiliated person (i.e., ML&Co., MLVC and MLIF) if the value of each investment at the times of acquisition by the KECALP Partnerships and the Venture Partnership is more than the sum of the purchase price plus the affiliate's carrying costs. Both the KECALP Partnerships and the Venture Partnership believe that it is entirely appropriate for them to reimburse affiliates for carrying costs in a situation where affiliates purchased such investments as, in effect, their nominee and the partnerships would have purchased such investments directly if it had not been deemed necessary to obtain the orders requested herein. The Applicants submit that to deny reimbursement for carrying costs would result in a further and unwarranted loss to ML&Co., MLVC and MLIF and provide a disincentive to act on behalf of the KECALP Partnerships and the Venture Partnership in the future in transactions of this type.

Applicants state that in both the KECALP Exemptive Order and the 1986 Partnership's prospectus, it was indicated that affiliates of ML&Co. would be involved in identifying and investing in many of the 1986 Partnership's portfolio investments. The prospectus of the Venture Partnership indicated that Venture Partnership may be a co-investor in portfolio companies with affiliates of management. The Venture Partnership and the 1986 Partnership thus submit that the order requested herein is consistent with the purposes of the 1986 Partnership and the Venture Partnership, their stated policies and the disclosure made to prospective investors. Finally, Applicants represent that, in connection with the KECALP Bond, Investment Committee and Individual General Partners deliberations and determinations regarding the KECALP Partnerships' and the Venture Partnership's proposed transactions, appropriate record-keeping will be maintained and made available for inspection by the Commission in accordance with the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 19, 1986 at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-in-law, by certificate), shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 86–12533 Filed 6–3–86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC–15115; 812–6377]

ML Venture Partners I, L.P., et al.

May 27, 1986.

Notice is hereby given that ML Venture Partners I, L.P. ("Partnership"), Merrill Lynch Venture Capital, Inc. ("Management Company"), the management company for the Partnership, 717 Fifth Avenue, New York, NY 10022, and Merrill Lynch KECALP L.P. 1984 ("KECALP" and, together with Partnership and Management Company, "Applicants"), 165 Broadway, One Liberty Plaza, New York, NY 10080, filed an application on May 8, 1986, for an order of the Commission: (1) Pursuant to section 57(a)(4) of the Investment Company Act of 1940 ("Act"), and Rule 17d-1 thereunder, permitting the concurrent investment by the Partnership and KECALP in convertible preferred stock issued by Private Satellite Network, Inc. ("PSN"); and (2) pursuant to sections 17(b) and 57(c) of the Act, exempting from the provisions of sections 17(a)(1) and 57(a)(1) of the Act, the contingent sale of preferred stock of PSN by the Management Company to KECALP and the Partnership. 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, and to the Act for the text of the applicable statutory provisions.

The Partnership was formed as a limited partnership under Delaware law in 1982; it has elected to be treated under the Act as a business development company, and has as its investment objective long-term capital appreciation through venture capital investments. The Partnership has five general partners, four of which are natural persons (referred to hereinafter as "Individual General Partners"). The Partnership's managing partner is Merrill Lynch Venture Capital Co., L.P. ("Managing General Partner"), and the general partner of the Managing General Partner is the Management Company. The Management Company is an indirect subsidiary of Merrill Lynch & Co., Inc. ("ML&CO."), a holding company which, through subsidiaries, provides investment, financing, real estate, insurance and related services. At December 31, 1985, the Partnership had net assets of approximately $65 million.

Applicants further state that KECALP, an employees' securities company as defined in section 2(a)(13) of the Act, is a limited partnership, registered under the Act as a closed-end, non-diversified management company, having as its investment objective long-term capital appreciation together with the tax advantages resulting from certain investments. Limited partnership interests in KECALP were sold in an aggregate principal amount of $3,747,000 in a registered public offering which closed in May, 1984, exclusively to those employees of ML&Co and its subsidiaries having annual compensation in 1985 of at least $75,000, and to non-employee directors of ML&Co. It is further stated that KECALP operates in accordance with the terms of an exemptive order issued pursuant to section 6(b) of the Act on April 8, 1982 (Investment Company Act Release No. 12363) ("KECALP Exemptive Order"). Applicants state that the general partner of KECALP is KECALP Inc. ("KECALP General Partner"), a Delaware corporation and a wholly-owned subsidiary of ML & Co. The KECALP General Partner is responsible for managing and making investment decisions for KECALP, and all investments made by KECALP are approved by the investment committee of the board of directors of the KECALP General Partner.

It is further stated that PSN is engaged in the business of building and operating private television networks for geographically-diversified corporations and other organizations. In August 1984, the Partnership acquired 10.9% of the outstanding shares of PSN Series B Convertible Preferred Stock, and KECALP conditionally acquired 1.6% of the same issue, subject to the issuance of a Commission exemptive order on an application filed by the Partnership and KECALP regarding such transactions. That exemptive relief was granted (*In the Matter of ML Venture Partners I, L.P.*, Investment Company Act Release No. 14350 (February 1, 1985).

It is further stated that PSN intends to seek additional financing through a private placement of securities, which is presently scheduled to close on June 15, 1986. Some of such securities have been made available to KECALP and the Partnership, among others, on the basis of their current holdings in PSN, and the Managing General Partner and the KECALP General Partner have independently determined to approve investments of $58,075 and $8,715, respectively, which represents the pro rata shares of the new offering available to the Partnership and KECALP in respect of their respective acquisitions PSN Series B Stock. However, because the proposed new investments may not be made concurrently by the Partnership and KECALP without the relief requested herein, the Management Company has agreed that, if the application is not granted by the closing, the Management Company will make the proposed investments on behalf of the Partnership and KECALP, and then sell such securities to the Partnership and KECALP if and when the relief requested herein is granted.

Applicants further state that if the Management Company makes the purchases on behalf of KECALP and the Partnership, the purchase price to be paid by KECALP and the Partnership to the Management Company for the new shares of PSN stock will be the lower of (i) the value of the securities on the date they are acquired by each of the Partnership and KECALP (as determined by the Independent General Partners of the Partnership and the board of directors of the KECALP General Partner), or (ii) the cost to the Management Company of purchasing and holding the securities. With respect to clause (ii), such cost will be the original purchase price paid for the shares at the closing, plus carrying costs relating to such investment. Carrying costs would consist of interest charges computed at the lower of (i) the prime commercial lending rate charged by Citibank, N.A. during the period from the date the Investment Committee of KECALP and the Board of Directors of the Partnership approved the purchase of the securities until KECALP and the Partnership acquire the securities, or (ii) the effective cost of borrowings by ML & Co. during such period. The effective cost of borrowings by ML & Co. is its actual "average cost of funds," which ML & Co. calculates on a monthly basis by dividing its consolidated financing expenses by the total amount of borrowings during the period.

Applicants submit that the statutory standards are satisfied with respect to the relief requested under sections 17(b) and 57(c) of the Act. Applicants believe that such relief is justified by both the terms of the transaction and the fact that the proposed investments would not otherwise be available to the Partnership and KECALP. With respect to the terms of the transactions, the KECALP General Partner and the Managing General Partner have reviewed the proposed investments in detail. In evaluating the terms of the transactions, both the Investment Committee and the Independent General Partners considered the fact that the proposed purchase prices to be paid by the Partnership and KECALP would include carrying costs incurred by an affiliated person (i.e., the Management Company) if the value of the investments at the time of acquisition by the Partnership and KECALP should be greater than the sum of the purchase price of each plus the Management Company's carrying costs. Both KECALP and the Partnership believe that it is entirely appropriate for them to reimburse affiliates for carrying costs in a situation where an affiliate has purchased an investment as, in effect, their nominee, and KECALP and the Partnerhip would have purchased such investments directly if it had not been deemed necessary to obtain prior Commission exemptive relief. Applicants submit that to deny reimbursement for carrying costs would result in a further and unwarranted loss to the Management Company and provide a disincentive to act on behalf of the Partnership and KECALP in the future.

Applicants also state that the above-described investments are not otherwise available for purchase by the Partnership or KECALP, and cite the opinion of the Managing General Partner and the KECALP General Partner that it is important to maintain the respective positions of the Partnership and KECALP in PSN. The Managing General Partner and the KECALP General Partner, have approved such investments after review of a

considerable number of possible investments for the Partnership and KECALP, and their previous investments in PSN. Applicants thus submit that the respective investment programs of the Partnership and KECALP would be prejudiced if they are not permitted to make the proposed investments.

It is represented, in addition, that the KECALP General Partner believes that the proposed investments are consistent with the rationale underlying the establishment of KECALP as an "employees' securities company." In the application for exemptive relief granted in Investment Company Act Release No. 12363 (April 8, 1982), as well as in KECALP's prospectus, it was indicated that ML & Co. and its affiliates would be involved in structuring, identifying and investing in many of the KECALP's portfolio investments. Similarly, the proposed transactions are consistent with the Partnership's investment objective and the kinds of transactions in which it was contemplated the Partnership would participate.

In support of their request for an order permitting the proposed concurrent participation in accordance with the provisions of section 57(a)(4) of the Act, and Rule 17d–1 thereunder, Applicants reiterate that the Managing General Partner and the KECALP General Partner have reviewed the proposed participation in additional shares of PSN stock, determined that such participation would be consistent with the Partnership's and KECALP's investment objectives and that the proposed investments would not disadvantage either the Partnership or KECALP on the terms specified, maintaining their respective investment positions, or in disposing of such positions. Applicants also reiterate, that in the KECALP Exemptive Order as well as in KECALP's prospectus, it was indicated that affiliates of ML & Co. would be involved in identifying and investing in many of KECALP's portfolio investments. Similarly, the prospectus of the partnership indicated that the Partnership may be a co-investor in portfolio companies with affiliates of management. Applicants therefore submit that the relief requested herein is consistent with the purposes of KECALP and the Partnership, their stated policies and the disclosures they have made to prospective investors. Applicants also believe that the proposed investments are in the best interests of KECALP and the Partnership to the extent that the invesments are not otherwise available to them.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 16, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 86–12534 Filed 6–3–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–15116 (812–6353)]

PaineWebber Master Series, Inc., (Formerly PaineWebber Special Income Fund); Application To Permit a Contingent Deferred Sales Load and Certain Offers of Exchange

May 27, 1986.

Notice is hereby given that PainWebber Master Series, Inc. ("Applicant"), registered under the Investment Company Act of 1940 ("the Act") as an openend, management investment company, located at 1285 Avenue of the Americas, New York, New York 10019, filed an application on April 21, 1986, and an amendment thereto on May 19, 1986, for an order of the Commission pursuant to section 6(c) of the Act granting exemption from sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act and Rule 22c–1 thereunder to the extent necessary: (1) Authorizing Applicant's proposed operation of its contingent deferred sales charge when shares of two or more Series of Applicant are outstanding; (2) authorizing Applicant not to impose a contingent deferred sales charge on exchanges by shareholders between different Series of Applicant; and (3) permitting Applicant to waive the imposition of contingent deferred sales charges on redemptions made under Applicant's systematic withdrawal program; and for an order pursuant to section 11(a) of the Act authorizing Applicant to impose a $5.00 service charge on each exchange of shares between different Series. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below, and to the Act and rules thereunder for the text of the applicable provisions.

Applicant, organized as a Maryland corporation, states that it currently offers one Series of shares to the public ("Existing Series") and may offer shares of two or more additional Series for public sale in the future ("Future Series"). Further, Applicant states that, on March 13, 1986, the Commission issued an order (Investment Company Act Release No. 14988) (the "Order") which granted certain exemptions to permit Applicant to impose a contingent deferred sales charge ("CDSL") upon certain redemptions of its Existing Series of shares, and to reduce or waive the CDSL that would otherwise be applicable in certain instances.

Applicant now proceses to offer shares of Future Series for public sale, permit exchanges between Series (subject to a $5.00 service charge for each exchange) ("Exchanges"), and implement a systematic withdrawal program as described below. Applicant states that the Order and the application underlying it did not address the operation of the CDSL should shares of two or more Series be outstanding, should Exchanges between Series be permitted, and should participation in a systematic withdrawal program be offered to shareholders of certain Series. Further, the Order and application underlying it did not address the imposition of a $5.00 service charge on Exchange transactions. Applicant states that it is filing this application to obtain exemptive relief for these matters.

Applicant represents that it in no manner proposes to alter the operation of the CDSL, waivers therefrom and reduction therein authorized previously by the Order. Applicant represents further that when a shareholder holds shares in two or more of its Series and redeems shares of one Series, the applicability and amount of the CDSL imposed on the redemption will be determined only with respect to the shareholder's investment in and purchase payments for the Series being redeemed, and not with respect to the shareholder's aggregate investment in all Series of Applicant.

Applicant further proposes that an exception to this procedure be implemented with respect to Exchanges between Series without any CDSL being imposed. (However, as discussed below, Applicant proposes to impose a $5.00 service charge on each Exchange.) For purposes of determining the applicability and rate of any CDSL, the

status of any shares surrendered in an Exchange as representing capital appreciation and/or dividend and capital gain distribution reinvestments in the Series exchanged out of will be passed on to the corresponding shares acquired in a second Series as a result of the Exchange. Accordingly, if an investor who has made an Exchange redeems shares of the Series exchanged into, no CDSL will be imposed to the extent such redemption represents capital appreciation of and/or reinvestments in the Series exchanged out of which occurred prior to the Exchange. In addition, any other shares of the Series acquired in an Exchange will be deemed to have been held for the same length of time as the corresponding shares of the first Series surrendered upon the Exchange.

Applicant states that in order to effect an Exchange order, shares will be exchanged out of a Series in the following order: First, shares representing capital appreciation of the Series being exchanged out of; next, shares representing the reinvestment of dividends and capital gain distributions in such Series; and, finally, other shares of such Series held by the shareholder for the longest period of time.

Applicant submits that the proposed operation of the CDSL where shares of two or more Series are outstanding as described above raises no questions under the Act or the rules thereunder, and that the application of the CDSL with respect to a shareholder's distinct investments in different Series of the Applicant is fair and reasonable and in the best interests of shareholders. Applicant further asserts that any possible variation of the CDSL due to the proposed Exchanges will be applied equally to all shareholders of a given class, and that it will comply with all provisions of Rule 22d–1 under the Act as if that rule were applicable to such Exchange.

Applicant further proposes that a $5.00 service charge be imposed on each Exchange transaction. Applicant states that such charge will be paid to Applicant for the costs it incurs in effecting Exchanges for shareholders of the Applicant. Applicant submits that permitting Exchanges without the imposition of a CDSL would provide shareholders with the opportunity to change their investment objectives and encourage them to do so when appropriate. Applicant further submits that the imposition of the $5.00 service charge on an Exchange is fair and reasonable, in that the charge is designed solely to defray Applicant's expenses in facilitating each Exchange. Applicant further states that the imposition of the service charge does not affect the basis on whch Exchanges between Series will be made.

In addition, Applicant proposes that a shareholder be permitted to elect to participate in Applicant's systematic withdrawal program (the "Program"). Under the Program, a dollar amount of a participating shareholder's investment in a participating Series will be redeemed automatically by Applicant on either a monthly, quarterly, semi-annual or annual basis, and the proceeds mailed to the shareholder. The amount to be redeemed and frequency of the automatic withdrawals will be specified by the shareholder upon his election to participate in the Program. Applicant reserves the right to change the terms and conditions of the Program and the Series with respect to which the Program is offered from time to time. Applicant states that no CDSL be imposed on redemptions made under the Program, and that this may create a variation in the amount of CDSL applicable to different classes of Applicant's shareholders.

Applicant asserts that the proposed waiver of the CDSL under the Program will be applied equally to all Applicant's shareholders of a given class, and is fair and reasonable and in the best interests of shareholders. Applicant further represents that, if the relief sought with respect to the Program is granted, it will comply with all provisions of Rule 22d–1 under the Act as if that rule were applicable.

Applicant asserts that the relief requested is appropriate and in the public interest, consistent with the protection of investors, and provisions of the Act. Applicant therefore requests that the Commission issue an order under sections 6(c) and 11(a) of the Act granting the exemptions as requested and permitting the Exchange.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 20, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of the interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant(s) at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR. Doc. 86–12535 Filed 6–3–86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC–15112 (File No. 812–6277)]

RNC Liquid Assets Fund, Inc.; Application

May 23, 1986.

Notice is hereby given that RNC Liquid Assets Fund, Inc. ("Liquid Assets"), RNC Regency Fund, Inc. ("Regency"), and RNC Income Fund, Inc. ("Income"), each of which is registered under the investment Company Act of 1940 (the "Act") as an open-end management investment company (such investment companies, together with any management investment company organized subsequent to the date of the application for which Midvale Securities Corporation acts as principal underwriter (the "Distributor", collectively referred to with the Funds as "Applicants") 10960 Wilshire Boulevard, Los Angeles, California 90024, filed an application on January 5, 1986, for an order of the Commission pursuant to section 11(a) of the Act to permit offers to exchange shares of the Funds on a basis other than relative net asset value. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and to the Act for the applicable provisions thereof.

Applicants represent that each of the Funds intend to make a continuous public offering of its shares at the current offering price mentioned in its prospectus. Since Liquid Assets is a no-load fund, the current offering price of its shares will equal the net asset value of the shares. However, the current offering price of Regency and Income (which will invest in equity and fixed income debt, respectively) will include a sales charge, contemplated to be 8.5%, subject to certain reductions for purchases of $10,000 or more. Applicants further state that the registration statement filed with the Commission by Regency has been declared effective and it has commenced offering its shares, and that the registration statements filed with the Commission by Liquid Assets and Income have not yet been declared effective.

According to the application, the Distributor, a California corporation, is a wholly-owned subsidiary of Roley, Nichols Capital Group, Inc., a financial services group, which is the parent of RNC Capital Management Co., the Funds' investment adviser. Applicant states that the Distributor serves as the principal underwriter for each of the existing Funds. Applicants further state that it is anticipated that the Distributor will act as the principal underwriter for additional registered investment companies, the shares of which may be sold at varying sales charges or on a no-load basis.

Applicants propose to permit each of the Funds to elect to offer to exchange its shares ("new shares") for shares ("outstanding shares") of any of the other Funds, provided that such other Fund has agreed to such exchange, on the basis of relative net asset value per share, plus an amount equal to the difference, if any, between the sales charge previously paid on the outstanding shares and the sales charge payable on the new shares if such new shares were purchased at the time of the exchange at their then public offering price. Applicants further request that the order permit the Funds to charge shareholders a fee, payable to the Distributor, of $5.00 for each exchange as a service charge for exercising the exchange privilege.

Applicants state that with respect to outstanding shares as to which previous exchanges have taken place, the sales charge previously paid shall include the aggregate of the sales charges paid with respect to such shares in the initial purchase and any subsequent exchange. The exchange privilege may not be exercised any more than twice in one calendar year. Applicants further state that shares issued pursuant to dividend reinvestment are sold on a no-load basis in each of the Funds. For purposes of the exchange privilege, Applicants represent, dividend reinvestment shares shall be deemed to have been sold with a sales charge equal to the sales charge previously paid on the shares on which the dividend was paid. In the event that a shareholder of a Fund wishes to exchange less than all his shares and the exchange involves a sales charge differential, those shares exchanged first will be those which are to be exchanged on the most favorable terms; i.e., shares previously exchanged involving a higher aggregate sales charge or shares sold at higher break points. Applicants state that to be exchanged, outstanding shares must have a value of $1,000 or more and have been outstanding for at least 15 days.

Applicants state that the purposes of the proposed exchange plan is to permit shareholders of the various Funds to exchange their shares for shares of the other Funds when their investment objectives change or when market conditions favor one type of investment over another. Applicants submit that the terms of the proposed order sought in the application provide shareholders of the Funds with desirable flexibility for their financial planning. Applicants further submit that the exchange formulation provides a fair and equitable exchange privilege to shareholders of all the participating Funds while preventing a shareholder from acquiring shares of a Fund having the highest sales charge by simply purchasing shares of another Fund with a lower sales charge or no sales charge and then exchanging such shares for those of the former Fund on the basis of relative net asset value per share. Applicants further submit that the imposition of the $5.00 service charge on exchanges between Funds is fair and will not harm shareholders or discriminate among shareholders of any Fund. It is designed merely to compensate each Fund for the costs incurred in facilitating exchanges.

Accordingly, Applicants submit that the granting of their request is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 16, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Managment, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 86-12536 Filed 6-3-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15114; File Nos. 812-6248 and 812-6220]

Application and Opportunity for Hearing; Sun Life Insurance and Annuity Co. of New York and Sun Life Assurance Co. of Canada (U.S.) et al.

May 23, 1986.

Notice is hereby given that Sun Life Insurance and Annuity Company of New York ("Sun Life New York"), a New York stock life insurance company with its home office at 67 Broad Street, New York, New York 10004; Sun Life (N.Y.) Variable Account C ("Account C"), registered under the Investment Company Act of 1940 ("Act") as a unit investment trust and established by Sun Life New York in connection with the proposed issuance of certain master group deferred combination fixed/variable annuity contracts ("contracts"); and Clarendon Insurance Agency, Inc. ("Clarendeon"), located at 200 Berkeley Street, Boston, Massachusetts 02116, and the principal underwriter for the contracts, filed an application on November 12, 1985, and an amendment thereto on May 13, 1986. Sun Life Assurance Company of Canada (U.S.) ("Sun Life (U.S.)"), a Delaware stock life insurance company with its executive office at One Sun Life Executive Park, Wellesley Hills, Massachusetts 02181; Sun Life (U.S.) Variable Account D ("Account D"), registered under the Act as a unit investment trust and established by Sun Life (U.S.) in connection with the proposed issuance of contracts similar to those to be issued by Sun Life New York; and Clarendon, the principal underwriter for the contracts (together with Sun Life New York and Account C, "Applicants"), filed an application on October 10, 1985, and an amendment thereto on May 12, 1986. Each set of Applicants requested an order pursuant to section 6(c) of the Act, exempting them from the provisions of sections 26(a)(2)(C) and 26(c)(2) of the Act to the extent necessary to permit transactions described in the applications. All interested persons are referred to the applications on file with the Commission for a statement of the representations contained therein, which are summarized below and are referred to the Act and rules thereunder for a statement of the relevant provisions.

Sections 26(a)(2)(C) and 27(c)(2)

Applicants request exemption from sections 27(a)(2)(C) and 27(c)(2) to the extent necessary to deduct from Accounts C and D a mortality and expense risk charge determined annually based on total purchase

payments credited to all participants' accounts under a contract pursuant to the following schedule:

Purchase payments	Asset charge (percent)	Approximate breakdown for	
		Mortality (percent)	Expense (risk charge, percent)
Up to $250,000	1.30	0.80	0.50
$250,000 to $1,499,999	1.25	0.80	0.45
$1,500,000 to $4,999,999	1.10	0.80	0.30
$5,000,000 and over	0.95	0.80	0.15

Applicants represent that it is expected that during the first year the contracts are offered, the average asset charge for all paricipants' accounts will be approximately 1.21%. If, at the end of the first year, the average asset charge is higher than 1.25%, Applicants represent they will no longer rely on this exemptive order, but will seek additional exemptive relief. Applicants state the mortality risk arises from the contractual obligation to continue to make annuity payments to each annuitant regardless of how long the annuitant lives and regardless of how long all annuitants as a group live. The expense risk is the risk that the administrative charges provided in the contracts may be insufficient to cover the actual total administrative expenses incurred by Sun Life New York and Sun Life (U.S.). No sales charge is deducted from purchase payments and up to 10% of purchase payments credited to a participant's account may be withdrawn in any account year on a non-cumulative basis without the imposition of a deferred sales charge ("withdrawal charge"). Amounts withdrawn in excess of 10% will be subject to a withdrawal charge assessed against purchase payments credited to the participant's account as follows:

Number of years payments in participant's account	Withdrawal charge (percent)
1	6
2	6
3	5
4	4
5	3
6	2
7	1
8	0

All withdrawals will be processed on a first-in, first-out basis. No withdrawal charge is imposed upon withdrawals providing a death benefit or to purchase an annuity provided that payment under the annuity option elected is over a period of at least five years. No withdrawal charge is imposed upon amounts withdrawn after a participant's account has been established for twelve years. Applicants represent that in no event will aggregate withdrawal charges assessed against a participant's account exceed 6% of aggregate purchase payments made to that account. Applicants represent that the withdrawal charge which is assessed in connection with certain full or partial withdrawals will recoup expected distribution costs associated with registered and distributing the contracts. Applicants further represent that neither Sun Life New York nor Sun Life (U.S.) expect to realize a profit from the mortality and expense risk charge, and that the charges do not incorporate any charges for the assumption of distribution expense risks. Sun Life New York and Sun Life (U.S.) have determined their respective charges are reasonable in amount with respect to comparable annuity products. These latter representations are based upon analyses of publicly available information about comparable annuity products in light of the products' particular annuity features, taking into consideration such as factors as annuity rate guarantees, current charge levels, sales loads and expense charge guarantees. Both Sun Life New York and Sun Life (U.S.) undertake to maintain and make available to the Commission upon request, a memorandum setting forth the basis for their representation. Accounts C and D represent they will invest in a mutual fund only if such fund undertakes to have a Board of Directors with a disinterested majority formulate and approve any plan under Rule 12b–1 to finance distribution expenses.

Notice is further given that any interested person wishing to request a hearing on the applications may, not later than June 17, 1986 at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed. Such request should be addressed to: Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of such request should be served personally or by mail upon the Applicants at the addresses stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the applications will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 86–12537 Filed 6–3–86; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 04/04–0238]

The Remington Fund, Inc.; Issuance of License To Operate as a Small Business Investment Company

On April 1, 1986, a notice was published in the **Federal Register** (51 FR 11134), stating that The Remington Fund, Inc. (Remington Fund), located at 1927 First Avenue North, Birmingham, AL. 35202, had filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1986), for a license to operate as a small business investment company under the provisions of section 301(c) of the Small Business Investment Act of 1958, as amended.

The period for comment expired on May 1, 1986, and no significant comments were received.

Notice is hereby given that considering the application and other information, SBA has issued License No. 04/04–0238 to Remington Fund, Inc., effective May 16, 1986

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 23, 1986.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 86–12547 Filed 6–3–86; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2237]

California; Declaration of Disaster Loan Area

The County of San Francisco constitutes a disaster area because of an explosion and fire which occurred in a square block of the Bayview Industrial Park, bounded by Griffith Street, Quesada Avenue, an open area and Revere Avenue, on April 4, 1986. Applications for loans for physical damage as a direct result of this fire may be filed until the close of business on July 28, 1986, and for economic injury, as a direct result of this fire, until the close of business on Septemer 2, 1986, at the address listed below:

Disaster Area 4 Office, Small Business Administration, 77 Cadillac Drive,

Suite 158, Sacramento, California 95825

or other locally announced locations.

The interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious organizations)	10.500

The number assigned to this disaster is 223704 for physical damage and for economic injury the number is 640900.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: May 28, 1986.

Charles L. Heatherly,

Acting Administrator.

[FR Doc. 86-12609 Filed 6-3-86; 8:45 am]

BILLING CODE 6025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; St. Lucie County, FL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in St. Lucie County, Florida.

FOR FURTHER INFORMATION CONTACT: R.V. Robertson, District Engineer, Federal Highway Administration, 227 N. Bronough Street, Room 2015, Tallahassee, Florida 32301, Telephone: (904) 681-7236.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Florida Department of Transportation (FDOT), is preparing an Environmental Impact Statement (EIS) for the proposed improvements along Port St. Lucie Boulevard in the City of Port St. Lucie, Florida, from the Florida Turnpike east to a terminus at US-1/State Road 5, a distance of approximately 4.5 miles. Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand.

Alternatives under consideration include the No Project alternative, and alternate schemes for improving the roadway along the existing alignment in varying right of way widths. Included as part of the build alternatives is the widening or replacement of the existing bridges over Long Creek and the North Fork of the St. Lucie River.

Federal, State and local agencies have contributed early coordination comments through the State Advance Notification process. Additionally, a project planning team developing this project has contacted Federal, State and local agencies for information relative to land use planning, water quality analysis, and local planning needs. Public information meetings will be held during the development of the EIS. In addition, a public hearing will be held. Public notice will be given of the time and place of the meeting and hearing. The draft EIS will be made available for public and agency review and comment prior to the public hearing. No formal scoping meeting is planned at this time.

To ensure that the full range issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action and the EIS should be directed to the Federal Highway Administration at the address provided above.

Issued on May 28, 1986.

P.E. Carpenter,

Division Administrator, Tallahassee, Florida.

[FR Doc. 86-12517 Filed 6-3-86; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: Orange County, CA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a Tier I Environmental Impact Statement will be prepared for a proposed highway project in Orange County, California.

FOR FURTHER INFORMATION CONTACT: Glenn Clinton, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95809, Telephone: (916) 551-1310.

SUPPLEMENTARY INFORMATION: The FHWA, working with the California Department of Transportation (CALTRANS) and Orange County Environmental Management Agency (OCEMA) will prepare an Environmental Impact Statement (EIS) on a proposal to locate on new alignment a multimodal facility with 6 to 8 lanes and a median of sufficient width for high-occupancy vehicles (HOV) or transit considerations. Transportation improvements are needed to serve existing and planned development. This document will address the entire length of the proposed corridor, a distance of 31 to 40 miles, which extends southerly from an interchange with the proposed Eastern Corridor near the City of Tustin to join the San Diego Freeway (I-5) between Ortega Highway (Route 74) in the City of San Juan Capistrano and the vicinity of the San Onofre Nuclear Generating Station within the U.S. Marine Corps Camp Pendleton property in northern San Diego County.

Alternatives Being Considered for the Project Are

A. New Highway Alternative

This involves locating and constructing between 6 to 8 general traffic lanes. An undetermined number of proposed interchanges will be included in this alternative.

B. Transit/HOV Improvements

In addition to the above, transit/high occupancy vehicle (HOV) lanes, located in the median, will be evaluated, along with Park-and-Ride facilities.

C. No Project

This alternative is essentially the "no build" option. Note: All other reasonable alternative including other corridors and possibly various transit options will be considered.

Consultation by Orange County with various State and local agencies began in February of 1982 for a northern segment of the corridor identified as extending southerly from the Eastern Corridor Interchange to just north of the future Oso Parkway extension near the community of Mission Viejo. In November of 1985 Orange County began consultation with State and local agencies for the southern segment of the corridor identified as beginning just north of the future Oso Parkway and extending southerly to a connection with the San Diego Freeway (I-5). These consultations identified areas of special concern along the proposed route, which were the focus of locally initiated environmental studies. FHWA believes that this early consultation has been extensive and consistent with 40 CFR 1501.7. However, in order to inform potentially affected agencies and the public of FHWA involvement, at least one formal scoping meeting will be held. Once a date and location is established,

appropriate public notification will be given.

To ensure that the full range of issues related to this proposed route are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: May 23, 1986.

Glenn Clinton,

District Engineer, Sacramento, California.

[FR Doc. 86-12551 Filed 6-3-86; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 596]

Senior Executive Service: Appointments of Individuals To Serve as Members of the Performance Review Board

The Civil Service Reform Act of 1978, 5 U.S.C. 4314(c)(4) requires that the appointment and changes in the membership of performance review boards be published in the Federal Register. Therefore, in compliance with this requirement, notice is hereby given that the individuals whose names and position titles appear below have been appointed to serve as members of the performance review board for the Bureau of Alcohol, Tobacco and Firearms (ATF) for the rating year beginning July 1, 1985, and ending June 30, 1986. This notice effects changes in the membership of the ATF Performance Review Board previously appointed May 3, 1985 (50 FR 18957).

Name and Title

Michael H. Lane—Deputy Assistant Secretary (Regulatory, Trade and Tariff Enforcement)—Department of the Treasury

David D. Queen—Deputy Assistant Secretary (Law Enforcement), Department of the Treasury

John W. Mangels—Director, Office of Operations, Department of the Treasury

John T. Blank—Director, Facilities Management Division, Department of the Treasury, Internal Revenue Service

Marvin J. Dessler—Chief Counsel, Bureau of Alcohol, Tobacco and Firearms

FOR FURTHER INFORMATION CONTACT: James J. Panagis, Personnel Division, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, (202-566-7146).

Signed: May 27, 1986.

Stephen E. Higgins,

Director.

[FR Doc. 86-12409 Filed 6-3-86; 8:45 am]

BILLING CODE 4810-31-M

VETERANS ADMINISTRATION

Special Medical Advisory Group; Meeting

The Veterans Administration gives notice under Pub. L. 92-463 that a meeting of the Special Medical Advisory Group will be held on June 19 and 20, 1986. The session on June 19 will be held at the Sheraton Carlton Hotel, 923 Sixteenth Street, NW, Washington, DC 20006, and the session on June 20 will be held in the Administrator's Conference Room at the Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, DC 20420. The purpose of the Special Medical Advisory Group is to advise the Administrator and Chief Medical Director relative to the care and treatment of disabled veterans, and other matters pertinent to the Veterans Administration's Department of Medicine and Surgery.

The session on June 19 will convene at 6 p.m. and the session on June 20 will convene at 8 a.m. All sessions will be open to the public up to the seating capacity of the rooms. Because this capacity is limited, it will be necessary for those wishing to attend to contact Kathy Eller, Secretary, Office of the Chief Medical Director, Veterans Administration Central Office (phone 202/389-5156) prior to June 16, 1986.

Dated: May 28, 1986.

By direction of the Administrator:

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 86-12544 Filed 6-3-86; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 107
Wednesday, June 4, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 12:02 p.m. on Wednesday, May 28, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A)(1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in First State Bank & Trust Company, Edinburg, Texas, which was closed by the Banking Commissioner for the State of Texas on Friday, May 23, 1986; (2) accept the bid for the transaction submitted by NBC Bank—Edinburg, Edinburg, Texas, a newly chartered State nonmember bank; (3) approve the applications of NBC Bank—Edinburg, Edinburg, Texas, for Federal deposit insurance and for consent to purchase certain assets of and assume the liability to pay deposits made in First State Bank & Trust Company, Edinburg, Texas, and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction;

(B) Consider recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings involving certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Name of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

At that same meeting, the Board of Directors, anticipating the closing of Roseland State Bank, Roseland, Nebraska, by the Director of Banking and Finance for the State of Nebraska later that same day, accepted the highest bid for a purchase and assumption transaction which may be submitted in accordance with the "Instruction for Bidding," subject to receipt of necessary approvals from appropriate State and/or Federal regulatory authorities.

In calling the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Director C. C. Hope, Jr. (Appointive), concurred in by Mr. Dean S. Marriott, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters would be considered in a closed meeting pursuant to subsection (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: May 30, 1986.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 86-12645 Filed 6-3-86; 11:24 am]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 5:21 p.m. on Thursday, May 29, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The Lone Rock Bank, National Association, Lone Rock, Iowa, which was closed by the Senior Deputy Comptroller for Bank Supervision, Office of the Comptroller of the Currency, on Thursday, May 29, 1986; (2) accept the bid for the transaction submitted by Swea City State Bank , Swea City, Iowa, an insured State nonmember bank; (3) approve the application of Swea City State Bank, Swea City, Iowa, for consent to purchase certain assets of and assume the liability to pay deposits made in The Lone Rock Bank, National Association, Lone Rock, Iowa, and for consent to establish the sole office of The Lone Rock Bank, National Association as a branch of Swea City State Bank; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Mr. Dean S. Marriott, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: May 30, 1986.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 86-12646 Filed 6-2-86; 11:24 am]

BILING CODE 6714-01-M

3

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Tuesday, June 10, 1986.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21th Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed statement to be presented to the Commerce, Consumer, and Monetary Affairs Subcommittee of the House Committee on Government Operations regarding deregulation of financial institutions.

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: June 2, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–12676 Filed 6–2–86; 3:28 pm]

BILLING CODE 6210–01–M

4

POSTAL RATE COMMISSION

TIME AND DATE: June 3, 1986, at 3:00 p.m.

PLACE: Conference Room, Suite 300, 1333 H Street, NW., Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Discussion of matters pertaining to Docket No. MC86–1, Destination-BMC Parcel Post Classification and Rate Changes (Experiment), 1985.

CONTACT PERSON FOR MORE INFORMATION: Charles L. Clapp, Secretary, Postal Rate Commission, Room 300, 1333 H Street, NW., Washington, DC 20268–0001, Telephone (202) 789–6840.

Charles L. Clapp,

Secretary.

[FR Doc. 86–12675 Filed 6–2–86; 8:45 am]

BILLING CODE 7715–01–M

federal register

Wednesday
June 4, 1986

Part II

Department of Education

34 CFR Parts 76 and 653

Carl D. Perkins Scholarship Program; Notice of Proposed Rulemaking

DEPARTMENT OF EDUCATION

34 CFR Parts 76 and 653

Carl D. Perkins Scholarship Program

AGENCY: Department of Education.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Secretary proposes regulations to govern the actions of designated State agencies in their administration of the Carl D. Perkins Scholarship Program. The regulations are needed to implement Title V, Part E of the Higher Education Act of 1965, as amended by the Human Services Reauthorization Act of 1984, 20 U.S.C. 1119d–1119d–8. These regulations specify the responsibilities of the Secretary of the U.S. Department of Education in the administration of the program and, in addition, describe the responsibilities of State agencies which administer the scholarships and the responsibilities of the scholarship recipients.

DATE: Comments must be received on or before July 7, 1986.

ADDRESS: All comments concerning these proposed regulations should be addressed to Neil C. Nelson, Chief, State Student Incentive Grant Program, Office of Student Financial Assistance, Office of Postsecondary Education, U.S. Department of Education, (Room 4026, ROB–3), 400 Maryland Avenue SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Neil C. Nelson, Telephone (202) 472–4265.

SUPPLEMENTARY INFORMATION:

Background

The Carl D. Perkins Scholarship Program is authorized under Title V, Part E of the Higher Education Act of 1965, as amended by the Human Services Reauthorization Act of 1984. The purpose of the program is to provide scholarships to enable and encourage outstanding high school graduates who demonstrate an interest in teaching to pursue teaching careers at the elementary or secondary school level.

The scholarships are to be awarded on the basis of academic merit and an interest in teaching. The intention in awarding a scholarship is not merely to enable the recipient to complete successfully a course of study and obtain a teaching certificate, but to commit that individual to the pursuit of a teaching career. The legislation requires that a scholarship recipient teach at the elementary or secondary school level for two years for each year of scholarship assistance. A scholar who does not complete the teaching obligation is required to repay the amount of the scholarships he or she has received, prorated according to the fraction of the teaching obligation not completed, plus interest and collection fees. The repayments are to be made in accordance with a schedule and at an interest rate prescribed by the Secretary. To encourage recipients to fulfill their commitment to teaching and to ensure that the program will not be viewed as a loan program, the Secretary proposes a substantial interest charge which is adjusted annually, from the time interest begins to accrue to the time the repayment period begins, and is set at a rate which is the greater of 14% or 5% above the average 91-day Treasury bill rate for the most recent quarter ending March 31. The interest charge applicable during the repayment period is the greater of these rates as determined when the repayment schedule is established. The interest rate, therefore, will be at least 2 percentage points higher than the highest rate charged by a Federal student financial assistance loan program; the PLUS Program, authorized under Title IV, Part B of the Higher Education Act of 1965, as amended, charges 12%.

To increase the likelihood that recipients will make a commitment to teaching as a career, the statute requires that the scholarship recipient satisfy the teaching obligation by teaching on a full-time basis. The Secretary is concerned, however, that this requirement to teach full-time not interfere with the recipients' ability to care for their own children, particularly during the early, formative months of life. The Secretary therefore requests comments on the practices of local education agencies in granting leaves of absence to individuals to adjust to the birth or adoption of a child, and on other factors relating to the full-time teaching requirement and its impact on the family responsibilities of scholarship recipients. Depending on the comments received, the Secretary will explore available regulatory alternatives to the teaching requirements in proposed § 653.40.

The reference to 34 CFR 682.410(b)(3) in proposed § 653.21(a)(4) is to a section in a Notice of Proposed Rulemaking published in the **Federal Register** on September 4, 1985 (50 FR 35964–36013), proposing to amend the regulations for the Guaranteed Student Loan Program and the PLUS Program.

The Secretary proposes to amend the Education Department General Administrative Regulations to make the provisions of 34 CFR Part 76 (State-Administered Programs) applicable to the Carl D. Perkins Scholarship Program.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities. State educational agencies administer the program. States and State agencies are not small entities under the Regulatory Flexibility Act.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 4026, ROB–3, 7th and D Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any

other agency or authority of the United States.

List of Subjects in 34 CFR Part 653

Education, Grant Programs—education, Scholarships, State-administered—education, Teachers.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

(Catalog of Federal Domestic Assistance Number 84.176: Carl D. Perkins Scholarship Program)

Dated: May 30, 1986.

William J. Bennett,

Secretary of Education.

The Secretary proposes to amend Title 34 of the Code of Federal Regulations by amending Part 76 and adding a new Part 653, as follows:

PART 76—STATE-ADMINISTERED PROGRAMS

1. The authority citation for Part 76 continues to read as follows:

Authority: Section 408(a)(1) of Pub. L. 90–247, 88 Stat. 559, 560, as amended (20 U.S.C. 1221e–3(a)(1)), unless otherwise noted.

2. In the table following § 76.1 Section D., Higher Education Programs, is amended by adding a new entry at the end of Section D, to read as follows:

§ 76.1 Programs to which Part 76 applies.

* * * * *

Name of program	Authorizing statute	Implementing regulations (34 CFR)	CFDA No.
D. Higher Education Programs			
* * * * *			
Carl D. Perkins Scholarship Program.	Title V, Part E of the Higher Education Act (20 U.S.C. 1119d–1119d–8).	Part 653	84.173
* * * * *			

3. Section 76.102 is amended by adding a new paragraph (aa) to read as follows:

§ 76.102 Definitions of "State plan" for Part 76.

* * * * *

(aa) *Carl D. Perkins Scholarship Program.* The application under Section 563 of the Higher Education Act.

* * * * *

4. The table following § 76.125 is amended by adding the following language to the list under "Postsecondary Education Programs":

§ 76.125 What is the purpose of these regulations?

* * * * *

POSTSECONDARY EDUCATION PROGRAMS

CFDA No. and name of program	Authorizing legislation	Implementing regulations Titles 34 CFR (Part)
* * * * *		
84.173 Carl D. Perkins Scholarship Program.	Title V, Part E of the Higher Education Act (20 U.S.C. 1119d–1119e–8).	653
* * * * *		

5. A new Part 653 is added, to read as follows:

PART 653—CARL D. PERKINS SCHOLARSHIP PROGRAM

Subpart A—General

Sec.

653.1 What is the Carl D. Perkins Scholarship Program?

653.2 Who is eligible to participate in this program?

653.3 What regulations apply to this program?

653.4 What definitions apply to this program?

Subpart B—What Assistance Does the Secretary Provide Under This Program?

653.10 For what purposes may a State use its payments under this program?

Subpart C—How Does a State Apply for Grants?

653.20 What must a State do to receive grants under this program?

653.21 What requirements must be met by States in the administration of this program?

Subpart D—How Does a State Select Scholars Under This Program?

653.30 What are the eligibility requirements?

653.31 Who selects the scholars?

653.32 What are the selection criteria and procedures?

Subpart E—What Are the Scholarship Conditions?

653.40 What agreement must a scholar have with the State agency?

653.41 What are the requirements for a scholar to continue to receive payments under this program?

653.42 What are the consequences of a scholar's noncompliance with the teaching requirement?

Authority: 20 U.S.C. 1119d–1119d–8, unless otherwise noted.

Subpart A—General

§ 653.1 What is the Carl D. Perkins Scholarship Program?

Under the Carl D. Perkins Scholarship Program the Secretary makes available, through grants to the States, scholarships to eligible individuals to enable and encourage them to pursue teaching careers at the elementary or secondary school level.

(20 U.S.C. 1119d)

§ 653.2 Who is eligible to participate in this program?

(a) States are eligible to apply for grants under this program.

(b) Outstanding high school graduates who wish to pursue teaching careers at the elementary or secondary level are eligible to apply to their respective States of residence for scholarships under this program.

(20 U.S.C. 1119d–2)

§ 653.3 What regulations apply to this program?

The following regulations apply to the Carl D. Perkins Scholarship Program:

(a) The regulations in this Part 653.

(b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants), Part 76 (State-Administered Programs), Part 77 (Definitions that Apply to Department Regulations), Part 78 (Education Appeal Board), and Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(20 U.S.C. 1119–d *et seq.*)

§ 653.4 What definitions apply to this program?

The following definitions apply to terms used in this part:

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR Part 77:

Application
EDGAR
Elementary school
Nonprofit
Private
Public
Secondary school
Secretary
State
State educational agency

(b) *Other definitions that apply to this part.* The following additional definitions apply to this part:

"Academic year" means a period of time during which a full-time student is expected to complete the equivalent of one of the following:

(1) Two semesters.

(2) Two trimesters.

(3) Three quarters.

"Act" means the Higher Education Act of 1965, as amended.

"Award year" means the period of time from July 1 of one year through June 30 of the following year.

"Full-time student" means a student enrolled in an institution of higher education, other than a correspondence school, who is carrying a full-time academic workload as determined by

the institution under standards applicable to all students enrolled in that student's program.

"Handicapped children" has the same meaning under this part as the same term defined in 34 CFR 300.5 of the Assistance to States for Education of Handicapped Children regulations.

"Limited English proficiency" has the same meaning under this part as the same term defined in 34 CFR 500.4 of the General Provisions regulations for the Bilingual Education Program.

"Scholar" means a scholarship recipient.

"Scholarship" means an award made to an individual under this part for one academic year.

(20 U.S.C. 1119d–1119d–8)

Subpart B—What Assistance Does the Secretary Provide Under This Program?

§ 653.10 For what purposes may a State use its payments under this program?

A State may use its payments under the Carl D. Perkins Scholarship Program only for making payments to scholars.

(20 U.S.C. 1119d)

Subpart C—How Does a State Apply for Grants?

§ 653.20 What must a State do to receive grants under this program?

(a) To receive grants under the Carl D. Perkins Scholarship Program, a State shall submit an application to the Secretary for review and approval.

(b) The Secretary approves an application that—

(1) Designates as the State agency for the administration of the Carl D. Perkins Scholarship Program, either—

(i) The State agency which administers the State Student Incentive Grant Program under Title IV, Part A, Subpart 3 of the Act; or

(ii) The State agency which administers the Guaranteed Student Loan Progam and with which the Secretary has an agreement under section 428(b) of the Act;

(2) Identifies the panel or agency which has established criteria and procedures for the selection of scholars and will select the scholars as required by §§ 653.31 and 653.32;

(3) Describes a program of activities for carrying out the purposes set forth in § 653.1 in such detail that the Secretary may determine the degree to which the State's program will accomplish those purposes. This description must include—

(i) The selection criteria and procedures to be used by the State, in the selection of scholars, which satisfy the provisions of this part; and

(ii) The procedures by which the designated State agency intends to publicize the availability of Carl D. Perkins Scholarships to secondary school students in the State;

(4) Explains how the criteria and procedures for the selection of scholars were developed and in what ways they reflect the State's present and projected needs for elementary and secondary teachers in general those with training in specific academic disciplines;

(5) Provides assurances that—

(i) No changes will be made in the designation of an agency to administer the Carl D. Perkins Scholarship Program, in the selection criteria and procedures to be used in the selection of scholars, or any other aspect of the program of activities described in its application without the prior written approval of the Secretary;

(ii) No one will receive a Carl D. Perkins Scholarship without entering into an agreement with the designated State agency under which he or she agrees to the terms specified in § 653.40;

(iii) A copy of the agreement which the State agency will enter into with scholars under § 653.40 will be included in the scholarship application form;

(iv) The State agency will monitor scholars' compliance with the provisions of §§ 653.40, 653.41(b), and 653.42;

(v) The State agency will make particular efforts to attract students from low-income backgrounds or who express a willingness or desire to teach in schools having less than average academic results or serving large numbers of economically disadvantaged students; and

(vi) Scholarships will be awarded without regard to sex, race, handicapping condition, creed, or economic background; and

(6) Contains a copy of the agreement referred to in paragraph (b)(5)(iii) of this section.

(c) Upon the Secretary's approval of its application, a State need not submit additional applications in order to continue to be considered for funding under this program.

(20 U.S.C. 1119d–2)

(Approved by the Office of Management and Budget under control number 1840–0578)

§ 653.21 What requirements must be met by States in the administration of this program?

(a) To continue to receive payments under this part, a State shall—

(1) Provide scholarship assistance only to students who meet the requirements of §§ 653.30, 653.40, and 653.41;

(2) Limit scholarship assistance to no more than four academic years for each scholar;

(3) Make reports to the Secretary that are necessary to carry out the Secretary's functions under this part;

(4) Establish and implement policies and procedures which are necessary to administer the repayment provisions of § 1653.42 and, in cases of noncompliance with these provisions, implement collection procedures consistent with 34 CFR 682.410(b)(3);

(5)(i) Litigate and attempt to obtain a judgment against a scholar for the amount of the debt prior to the expiration of the State's statute of limitations, in the event collection efforts under paragraph (a)(4) of this section are unsuccessful; or

(ii) Provide an amount equal to the amount of the debt from its own funds if the State fails to litigate in accordance with the requirements of paragraph (a)(5)(i) of this section; and

(6) Expend all funds received from the Secretary for scholarships during the award year specified by the Secretary with regard to those funds, except as otherwise provided in paragraph (d) of this section.

(b) A State shall award a scholarship in the amount of $5,000 for an academic year, except as otherwise provided in paragraph (c) of this section.

(c) A State shall not award a scholarship which exceeds the scholar's cost of attendance. If a scholarship, when added to the amount the scholar is to receive for the same academic year under Title IV of the Act, would otherwise exceed the scholar's cost of attendance, as defined for the National Direct Student Loan Program in 34 CFR 674.11, the State shall reduce the scholarship by the amount in which the combined awards would be in excess of the scholar's cost of attendance.

(d) After awarding all scholarships for payment during an award year, as required by paragraph (a)(6) of this section, a State may reserve for expenditures in the following award year a remaining amount of funds which is less than the amount required for a scholarship.

(20 U.S.C. 1119d–3, 1119d–4, 1119d–5)

Subpart D—How Does a State Select Scholars Under This Program?

§ 653.30 What are the eligibility requirements?

To be selected as a scholar, an individual shall—

(a)(1) Be a United States citizen or National;

(2) Be a permanent resident of the United States;

(3) Provide evidence from the Immigration and Naturalization Service that he or she is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident; or

(4) Be a permanent resident of the Trust Territory of the Pacific Islands or of the Northern Mariana Islands;

(b)(1) Have graduated from high school;

(2) Be scheduled to graduate from high school within 3 months of the date of the award; or

(3) Have received a certificate of high school equivalency for successfully completing the Tests of General Educational Development (GED); and

(c)(1) Rank in the top ten per centum of his or her graduating class; or

(2) Have received GED test scores recognized by the State to be equivalent to ranking in the top ten per centum of the high school graduates in the State, or nationally, in the academic year for which the eligibility determination is being made.

(20 U.S.C. 1119d–4)

§ 653.31 Who selects the scholars?

(a) Scholars must be selected by—

(1) A seven-member statewide panel appointed by the chief State elected official, acting in consultation with the State educational agency;

(2) An existing grant agency designated by the chief State elected official and approved by the Secretary, or

(3) An existing panel designated by the chief State elected official and approved by the Secretary.

(b) A selection panel must be representative of school administrators, teachers, and parents.

(20 U.S.C. 1119d–4)

§ 653.32 What are the selection criteria and procedures?

(a) The panel or agency appointed or designated by the chief State elected official in accordance with § 653.31 shall establish criteria and procedures for the selection of scholars.

(b) The selection criteria and procedures must reflect the present and projected needs of the State for elementary and secondary teachers as required by section 563(c) of the Act and must be developed after consideration of the views of the State and local educational agencies, private educational institutions, and other interested parties as required by section 563(d) of the Act.

(c) The State shall make applications available to high schools in the State and in other locations convenient to applicants, parents, and other interested parties.

(d) The panel or agency referred to in paragraph (a) of this section shall select scholars without regard to the applicants' eligibility for assistance under Title IV of the Act and without regard to whether applicants plan to attend publicly or privately controlled institutions.

(20 U.S.C. 1119d–2, 1119d–4)

Subpart E—What Are the Scholarship Conditions?

§ 653.40 What agreement must a scholar have with the State agency?

(a) To receive a scholarship, an individual shall enter into an agreement with the State agency under which he or she agrees, except as otherwise provided in paragraph (b) of this section—

(1) To teach on a full-time basis, as determined by the institution or agency in which he or she is teaching, for a period of not less than two years for each year for which scholarship assistance was received—

(i) In a public elementary or secondary school in any State;

(ii) In a public elementary or secondary education program in any State;

(iii) In a private nonprofit elementary or secondary school located and serving students in a district eligible for assistance under Chapter 1 of the Education Consolidation and Improvement Act of 1981; or

(iv) Handicapped children, or children with limited English proficiency, in a private nonprofit elementary or secondary school;

(2) To fulfill the teaching obligation described in paragraph (a)(1) of this section within ten years after completing the postsecondary education degree program for which the scholarship was awarded;

(3) To provide the State agency evidence of complaince with paragraphs (a) (1) and (2) of this section and § 653.41 as required by the State agency; and

(4) To repay all or part of the scholarship plus interest and reasonable collection fees as specified in § 653.42 if the conditions of paragraphs (a) (1) and (2) of this section are not met or if the individual ceases to pursue the postsecondary education degree program for which the scholarship was awarded.

(b) The requirement to teach two years for each year of scholarship assistance is reduced by one-half in the case of individuals who teach on a full-time basis—

(1) In a school which is designated by the Secretary as meeting the provisions of 34 CFR 674.54(a) of the National Direct Student Loan Program regulations for the year in which the individual is teaching at the school or the prior year; or

(2) Handicapped children, or children with limited English proficiency, in an education program or school referred to in paragraph (a)(1) of this section.

(c) The agreement referred to in paragraph (a) of this section must include—

(1) A description of the procedures under which the provisions of § 653.42 (g) through (j) will be implemented; and

(2) A description of the procedures under which a scholar may appeal any determination of non-compliance with any provisions under this part.

(20 U.S.C. 1119d–2)

§653.41 What are the requirements for a scholar to continue to receive payments under this program?

(a) A State agency shall continue to make payments to a scholar under this program only during the periods that the State agency finds that the scholar meets the conditions described in paragraph (b) of this section.

(b) To maintain eligibility for a scholarship, a scholar must be—

(1) Enrolled as a full-time student in a postsecondary institution that is currently accredited by a nationally recognized accrediting agency or association that the Secretary determines to be a reliable authority as to the quality of training offered, in accodance with section 1201 (a) of the Act;

(2) Pursuing a course of study leading to certification as a teacher at the elementary or secondary level, as determined by the State in which the postsecondary institution the student is attending is located; and

(3) Maintaining satisfactory progress as determined by the postsecondary institution the student is attending, in accordance with the criteria established in 34 CFR 668.16(e) of the Student Assistance General Provisions regulations.

(20 U.S.C. 1119d–5)

§ 653.42 What are the consequences of a scholar's noncompliance with the teaching requirement?

(a) A scholar found by a State to be in noncompliance with the agreement entered into under § 653.40, or to have ceased to pursue the postsecondary

education degree program for which the scholarship was awarded, shall—

(1) Repay the amount of the scholarships received, prorated according to the fraction of the teaching obligation not complete, as determined by the State agency;

(2) Pay a simple, per annum interest charge on the outstanding principal; and

(3) Pay all reasonable collection costs as determined by the State agency but not to exceed 25 percent of the amount of the unpaid principal and accrued interest.

(b) The interest charge referred to in paragraph (a)(2) of this seciton accrues from—

(1) The date of the intitial scholarship paymet if the scholar has ceased to pursue the postsecondary education degree program for which the scholarship was awarded; or

(2) The day after that portion of the scholarship period for which the teaching obligation has been fulfilled.

(c)(1) The interest charge referred to in paragraph (a)(2) of this section is adjusted annually, except as provided for under paragraph (c)(2) of this section, and is set at a rate which is the greater of:

(i) Fourteen percent; or

(ii) Five percent above the average of the bond equivalent rates of 91-day Treasury bills auctioned during the most recent quarter ending March 31.

(2) The interest charge applicable during the repayment period is the greater of the rates described in paragraph (c)(1)(i) and (ii) of this section as determined when the repayment schedule is established.

(d) A scholar required by paragraph (a) of this section to repay his or her scholarship shall—

(1) Enter repayment status on the first day of the calendar month after—

(i) The State has determined that the scholar has ceased to pursue the postscondary education degree program for which the scholarship was awared:

(ii) The date the scholar informs the agency he or she does not plan to fulfill the teaching obligations; or

(iii) the latest date on which the scholar must have begun teaching in order to have completed the teaching obligation within ten years after completing the postsecondary education for which the scholarship was awarded, as determined by the State agency; and

(2) Make monthly or quarterly payments to the State which—

(i) Cover principal, interest, and collection costs according to a schedule established by the State which calls for compete repayment within ten years after the scholar enters repayment status, exept as provided in paragraph (i) of this section; and

(ii) Amount annually to no less than $1200 or the unpaid balance, whichever is less.

(e) The State agency shall not require scholarship repayments amounting to more than $1200 annually unless higher payments are needed to complete the entire repayment within the ten-year period described in paragraph (d)(2) of this section.

(f) The State agency shall capitalize any accrued interest at the time it establishes a scholar's repayment schedule.

(g) A scholar is not considered in violation of the repayment schedule established under paragraph (d) of this section during the time he or she is—

(1) Engaging in a full-time course of study at an institution of higher education, as defined in 34 CFR 668.2 of the Student Assistance General Provisions regulations;

(2) Serving, not in excess of three years, as a member of the armed services of the United States;

(3) Temporarily totally disabled, for a period not to exceed three years, as established by sworn affidavit or a qualified physician;

(4) Unable to secure employment for a period not to exceed twelve months by reason of the care required by a spouse who is disabled;

(5) Seeking and unable to find full-time employment for a single period not to exceed twelve months; or

(6) Seeking and unable to find full-time employment as a teacher in a public elementary or secondary school or public education program.

(h) During the time a scholar qualifies for any of the exceptions in paragraph (g) of this section, he or she need not make the scholarship repayments referred to in paragraph (d) of this section and interest does not accrue.

(i) The State agency shall extend the ten-year scholarship repayment period established under paragraph (d) of this section by a period equal to the length of time a scholar meets any of the conditions listed in paragraph (g) of this section.

(j) The State agency shall cancel a scholar's repayment obligations if it determines—

(1) On the basis of a sworn affidavit of a qualified physician, that the scholar is unable to teach on a full-time basis because of an impairment that is expected to continue indefinitely or result in death; or

(2) On the basis of a death certificate or other evidence of death that is conclusive under State law, that the scholar has died.

(20 U.S.C. 1119d-6, 1119d-7)

[FR Doc. 86-12516 Filed 5-30-86; 1:05 pm]
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federal register

Wednesday,
June 4, 1986

Part III

Department of Education

34 CFR Part 280

Magnet Schools Assistance Program; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Part 280

Magnet Schools Assistance Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends three sections of the regulations which implement the Magnet Schools Assistance Program. These amendments to the regulations implement the statutory changes to the Magnet Schools Assistance Act (Title VII of the Education for Economic Security Act, Pub. L. 98–377) which were enacted on November 22, 1985 as part of the National Science, Engineering, and Mathematics Authorization Act of 1986, Pub. L. 99–159.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the Federal Register or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: M. Patricia Goins, Division of Educational Support, U.S. Department of Education (Room 2023, FOB–6), 400 Maryland Avenue SW., Washington, DC 20202. Telephone: (202) 472–7960.

SUPPLEMENTARY INFORMATION:

Summary of Amendments

Section 703 of the Act, which describes the purposes of the Magnet Schools Assistance Program, has been amended by combining the four clauses in the statement of purpose into two clauses. This language change does not significantly alter the purposes of the Magnet Schools Assistance Program. Section 280.1 of the regulations is amended to conform to the statutory change.

Section 706 of the Act has been amended to narrow the range of activities for which magnet schools funds may be used. Under section 706, grants may be used by an eligible local educational agency (LEA) for—

(1) Planning and promotional activities directly related to expansion and enhancement of academic programs and services offered at magnet schools;

(2) The acquisition of books, materials, and equipment (including computers) and the maintenance and operation thereof, necessary for the conduct of programs in magnet schools; and

(3) The payment of or subsidization of the compensation of elementary and secondary school teachers who are certified or licensed by the State and who are necessary for the conduct of programs in magnet schools.

With respect to clauses (2) and (3), assistance must be directly related to improving the knowledge of mathematics, science, history, English, foreign languages, art, or music, or to improving vocational skills.

Only the above-described activities may be supported with magnet schools funds. A new §280.40 setting out these authorized activities has been added to the regulations.

Section 709 of the Act has been amended by deleting the prohibition on secular humanism instruction. This prohibition, presently codified at §280.40(d) of the regulations, is deleted. The remaining provisions currently in §280.40 are redesignated as §280.41.

A Notice of Proposed Rulemaking was published in the Federal Register on March 10, 1986. The public had 30 days in which to submit written comments concerning the proposed amendments. Only one comment was received, and it recommended no changes to the proposed amendments.

Executive Order 12291

These proposed amendments have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Intergovernmental Review

This program is subject to the reguirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

List of Subjects in 34 CFR Part 280

Civil rights, Desegregation, Education, Education Department, Elementary and secondary education, Grant programs-education, Magnet schools.

Citation of Legal Authority

A citiation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these final regulations.

Dated: May 30, 1986.

William J. Bennett,

Secretary of Education.

The Secretary amends Title 34 of the Code of Federal Regulations by amending Part 280 as follows:

PART 280—MAGNET SCHOOLS ASSISTANCE PROGRAM

1. The authority citation for Part 280 is revised to read as follows:

Authority: 20 U.S.C. 4051–4062, unless otherwise noted.

2. Section 280.1 is revised to read as follows:

§ 280.1 What is the Magnet Schools Assistance Program?

The Magnet Schools Assistance Program provides grants to eligible local educational agencies (LEAs) for use in magnet schools that are part of an approved desegregation plan and that are designed to bring students from different social, economic, ethnic and racial backgrounds together. The purposes of the program are to support, through financial assistance to eligible LEAs,—

(a) The elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial portions of minority students; and

(b) Courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational skills of students attending such schools.

(20 U.S.C. 4053)

§ 280.4 [Amended]

3. In § 280.4(b), under the definition, "special curriculum", in paragraph (4), the "of" is changed to "or" between the words, "elementary" and "secondary".

§ 280.10 [Amended]

4. Section 280.10 is amended by: removing "for planning and conducting programs" from paragraph (a); removing paragraphs (d) and (e); and revising the citation of authority to read "(20 U.S.C. 4054)".

§ 280.40 [Redesignated as § 280.41]

5. Section 280.40 is redesignated as § 280.41 and paragraph (d) is removed. After the semicolon at the end of paragraph (b) insert "or". At the end of paragraph (c) replace the semicolon and the "or" with a period.

6. A new § 280.40 is added to read as follows:

§ 280.40 What costs are allowable?

An LEA may use funds received under this part for the following activities:

(a) Planning and promotional activities directly related to the expansion and enhancement of academic programs and services offered at magnet schools, though planning activities are subject to the restriction in § 280.41(a).

(b) The acquisition of books, materials, and equipment (including computers) and the maintenance and operation thereof. Any books, materials or equipment purchased with grant funds must be—

(1) Necessary for the conduct of programs in magnet schools; and

(2) Directly related to improving the knowledge of mathematics, science, history, English, foreign languages, art, or music, or to improving vocational skills.

(c) The payment or subsidization of the compensation of elementary and secondary school teachers—

(1) Who are certified or licensed by the State;

(2) Who are necessary to conduct programs in magnet schools; and

(3) Whose employment is directly related to improving the knowledge of mathematics, science, history, English, foreign languages, art, or music, or to improving vocational skills.

(20 U.S.C. 4056)

[FR Doc. 86-12515 Filed 6-3-86; 8:45 am]

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Wednesday
June 4, 1986

Part IV

Environmental Protection Agency

40 CFR Part 280

Hazardous Waste; Interim Prohibition Against Installation of Unprotected Underground Storage Tanks; Interpretive Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 280

[FRL 2928-9]

Hazardous Waste; Interpretive Rule on the Interim Prohibition Against Installation of Unprotected Underground Storage Tanks

AGENCY: Environmental Protection Agency.

ACTION: Interpretive rule.

SUMMARY: New Subtitle I of the Resource Conservation and Recovery Act (RCRA), as amended, provides for the regulation of underground storage tanks. Section 9003(g) of Subtitle I establishes interim requirements for underground storage tanks that are installed between May 7, 1985 and the effective date of new tank standards required to be promulgated by EPA under section 9003(e). This notice sets forth EPA's interpretation of Section 9003(g).

FOR FURTHER INFORMATION CONTACT: Pamela Harris, (202) 382-4814; or Steven Way, (202) 475-9328; or the RCRA/Superfund Hotline at (800) 424-9346 (toll free or (202) 382-3000 in Washington, DC.

SUPPLEMENTARY INFORMATION:

I. Introduction: The Hazardous and Solid Waste Amendments of 1984

On November 8, 1984, the President signed into law the Hazardous and Solid Waste Amendments of 1984, Public Law 98-616. These Amendments extend and strengthen the provisions of the Solid Waste Disposal Act of 1970 as amended by RCRA. A major portion of this new legislation, Subtitle I, provides for the development and implementation of a regulatory program for underground storage tanks used to contain regulated substances, which include petroleum and substances defined as hazardous substances under section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).[1]

Among the provisions of new Subtitle I, section 9003 requires EPA to promulgate regulations pertaining to the detection, prevention, and correction of releases from underground storage tanks as may be necessary to protect human health and the environment.[2] Section 9003(c) sets forth minimum requirements that must be promulgated for all underground storage tanks and section 9003(e) sets forth additional requirements that must be promulgated for new underground storage tanks. Regulations under both sections 9003 (c) and (e) for tanks containing petroleum products are to be effective by May 8, 1987. With respect to tanks containing hazardous substances, regulations under section 9003(e) for new tanks are to be effective by November 8, 1987 and regulations under section 9003(c) for existing tanks are to be effective by November 8, 1988.

Until new tank standards promulgated under section 9003(e) become effective, section 9003(g)(1) establishes interim requirements for any tank installed on or after May 7, 1985. That section provides as follows:

. . . [N]o person may install an underground storage tank for the purpose of storing regulated substances unless such tank (whether of single or double walled construction)—

(A) will prevent releases due to corrosion or structural failure for the operational life of the tank;

(B) is cathodically protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed in a manner to prevent the release or threatened release of any stored substance; and

(C) the material used in the construction or lining of the tank is compatible with the substance to be stored.

As a limited exception, section 9003(g)(2) allows the installation of tanks without corrosion protection in soil with a resistivity of 12,000 ohm-cm or more. Under that provision, soil tests must be conducted in accordance with American Society for Testing and Materials (ASTM) Standard G57-78.

II. Purpose of the Interpretive Rule

An interpretive rule is a statement issued by an agency to advise the public of the agency's construction of the statutes and rules that it administers. An interpretive rule simply construes the language of the statute or regulation and does not impose additional obligations. Such rules are exempt from the notice and comment requirements of the Administrative Procedures Act, 5 U.S.C. 553(b)(A) (1982). A substantive rule, such as the new tank standards authorized by section 9003(e), is a rule that is issued by an agency pursuant to statutory authority that implements the statute. EPA intends this notice to be an interpretive rule, not a substantive rule.

Section 9003(g) establishes statutory requirements that took effect on May 7, 1985 without prior action on the part of EPA. Several of the requirements set forth under section 9003(g) are in the form of performance standards. EPA believes that the interpretive rule clarifies obligations of the regulated community in complying with the interim prohibition. The rule also puts the regulated community on notice of the circumstances under which the Agency will proceed with enforcement action for noncompliance.

III. Other Related EPA Activities

On July 15, 1985, EPA codified the statutory language of section 9003(g) in its regulations at 40 CFR 280.2.

EPA is preparing a guidance document that is available in draft form in the Regional Offices. This document discusses methods and technologies for preventing releases from tanks due to corrosion, structural failure, or the storage of materials that are incompatible with the tanks' construction or lining. This guidance will assist tank users in determining effective approaches to meet the performance standards in section 9003(g).

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[1] "Underground storage tank" is defined under RCRA Subtitle I, section 9001(1) as any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is 10 percent or more beneath the surface of the ground. Such term does not include any—

(A) Farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes,

(B) Tank used for storing heating oil for consumptive use on the premises where stored,

(C) Septic tank,

(D) Pipeline facility (including gathering lines) regulated under-

(i) The Natural Gas Pipeline Safety Act of 1968, (49 U.S.C. App. 1671, et seq.),

(ii) The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001, et seq.), or

(iii) Which is an intrastate pipeline facility regulated under State laws comparable to the provisions of law referred to in clause (i) or (ii) of this subparagraph;

(E) Surface impoundment, pit, pond or lagoon,

(F) Storm water or waste water collection system,

(G) Flow-through process tank,

(H) Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations, or

(I) Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft or tunnel) if the storage tank is situated upon or above the surface of the floor.

"Regulated substances" are defined under RCRA Subtitle I, section 9001(2) as:

(A) Any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (but not including any substance regulated as a hazardous waste under Subtitle C), and

(B) Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).

[2] "Release" is defined under RCRA Subtitle I, section 9001(5) as any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an underground storage tank into ground water, surface water or subsurface soils.

IV. Legislative History of Section 9003(g)

Many of the storage tank provisions now contained in Subtitle I, including section 9003(g), had their origins in a bill introduced by Senator Durenberger on February 29, 1984 as an amendment to the Safe Drinking Water Act, 130 Cong. Rec. S2026 (Feb. 29, 1984). Among these provisions was a requirement that EPA promulgate new tank standards within nine months of the date of enactment of the proposed amendments. Such standards were to include a prohibition on bare steel tanks. *Id.* at S2026. The provisions established an exception from the bare steel tank ban "where the Administrator finds there is minimal danger of corrosion." *Id.* In describing that provision, Senator Durenberger stated that "installation of common but less adequate tanks—those made of bare steel—would be prohibited unless the hydrogeology of the area is such that there is a minimal danger of corrosion." *Id.* at S2027.

On July 25, 1984, Senator Durenberger offered a modified version of his storage tank provisions as an amendment to RCRA. 130 Cong. Rec. S9164 (July 25, 1984). This amendment was passed by the Senate. *Id.* at S9201. In this modified version, the deadline for—new tank standards was extended and the bare steel ban was converted into an interim requirement that new tanks be installed in accordance with enforced national consensus code." This requirement was to go into effect ninety days after the bill was passed and remain effective until EPA promulgated new tank standards. *Id.* at S9163–64.

On the House of Representatives side, amendments to RCRA were passed but did not contain provisions for the regulation of underground storage tanks. 130 Cong. Rec. H9184 (November 3, 1983). On August 10, 1984, however, the House passed an underground storage tank bill as an amendment to CERCLA. 130 Cong. Rec. H8938, H9027 (August 10, 1984). The House bill contained an interim prohibition that provided as follows:

> Until the effective date of the regulations promulgated by the Administrator under subsection (a) and after 180 days after the date of the enactment of this title, no person may install or begin using an underground storage tank for the purpose of storing hazardous substances unless such tank, of either single or double wall construction, is cathodically protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material which would prevent corrosion for the operational life of the tank, or contained in a manner designed to prevent the release or threatened release of any stored hazardous substance and unless in all cases the material used in the construction or lining of the tank is compatible with the substance to be stored. *Id.* at H8939.

Subsequently, a Conference Committee was formed to consider the RCRA amendments passed by the Senate and the House. Although the House CERCLA bill was not officially under consideration by the RCRA Conference Committee, the conferees adopted the language of that bill's interim prohibition with several significant modifications. 130 Cong. Rec. H11121 (Oct. 3, 1984). These modifications included the requirement that every new tank prevent releases due to "Structural failure" for its "operational life" (section 9003(g)(A)) and the exception from corrosion protection requirements for tanks located in soil with a resistivity of 12,000 ohm/cm or more. The Conference Report described the reported provision as follows:

> Following enactment, the installation of bare steel tanks, i.e. those which provide little or no protection against corrosion, will be prohibited until the Administrator promulgates regulations establishing the conditions for installation. Bare steel tanks may be installed (pending promulgation of EPA regulations) only where properly conducted soil tests show resistivity at 12,000 ohms/cm or more. This provision replaces the provision in the Senate amendment which prohibits installation of bare steel tanks except in states that enforce a national consensus code.

130 Cong. Rec. 11139 (Oct. 3, 1984).

The bill, as reported by the Conference Committee, ultimately passed both houses and was signed by the President on November 8, 1984.

The legislative history of section 9003(g) reveals that, as originally introduced in the Senate, the section was aimed at preventing the installation of steel tank systems without corrosion protection. Ultimately, however, section 9003(g) was expanded not only to prohibit installation of bare steel tanks, but also to include requirements pertaining to the structural integrity of all newly installed tanks and the compatibility of the substances stored with the materials used in the construction and lining of such tanks.

V. EPA's Interpretation of Section 9003(g)

EPA reviewed the statutory language of section 9003(g) and its legislative history. Based upon this review, EPA's conclusions are set forth below.

Section 9003(g) (codified as 40 CFR 280.2) establishes three requirements that must be satisfied by all underground storage tanks (including underground pipes connected to the tanks) installed between May 7, 1985 and the effective date of new tank standards promulgated under RCRA section 9003(e), with the exception of tanks qualifying for the exemption from corrosion protection requirements under section 9003(g)(2). There requirements are: (1) That the tank and underground piping be designed, constructed, and installed to prevent releases due to corrosion for the operational life of the tank and the piping; (2) that the tank and underground piping be designed, constructed, and installed to prevent releases due to structural failure for the operational life of the tank and the piping; and (3) that the materials used in the construction or lining of the tank and its underground piping be compatible with the substance to be stored in the tank.

The first two of the above requirements are established by section 9003(g)(1)(A), which provides that tanks must "prevent releases due to corrosion or structural failure for the operational life of the tank." The third requirement is established by section 9003(g)(1)(C). In addition, section 9003(g)(1)(B) sets forth minimum requirements for tank design and construction. Under section 9003(g)(1)(B), tanks must be either cathodically protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material or designed in a manner to prevent the release or threatened release of any stored substance.

In addition to cathodically protected tanks and tanks constructed or clad with non-corrosive materials, section 9003(g)(1)(B) would permit the use of other types of tanks and protective measures if they are "designed in a manner to prevent the release or threatened release of any stored substance." Interested parties may consult with EPA on a case-by-case basis concerning the effectiveness of particular technologies for preventing releases.

There are several examples of tanks that do not satisfy the requirement of section 9003(g)(1)(A) that they prevent releases due to corrosion for the operational life of the tank. A steel tank whose only corrosion protection is a coating of noncorrosive materials that is applied in such a way that it will not prevent releases due to corrosion for the operational life of the tank is not adequate. Similarly, a cathodically protected tank whose cathodic protection is not designed to prevent releases for the operational life of the

tank will not be deemed to have satisfied this requirement.

Paint and asphalt coatings are not adequate for cathodic protection. Asphalt paints are soluble in a number of regulated substances that are normally stored in tanks, including solvents and hydrocarbons, such as gasoline. Applications of both asphalt paints and lead paints are thin, easily damaged during installation and easily worn away during use. They do not provide a complete seal for the tank. such paint or asphalt coatings do not provide corrosion resistance for the operational life of the tank and, therefore, do not comply with the interim prohibition.

Tanks that satisfy the requirement of section 9003(g)(1)(A) to prevent releases due to corrosion must still satisfy the requirements that they prevent releases due to "structural failure" and that the materials used in the construction of the tank be compatible with the substances to be stored. For example, a tank constructed of noncorrosive material that is subject to structural failure because of its design or installation would not satisfy the requirements of section 9003(g)(1). Similarly, a tank whose construction materials are not compatible with the product to be stored would not satisfy the requirements of section 9003(g)(1) because, although it satisfies the corrosion protection requirement of section 9003(g)(1)(A), it does not satisfy the compatibility requirement of section 9003(g)(1)(C).

Section 9003(g)(1) provides that "no person may install an underground storage tank" unless such tank satisfies the requirements of sections 9003(g)(1)(A), (B), and (C). EPA interprets the term "no person may install an underground storage tank" to encompass any persons responsible for having a tank installed, including among others owners, operators and installers. EPA also interprets section 9003(g) as applying to all new installations, including installation of previously used tanks and to any new installation of underground piping associated with underground tanks subject to the prohibition. When the new installation is only piping, only the new piping would be subject to the standards in section 9003(g).

With respect to the exemption from corrosion protection requirements provided by section 9003(g)(2), EPA interprets this provision as permitting the installation of a tank without corrosion protection if a person, prior to installation, demonstrates by means of soil testing conducted in accordance with ASTM Standard G57–58 that the soil at the location where the tank is to be installed does not have a resistivity of less than 12,000 ohm-cm.

A tank exempted from corrosion protection requirements under this section, however, must still satisfy the requirement that the tank be designed, constructed, and installed to prevent releases due to the structural failure of the tank and that the materials used in the construction or lining of the tank be compatible with the substances to be stored in the tank. Thus, for example, a steel tank without any type of corrosion protection may be installed at a location where the soil continues to have a resistivity of 12,000 ohm-cm during the operational life of the tank. However, if the tank is constructed or installed so that it suffers structural failure or is not compatible with the stored product and releases its contents, the tank would not be in compliance with section 9003(g).

VI. Summary of Supporting Analyses

1. Executive Order 12291

Executive Order 12291 [46 FR 13193, February 9, 1981] requires that a regulatory agency determine whether a new regulation will be "major" regulation and, if so, that a Regulatory Impact Analysis be conducted. A major rule is defined as regulation which is likely to result in:

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

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

(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.

This rule does not have any of the impacts listed above. The Agency did conduct an economic impact analysis of the interim prohibition as part of the Hazardous Waste Management System; Final Codification Rule published in the **Federal Register** July 15, 1985. The Regulatory Impact Analysis concludes that upper bound cost estimates for the Interim Prohibition are under $10 million per year.

The interpretive rule has been submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

2. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an agency publishes a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the rule on small entities (i.e., small businesses, small organizations, small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

The Regulatory Impact Analysis for the Final Codification Rule also addresses the impact of the Interim Prohibition on small entities and concludes that the Interim Prohibition will not have a significant economic impact on a substantial number of small entities. This interpretive rule does not, therefore, require a regulatory flexibility analysis.

Dated: May 21, 1986.

Lee M. Thomas,

Administrator.

[FR Doc. 86–12002 Filed 6–3–86; 8:45 am]

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federal register

Wednesday
June 4, 1986

Part V

Department of Education

34 CFR Parts 682 and 690

Guaranteed Student Loan Program and Pell Grant Program; Schedules of Expected Family Contributions; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Parts 682 and 690

Guaranteed Student Loan Program and Pell Grant Program; Schedules of Expected Family Contributions

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the final regulations for the Schedule of Expected Family Contributions for the Guaranteed Student Loan (GSL) and Pell Grant programs. These amended regulations are required by section 16031 of the Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. 99–272. The expected family contribution schedules for these two programs are amended to exclude from family income the income realized from the proceeds of a sale of farm or business assets if the sale results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy.

EFFECTIVE DATES: These regulations take effect either 45 days after publication in the **Federal Register** or later, if Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

When effective, for the GSL program, the regulations will apply to any loan made for a period of instruction which begins on or after July 1, 1985.

When effective, for the Pell Grant Program, the regulations will apply to a Pell Grant made for any award year which begins on or after July 1, 1985.

FOR FURTHER INFORMATION CONTACT: Deborah Cohen, U.S. Department of Education, Office of Student Financial Assistance, 400 Maryland Avenue, SW. [Regional Office Building 3, Room 4318] Washington, DC 20202. Telephone number (202) 472–4300.

SUPPLEMENTARY INFORMATION:

Background

Effect of Amendment on the Pell Grant and GSL Programs

Section 16031 of the Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. 99–272, requires the Secretary to amend the 1985–86 and 1986–87 Schedules of Expected Family Contributions for the GSL and Pell Grant programs to exclude from the computation of an expected family contribution (EFC) any income realized from the proceeds of a sale of farm or business assets if the sale of assets results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy.

Additional Effect of Amendment on the GSL Program

Section 16031 does not affect the GSL requirement set forth in the GSL program regulations, 34 CFR 682.301, that an institution must calculate a student's EFC to determine whether the student is eligible for interest benefits if the student's adjusted gross family income (AGFI) exceeds $30,000. In addition, section 16031 does not authorize the exclusion of such income when the institution determines whether a student's AGFI is over $30,000.

If the institution uses Appendix B to the GSL program regulations to calculate the student's EFC, it must adjust the student's AGFI to exclude the taxable portion of the income realized from the proceeds of a sale of farm or business assets if the sale results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy. However, if that adjustment reduces the student's AGFI to $30,000 or less, the institution may not use Appendix B to the GSL program regulations to calculate the student's EFC but must, instead, use a need analysis system approved by the Secretary under the campus-based programs.

If the institution calculates the student's EFC using a system of need analysis approved by the Secretary for use in the campus-based programs, (National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant), the EFC calculated for that student under that system must be adjusted to exclude from family income the taxable and nontaxable income realized from the proceeds of the sale of farm or business assets as described above.

Waiver of Notice of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)), and the Administrative Procedure Act, 5 U.S.C. 553, it is the practice of the Secretary of offer interested parties the opportunity to comment on proposed regulations. However, section 16031 of Pub. L. 99–272 requires the Secretary to publish regulations to exclude, in the computation of an expected family contribution for the GSL program and Pell Grant program, the income realized from the proceeds of a sale of farm or business assets if the sale of assets results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy. Since these regulations merely implement statutory amendments and do not establish substantive policy, the Secretary finds that publication of a proposed rule is unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B).

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291 and are classified as nonmajor because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. These regulations revise the schedules of expected family contributions for the GSL and Pell Grant programs and do not affect small entities.

Assessment of Educational Impact

The Secretary has determined that the regulations in this document would not require transmission of information that is being gathered by, or is available from, any other agency or authority of the United States.

List of Subjects

34 CFR Part 682

Administative practice and procedure, Colleges and universities, Education, Loan programs—education, Student aid, Vocational education.

34 CFR Part 690

Administrative practice and procedure, Education, Education of disadvantaged, Grant programs—education and Student aid.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance Numbers: 84.032, Guaranteed Student Loan Program and 84.063, Pell Grant Program)

Dated: May 30, 1986.

William J. Bennett,

Secretary of Education.

The Secretary amends Parts 682 and 690 of Title 34 of the Code of Federal Regulations as follows:

PART 682—GUARANTEED STUDENT LOAN PROGRAM

1. The authority for Part 682 is revised to read as follows:

Authority: 20 U.S.C. 1071–1087–2, unless otherwise noted.

2. In § 682.301, paragraph (f)(2)(ii) is revised and paragraph (g) is added to read as follows:

§ 682.301 Eligibility for interest benefits on a GSLP loan.

* * * * *

(f) * * *

(2) * * *

(ii) The tables found in Appendix B if the adjusted gross income of the student and his or her family, after taking the provisions of paragraph (g) of this section into account, is more than $30,000 and less than $75,000.

(g) In calculating a student's expected family contribution under paragraph (f) of this section—

(1) The institution shall exclude any taxable and nontaxable income realized from the proceeds of a sale of farm or business assets if—

(i) The sale of the farm or business assets results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy; and

(ii) The institution uses a need analysis system approved by the Secretary for the campus-based programs to calculate the student's expected family contribution; and

(2) The institution shall exclude any taxable income realized from the proceeds of a sale of farm or business assets if—

(i) The sale of the farm or business assets results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy; and

(ii) The institution uses the tables set forth in Appendix B to calculate the student's expected family contribution. (20 U.S.C. 1078, 1082, and 1089)

PART 690—PELL GRANT PROGRAM

1. The authority for Part 690 is revised to read as follows:

Authority: 20 U.S.C. 1070a, unless otherwise noted.

2. In § 690.33, paragraph (g) is revised to read as follows:

§ 690.33 Effective family income.

* * * * *

(g) The annual adjusted family income does not include any—

(1) Student financial assistance except those veteran's benefits cited in paragraph (b)(2) of this section; and

(2) Income realized from the proceeds of a sale of farm or business assets if the sale of assets results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy.

(Sec. 5 of Pub. L. 97-301 as amended by Sec. 4 of Pub. L. 98-79 and Sec. 707 of Pub. L. 98-511; and 20 U.S.C. 1089)

3. In § 690.43, paragraph (e) is revised to read as follows:

§ 690.43 Effective family income.

* * * * *

(e) The annual adjusted family income does not include any—

(1) Student financial assistance except those veteran's benefits cited in paragraph (b)(2) of this section; and

(2) Income realized from the proceeds of a sale of farm or business assets if the sale of assets results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy.

(Sec. 5 of Pub. L. 97-301 as amended by Sec. 4 of Pub. L. 98-79 and Sec. 707 of Pub. L. 98-511; and 20 U.S.C. 1089)

[FR Doc. 86-12593 Filed 6-3-86; 8:45 am]

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Wednesday
June 4, 1986

Part VI

Environmental Protection Agency

40 CFR Parts 122 and 403
Water Pollution; General Pretreatment Regulations for Existing and New Sources; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122 and 403

[FRL-3025-8]

Water Pollution; General Pretreatment Regulations for Existing and New Sources

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is making technical amendments to 40 CFR Part 403. This action is necessary to correct typographical errors, erroneous cross-references, and inadvertent omissions in the General Pretreatment Regulations. This final rule also makes several other minor revisions that clarify the regulations, remove inconsistencies, and update certain provisions in response to developments that have occurred since their promulgation.

DATE: The effective date of this regulation is July 7, 1986.

In accordance with 40 CFR Part 23, these regulations shall be considered final agency action for purposes of judicial review at 1:00 p.m. eastern time on June 18, 1986.

Under section 509(b)(1) of the Clean Water Act (CWA), judicial review of this regulation can be obtained only by filing a petition for review in the United States Court of Appeals within 90 days after the regulation is considered issued for purposes of judicial review. Under section 509(b)(2) of the CWA, the requirements in this regulation may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

FOR FURTHER INFORMATION CONTACT: Hans I.E. Bjornson, Permits Division (EN-336), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 475-9530.

ADDRESS: The supporting information for this rule will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2402, 401 M Street SW., Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION: EPA promulgated the General Pretreatment Regulations on June 26, 1978 (40 CFR Part 403; 43 FR 27736). These regulations established mechanisms and procedures for controlling the introduction of wastes from industry and other non-domestic sources into publicly owned treatment works (POTWs). On January 28, 1981, the Agency promulgated amendments to the regulations pursuant to a settlement agreement with parties that had challenged the regulations in Federal court (46 FR 9404). The Agency has subsequently made several other amendments to the regulations, including revisions to the removal credits provision (40 CFR 403.7) on August 3, 1984 (49 FR 31212). (The revised removal credits provision was recently struck down by the United States Court of Appeals for the Third Circuit in *Natural Resources Defense Council, Inc.* v. *EPA*, No. 85-3012 (3d Cir. 1986). EPA is reviewing this decision to determine the appropriate response.) Today's notice corrects inadvertent omissions, erroneous internal cross-references, and typographical errors in the regulations. The Agency is also revising cross-references to the NPDES permit regulations to account for the deconsolidation of, and other changes to, those regulations (see 48 FR 14146, April 1, 1983; 47 FR 53666, November 26, 1982). Several other minor revisions are being made to clarify the regulations, remove inconsistencies, and update certain provisions to account for developments that have occurred since their promulgation.

Today's final rule has not been the subject of a previous notice of proposed rulemaking. Under the Administrative Procedure Act (APA), the requirement of providing prior notice and an opportunity for comment does not apply "when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." 5 U.S.C. 553(b)(B). By this exception, "Congress has recognized that there is no need for giving the public an opportunity to participate in minor amendments to rules. . . ." *Texaco, Inc.* v. *Federal Power Commission*, 412 F.2d 740, 743 (3d Cir. 1969), quoting Administrative Procedure Act: Analysis Of Its Requirements As To Rule-Making, 33 A.B.A.J. 315, 318 (1947). "Unnecessary" means "unnecessary so far as the public is concerned, as would be the case if a minor or merely technical amendment in which the public is not particularly interested were involved." S. Doc. No. 248, 79th Cong., 2d Sess. at 200, 258 (1946). See also, *National Nutritional Foods Association* v. *Kennedy*, 572 F.2d 377, 385 (2d Cir. 1978); U.S. Dept. of Justice, Attorney General's Manual on the Administrative Procedure Act 31 (1947). Because today's action consists only of technical corrections or other minor amendments that conform the General Pretreatment Regulations to other actions already taken, and because of the reasons stated below, EPA finds that prior notice and opportunity for comment are not necessary.

Final Regulations

1. *Definition of POTW Pretreatment Program.* Section 403.3(d), which defines the term "POTW Pretreatment Program," states that a POTW program must meet the criteria of §§ 403.3 and 403.9 of the pretreatment regulations. However, § 403.3 does not contain criteria for local programs. These are contained in § 403.8, which delineates the specific substantive requirements for an approvable local POTW Pretreatment Program, and § 403.9, which sets out approval procedures and submission requirements. Therefore, § 403.3(d) is revised to remove the reference to § 403.3 and substitute § 403.8 in its place.

2. *Definition of NPDES State.* The definition of "NPDES State" in § 403.3(m) references the definition of "State" in the NPDES regulations at 40 CFR 122.3. However, as a result of deconsolidation of the permit regulations, § 122.3 was redesignated as § 122.2 (48 FR 14146, April 1, 1983). Section 403.3(m) of the pretreatment regulations is revised to reflect this change.

3. *Change from "Enforcement Division Director" to "Water Management Division Director".* At several places in the General Pretreatment Regulations, reference is made to the "Enforcement Division Director." As a result of an internal Agency reorganization, this position no longer exists; its pretreatment program responsibilities have been assumed by the Water Management Divison Director. Accordingly, EPA is replacing all references to "Enforcement Division Director" with "Water Management Division Director," and is also replacing the definition of the former term in § 403.3(e) with a new defintion of the latter.

4. *Category Determination Request.* Section 403.6(a)(1) requires new sources to request a category determination prior to commencement of discharge. However, the existing regulation does not specifically address the parallel situation in which a cateogry determination is requested by an existing industrial user that adds a new process or changes an operation such that it might be included under a different subcategory. (Many of these changes might result in a new source and are thus already covered under the current requirement for new sources.) Consistent with § 403.6(a)(1), EPA is today clarifying that an existing

industrial user who wishes to receive a category determination on an added or changed process must submit a category determination request prior to commencing its discharge from the added or changed process.

Section 403.6(a)(2)(ii) requires that the statement in a category determination application "contain an oath stating that the facts contained therein are true on the basis of the applicant's personal knowledge or to the best of his information and belief." That section also previously required that "[t]he oath shall be that set forth in § 403.7(b)(2)(ii), except that the phrase '§ 403.7(d)' shall be replaced with '§ 403.6(a).' " When the removal credits provisions in § 403.7 were amended on August 3, 1984 (49 FR 31212), the certification in § 403.7(b)(2)(ii) was removed and the reference to § 403.7(b)(2)(ii) was removed from § 403.6(a)(2)(ii). No substitute oath was provided for category determinations. However, in making these revisions, EPA did not intend to leave § 403.6(a)(2)(ii) without a reference to specific certification language, but merely to change the removal credits provisions. Therefore, the Agency is today correcting § 403.6(a)(2)(ii) by reinserting the original certification statement.

5. *Compliance Deadline for Categorical Standards.* Section 307(b) of the Clean Water Act states that each categorical Pretreatment Standard "shall specify a time for compliance not to exceed three years from the date of promulgation [of such Standard]. . . ." The pretreatment regulations (§ 403.6(b)) require existing sources to comply with categorical Pretreatment Standards "within 3 years of the date the standard is effective unless a shorter compliance time is specified in the appropriate [Standard] *but in no case later than July 1, 1984.*" (emphasis added). This outside deadline of July 1, 1984 was added to the regulations in 1981 to reflect provisions in the EPA–NRDC Consent Decree. The Consent Decree between EPA and several environmental groups was originally entered in 1976, in the case of *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976). The Consent Decree required EPA to, among other things, promulgate effluent limitation guidelines and standards (including pretreatment standards for indirect dischargers) for 21 industrial categories, with special emphasis on 65 toxic pollutants, by prescribed dates. Paragraph 10(b) of the Decree provided that the Agency would require compliance with pretreatment standards by June 30, 1983. This date was later changed to June 30, 1984. *Natural Resources Defense Council, Inc.* v. *Costle*, 12 ERC 1833, 1843 (D.D.C. 1979). However, on August 2, 1983, the United States District Court for the District of Columbia modified paragraph 10(b) of the decree at EPA's request, and with the consent of NRDC, to give the Agency greater flexibility in establishing compliance deadlines for pretreatment standards consistent with section 307(b) of the Act. Consistent with this order, EPA has been routinely establishing compliance deadlines for recently promulgated pretreatment standards beyond July 1, 1984. See, e.g., 48 FR 49149 (October 24, 1983) (Aluminum Forming); 49 FR 9134 (March 9, 1984) (Battery Manufacturing). Moreover, EPA has modified certain categorical pretreatment standards to reflect the change in the consent decree (49 FR 41409, September 15, 1983).

Consistent with the above developments, EPA is modifying § 403.6(b) to delete the reference to the July 1, 1984 deadline. That section now states that compliance will be required within 3 years of the date the Standard is effective unless a shorter compliance time is specified in the appropriate subpart of 40 CFR Chapter I, Subchapter N.

6. *Combined Wastestream Formula.* In its present form, the combined wastestream formula (§ 403.6(e)) requires calculation of both "an alternative daily maximum value using the daily maximum value specified in the appropriate categorical Pretreatment Standard(s) and an alternative consecutive sampling day average value using the *long-term* average value(s) specified in the appropriate categorical Pretreatment Standard(s)" (emphasis added). Categorical pretreatment standards are expressed in terms of daily maximum, and monthly or 30-day average values. The term "long-term average value(s)" refers to these latter values. To avoid confusion, the Agency is changing the language of § 403.6(e), replacing "long-term average value(s)" with the more accurate term "monthly average value(s)." This revision will not affect the electroplating regulations, 40 CFR Part 413. Electroplating pretreatment standards are expressed as daily maximum and 4-day average values. However, § 413.04 of those regulations requires that 30-day values, rather than 4-day values, be used in calculating alternative pretreatment standards for a combined wastestream if one of the non-electroplating streams, with which an electroplating stream is combined, is requlated by 30-day average values. Section 413.04 includes a table that converts the 4-day number to a 30-day number.

7. *Deadline for Program Approval.* Section 403.8(b) requires all POTWs whose permits are modified pursuant to section 301(h) of the Clean Water Act to receive approval of local pretreatment programs within 3 years, as provided in 40 CFR Part 125, Subpart G (citing the 1979 regulation). EPA promulgated final regulations to administer section 301(h) on November 26, 1982 (47 FR 53666). Therefore, the reference to the 301(h) regulations in § 403.8(b) is amended to reference the current version of the Subpart G regulations.

8. *POTW NPDES Permit Modifications.* When a POTW pretreatment program is approved, the POTW's NPDES permit is reissued or modified to incorporate the approved program conditions as enforceable conditions of the permit. See § 403.8(c). Modifications to NPDES permits are normally processed in accordance with the procedures in 40 CFR Part 124, including public notice and comment. Section 122.63 sets out the exceptions to this rule by identifying certain types of modifications to NPDES permits as "minor." Minor modifications do not require public notice and comment.

The Part 124 public participation requirements currently used to modify NPDES permits are very similar to those EPA and States must follow in approving local pretreatment programs (§ 403.11). The public notice at the permit modification stage is thus duplicative since there is ample opportunity for public participation during the program approval process. In many cases, approval authorities avoid the unnecessary second notice by processing the two actions together, thus combining the public notice. Because two notice and comment periods are equally unnecessary where the approval and permit modification are not processed together, EPA is revising §§ 122.62, 122.63, and 403.8(c) to allow the insertion of enforceable conditions establishing an approved pretreatment program into a POTW's NPDES permit to be processed as a minor modification. The minor modification can only be used where the local program was approved in accordance with the public participation procedures in § 403.11. This provides all interested parties opportunity to comment on whether the program should be approved, making the second notice and comment unnecessary.

EPA believes it is appropriate to make this change as part of today's final rulemaking for several reasons. First, the change will not have any substantive

effect on the interested public's opportunity to participate in the pretreatment program approval process. Interested parties have a full opportunity to comment on the program when it is approved. Second, it is in the public interest to incorporate approved programs into the POTW's permit as early as possible; the sooner the program is incorporated into the permit, the sooner any failure to implement the program can be enforced as a permit violation against the POTW. Finally, further delay in making this change would render it moot. Of the approximately 1460 required POTW pretreatment programs, about 100 have yet to be approved. The Agency anticipates that these remaining programs will be approved (or referred for judicial action) by the end of the current fiscal year. Today's revision is thus necessary to avoid the delay and duplication of effort that would result if, after approval, these programs were required to undergo a second round of public notice and comment before being incorporated into the POTW's permit.

9. *Development and Submission of NPDES State Pretreatment Programs.* Several provisions in § 403.10 cross-reference various sections of the NPDES State Program regulations in 40 CFR Part 123. These references are to the May 19, 1980 version of Part 123 (Consolidated Permit Regulations). However, the Agency "deconsolidated" those regulations on April 1, 1983 (48 FR 14146), so that all the cross-referenced sections were renumbered in the NPDES permit regulations. Section 403.10 is being amended to reflect these changes.

10. *Removal Credit Approval Procedures.* In § 403.11(a) and (b), reference is made to § 403.7(d) which specified the contents for a removal credits application. As a result of the revisions to the removal credit provision, published on August 3, 1984 (49 FR 31212), the required contents of a removal credit application are now found in § 403.7(e). Therefore, EPA is deleting the references to § 403.7(d) and replacing them with "§ 403.7(e)."

11. *Self-Monitoring Requirements.* Section 403.12(g) states that monitoring frequency requirements for industrial users are found in the appropriate categorical pretreatment standards and that all users must monitor in accordance with such frequencies. In fact, the categorical standards do not specify monitoring requirements. Therefore, we are revising § 403.12(g) to delete this reference. (EPA will soon be publishing in the **Federal Register** a proposal to amend § 403.12(g) to clarify that the bi-annual reports submitted by industrial users in accordance with § 403.12(e) must be based on representative sampling and analysis data for the reporting period.)

12. *Reporting Requirements.* Paragraphs (j) and (k) of § 403.12 contain references to paragraph (i) and (j) of that section. However, on August 3, 1984 (49 FR 31212), EPA deleted paragraphs (i) and (j) and redesignated paragraphs (k)–(n) as (i)–(l). Accordingly, the references to paragraphs (i) and (j) in § 403.12 (j) and (k) are deleted.

13. *Net/Gross.* In 1981, EPA promulgated § 403.15, which provides for net/gross decisions. The preamble to those regulations states that "several commenters objected to the 60-day deadline for requesting a net/gross credit, noting that the Consolidated Permit Regulations do not impose a similar constraint. These commenters pointed out that in many cases treatment technology would need to be installed before a user could satisfy the demonstrations needed to receive a credit. EPA agrees with this comment and accordingly has deleted the time limitation on applying for a net/gross credit." 46 FR 9437 (January 28, 1981). However, § 403.15(a) states that applications for credit for intake pollutants must be made within 60 days after the effective date of the applicable categorical pretreatment standard. To correct this inadvertent mistake, EPA is deleting the 60-day deadline from §403.15(a).

14. *Appendices B and C.* The Pretreatment Implementation Review Task Force (PIRT), was established by the Administrator in February, 1984, to develop recommendations on how to improve implementation of the national pretreatment program. In its Final Report to the Administrator (1985), PIRT noted that Appendices B, C and D were out of date and recommended that they be updated. A proposed updated version of Appendix D was published in the **Federal Register** on May 9, 1985 (50 FR 19664). Today EPA is issuing final updated versions of Appendices B and C.

Appendix B lists the toxic pollutants designated pursuant to section 307(a)(1) of the Clean Water Act. This list also appears at 40 CFR 401.15. Since Appendix B was first published, EPA has deleted the following pollutants from the toxic pollutant list in 40 CFR 401.15: Dichlorofluoromethane and trichlorofluoromethane, 46 FR 79692 (January 8, 1981), and bis [chloromethyl] ether, 46 FR 10723 (February 4, 1981). The updated list issued today reflects these changes.

Appendix C is a list of the industrial categories for which national categorical pretreatment standards either have been or are planned to be issued. Several changes have been made to the previous categorization scheme since the list's initial publication:

(1) "Electroplating" (40 CFR Part 413) has been combined with the "Metal Finishing" category (40 CFR Part 433).

(Note.—Pretreatment standards are still in effect as previously identified under Part 413 for job shop electroplaters and printed circuit board manufacturers.)

(2) "Foundries" (40 CFR Part 464) is now the "Metal Molding and Casting" category.

(3) "Mechanical Products" is now covered by the "Metal Finishing" category (40 CFR Part 433) for those facilities containing one of the six core operations identified.

(4) "Organic Chemicals and Manufacturing" (40 CFR Part 414) has been combined with the "Plastics and Synthetics" category (40 CFR Part 416). The new category is called "Organic Chemicals and Plastics and Synthetic Fibers Manufacturing" (40 CFR Part 414).

(Note.—Pretreatment standards for new sources are still in effect as previously identified under 40 CFR Part 414, Subpart B.)

(5) "Paint and Ink Formulating" has been divided into two separate categories: "Paint Formulating" (40 CFR Part 446) and "Ink Formulating" (40 CFR Part 447).

(6) "Plastics Processing" is now the "Plastics Molding and Forming" category (40 CFR Part 463).

Two additional categories originally listed in Appendix C do not have pretreatment standards because there are no known existing indirect dischargers within these categories, and, to the Agency's knowledge, none are planned for the future. These are:

Coal Mining (40 CFR Part 434)
Ore Mining (40 CFR Part 440).

Six other categories have also been removed from the previous list since they have been exempted from national categorical pretreatment standards under provisions of Paragraph 8 of the NRDC–EPA Consent Decree, as modified. These are:

Adhesives and Sealants (40 CFR Part 456),
Auto and Other Laundries (40 CFR Part 444),
Explosives (40 CFR Part 457),
Gum and Wood Manufacturing (40 CFR Part 454),
Photographic Equipment and Supplies (40 CFR Part 459),

§ 403.8 POTW Pretreatment programs: development by POTW.

* * * * *

(c) *Incorporation of approved programs in permits.* A POTW may develop an appropriate POTW Pretreatment Program any time before the time limit set forth in paragraph (b) of this section. If (1) the POTW is located in a State which has an approved State permit program under section 402 of the Act and an approved State pretreatment program in accordance with § 403.10, or (2) the POTW is located in a State which does not have an approved permit program under section 402 of the Act, the POTW's NPDES Permit will be reissued or modified by the NPDES State or EPA, respectively, to incorporate the approved Program conditions as enforceable conditions of the Permit. If the POTW is located in an NPDES State which does not have an approved State Pretreatment program, the approved POTW Pretreatment Program shall be incorporated into the POTW's NPDES Permit as provided for in § 403.10(d). The modification of a POTW's NPDES Permit for the purposes of incorporating a POTW Pretreatment Program approved in accordance with the procedures in § 403.11 shall be deemed a minor Permit modification subject to the procedures in 40 CFR 122.63.

* * * * *

§ 403.8 [Amended]

15. In the first sentence of § 403.8(a), the first "of" is changed to read "or".

16. In the second sentence of § 403.8(c), "NPDEs State" is changed to read "NPDES State".

17. In the second sentence of § 403.8(f)(1)(vi)(A), "injuctive" is changed to read "injunctive".

18. In § 403.8(f)(2)(vii), § 403.8(f)(1)(iv)(B)" is changed to read "§ 403.8(f)(1)(vi)(B)."

§ 403.10 [Amended]

19. Section 403.10 is amended by revising the reference to "40 CFR 123.9" in paragraph (f)(1) to read "40 CFR 123.27", by revising the reference to "40 CFR 123.6" in paragraph (g)(3) to read "40 CFR 123.24", and by revising the reference to "40 CFR 123.13" in paragraph (h)(2) to read "40 CFR 123.62".

20. In § 403.10(f)(1)(iii), "incorportated" is changed to read "incorporated".

21. In § 403.10(g)(3), "Momorandum" is changed to read "Memorandum".

§ 403.11 [Amended]

22. Section 403.11 is amended by revising the references to "§ 403.7(d)" in paragraphs (a) and (b) to read "§ 403.7(e)".

§ 403.12 [Amended]

23. Section 403.12 is amended by removing from paragraph (g) the following sentence: "The frequency of monitoring shall be prescribed in the applicable Pretreatment Standard."

24. Section 403.12 is amended by revising paragraphs (j) and (k) to read as follows:

§ 403.12 Reporting requirements for POTW's and industrial users.

* * * * *

(j) *Signatory requirements for POTW reports.* Reports submitted to the Approval Authority by the POTW in accordance with paragraph (h) of this section must be signed by a principal executive officer, ranking elected official or other duly authorized employee if such employee is responsible for overall operation of the POTW.

(k) *Provisions governing fraud and false statements.* The reports required by paragraphs (b), (d), (e) and (h) of this section are subject to the provisons of 18 U.S.C. 1001 relating to fraud and false statements and the provisions of section 309(c)(2) of the Act governing false statements, representations or certifications in reports required under the Act.

* * * * *

§ 403.15 [Amended]

28. Section 403.15 is amended by revising the introductory paragraph of paragraph (a) to read as follows:

§ 403.15 Net/Gross calculation.

* * * * *

(a) *Application deadline and contents.* Any Industrial User wishing to obtain a credit for intake pollutants must make application therefor to the appropriate Water Management Division Director. Upon request of the Industrial User, the applicable Standard will be calculated on a "net" basis, i.e., adjusted to reflect credit for pollutants in the intake water, if the User demonstrates that:

* * * * *

26. Part 403 is amended by revising Appendix B to read as follows:

Appendix B—65 Toxic Pollutants

Acenaphthene
Acrolein
Acrylonitrile
Aldrin/Dieldrin
Antimony and compounds
Arsenic and compounds
Asbestos
Benzene
Benzidine
Beryllium and compounds
Cadmium and compounds
Carbon tetrachloride
Chlordane (technical mixture and metabolites)
Chlorinated benzenes (other than dichlorobenzenes)
Chlorinated ethanes (including 1,2-dichloroethane, 1,1,1-trichloroethane, and hexachloroethane)
Chloroalkyl ethers (chloroethyl and mixed ethers)
Chlorinated napthalene
Chlorinated phenols (other than those listed elsewhere; includes trichlorophenols and chlorinated cresols)
Chloroform
2-chlorophenol
Chromium and compounds
Copper and compounds
Cyanides
DDT and metabolites
Dichlorobenzenes (1,2-, 1,3-, and 1,4-dichlorobenzenes)
Dichlorobenzidine
Dichloroethylenes (1,1- and 1,2-dichloroethylene)
2,4-dichlorophenol
Dichloropropane and dichloropropene 2,4-dimethylphenol
Dinitrotoluene
Diphenylhydrazine
Endosulfan and metabolites
Endrin and metabolites
Ethylbenzene
Fluoranthene
Haloethers (other than those listed elsewhere; includes chlorophenylphenyl ethers, bromophenylphenyl ether, bis-(dichloroisopropyl) ether, bis-(chloroethoxy) methane and polychlorinated diphenyl ethers)
Halomethanes (other than those listed elsewhere; includes methylene chloride, methylchloride, methylbromide, bromoform, dichlorobromomethane)
Heptachlor and metabolites
Hexachlorobutadiene
Hexachlorocyclohexane
Hexachlorocyclopentadiene
Isophorone
Lead and compounds
Mercury and compounds
Napthalene
Nickel and compounds
Nitrophenols (including 2,4-dinitrophenol, dinitrocresol)
Nitrosamines
Pentachlorophenol
Phenol
Phthalate esters
Polychlorinated biphenyls (PCBs)
Polynuclear aromatic hydrocarbons (including benzanthracenes, benzopyrenes, benzofluoranthene, chrysenes, dibenzanthracenes, and indenopyrenes)
Selenium and compounds
Silver and compounds
2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)
Tetrachloroethylene
Thallium and compounds
Toluene
Toxaphene
Trichloroethylene
Vinyl chloride
Zinc and compounds.

27. Part 403 is amended by revising Appendix C to read as follows:

Printing and Publishing (40 CFR Part 448).

(Note.—Portions of these exempted categories may be regulated in the future as technical studies update information on discharges from facilities in these industries.)

The updated Appendix C published today reflects these changes.

15. *Typographical Errors.* EPA today is also correcting various typographical errors in the general pretreatment regulations.

Executive Order 12291

This regulation is not major because it will not result in an annual effect on the economy of $100 million or more, nor will it result in an increase in costs or prices to industry. There will be no adverse impact on the ability of the U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. The regulation merely makes several technical corrections and other minor changes to the General Pretreatment Regulations.

Regulatory Flexibility Act

Today's promulgation makes technical corrections and other minor changes to the General Pretreatment Regulations.

Accordingly, I hereby certify that this regulation will not have significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Parts 122 and 403

Confidential business information, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

Dated: May 27, 1986.

Lee M. Thomas,

Administrator.

Accordingly, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 403—GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES

1. The authority citation for Part 403 continues to read as follows:

Authority: Sec. 54(c)(2) of the Clean Water Act of 1977 (Pub. L. 95–217), Sections 204(b)(1)(C), 208(b)(2)(C)(iii), 301(b)(1)(A)(ii), 301(b)(2)(A)(ii), 301(b)(2)(C), 301(h)(5), 301(i)(2), 304(e), 304(g), 307, 308, 309, 402(b), 405, and 501(a) of the Federal Water Pollution Control Act (Pub. L. 92–500), as amended by the Clean Water Act of 1977.

2. Part 403 is amended by removing the term "Enforcement Division Director" each place it appears and inserting in lieu thereof the term "Water Management Division Director."

§ 403.3 [Amended]

3. Section 403.3 is amended by revising the reference to "§ 403.3" in paragraph (d) to read "§ 403.8", revising paragraph (e) to read as follows, and revising the reference to "40 CFR 122.3" in paragraph (n) to read "40 CFR 122.2":

§ 403.3 Definitions.

* * * * *

(e) The term "Water Management Division Director" means one of the Directors of the Water Management Divisions within the Regional offices of the Environmental Protection Agency or this person's delegated representative.

* * * * *

§ 403.5 [Amended]

6. In the first sentence of § 403.5(a), "an" is changed to read "a".

7. In § 403.5(b)(1), "creat" is changed to read "create".

8. In § 403.5(c)(2), "Facilities" is changed to read "facilities".

§ 403.6 [Amended]

9. Section 403.6 is amended by revising paragraphs (a)(1), (a)(2) and (b), to read as follows:

§ 403.6 National Pretreatment Standards: Categorical standards.

* * * * *

(a) *Category Determination Request*

(1) *Application Deadline.* Within 60 days after the effective date of a Pretreatment Standard for a subcategory under which an Industrial User may be included, the Industrial User or POTW may request that the Water Management Division Director or Director, as appropriate, provide written certification on whether the Industrial User falls within that particular subcategory. If an existing Industrial User adds or changes a process or operation which may be included in a subcategory, the existing Industrial User must request this certification prior to commencing discharge from the added or changed processes or operation. A New Source must request this certification prior to commencing discharge. Where a request for certification is submitted by a POTW, the POTW shall notify any affected Industrial User of such submission. The Industrial User may provide written comments on the POTW submission to the Water Management Division Director or Director, as appropriate, within 30 days of notification.

(2) *Contents of Application.* Each request shall contain a statement:

(i) Describing which subcategories might be applicable; and

(ii) Citing evidence and reasons why a particular subcategory is applicable and why others are not applicable. Any person signing the application statement submitted pursuant to this section shall make the following certification:

I have personally examined and am familiar with the information submitted in the attached document, and I hereby certify under penalty of law that this information was obtained in accordance with the requirements of § 403.6(a). Moreover, based upon my inquiry of those individuals immediately responsible for obtaining the information reported herein, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

* * * * *

(b) *Deadline for Compliance With Categorical Standards.* Compliance by existing sources with categorical Pretreatment Standards shall be within 3 years of the date the Standard is effective unless a shorter compliance time is specified in the appropriate subpart of 40 CFR Chapter I, Subchapter N. Direct Dischargers with NPDES permits modified or reissued to provide a variance pursuant to section 301(i)(2) of the Act shall be required to meet compliance dates set forth in any applicable categorical Pretreatment Standard. Existing sources which become Industrial Users subsequent to promulgation of an applicable categorical Pretreatment Standard shall be considered existing Industrial Users except where such sources meet the definition of a New Source as defined in § 403.3(k). Compliance with categorical Pretreatment Standards for New Sources will be required upon promulgation.

* * * * *

10. Section 403.6 is amended by removing the words "long-term average value(s)" from paragraph (e) each place they appear and inserting, in their place, the words "average monthly value(s)."

§ 403.7 [Amended]

11. In the second sentence of § 403.7(d)(1), "aditional" is changed to read "additional".

12. In § 403.7(d)(2), "in not case later than July 1, 1983" is corrected to read "in no case later than July 1, 1983".

§ 403.8 [Amended]

13. Section 403.8 is amended by revising the reference to "(44 FR 34783 (1979))" in paragraph (b) to read "(47 FR 53666 (November 26, 1982))".

14. Section 403.8 is amended by revising paragraph (c) to read as follows:

Appendix C—Industrial Categories Subject to National Categorical Pretreatment Standards

Aluminum Forming
Asbestos Manufacturing
Battery Manufacturing
Builder's Paper
Carbon Black
Cement Manufacturing
Coil Coating
Copper Forming
Dairy Products Processing
Electrical and Electronic Components
Electroplating
Feedlots
Ferroalloy Manufacturing
Fertilizer Manufacturing
Fruits and Vegetables Processing Manufacturing
Glass Manufacturing
Grain Mills Manufacturing
Ink Formulating
Inorganic Chemicals
Iron and Steel Manufacturing
Leather Tanning and Finishing
Meat Processing
Metal Finishing
Metal Molding and Casting
Nonferrous Metals Forming
Nonferrous Metals Manufacturing
Paint Formulating
Paving and Roofing (Tars and Asphalt)
Pesticides
Petroleum Refining
Pharmaceuticals
Phosphate Manufacturing
Porcelain Enameling
Pulp and Paper
Rubber Processing
Seafood Processing
Soaps and Detergents Manufacturing
Steam Electric
Sugar Processing
Timber Products Manufacturing
Plastics Molding and Forming
Textile Mills.

PART 122—[AMENDED]

28. The authority citation for Part 122 continues to read as follows:

Authority: The Clean Water Act, 33 U.S.C. 1251 *et seq.*

29. 40 CFR 122.62 is amended by revising paragraph (a)(7) to read as follows:

§ 122.62 Modification or revocation and reissuance of permits (applicable to State programs, see § 123.25).

* * * * *

(a) * * *.

(7) *Reopener.* When required by the "reopener" conditions in a permit, which are established in the permit under § 122.44(b) (for CWA toxic effluent limitations) or 40 CFR 403.10(d) (pretreatment program), except that when a modification clause established under 40 CFR 403.10(d) relates to the incorporation in a POTW's permit of a pretreatment program approved in accordance with the procedures in 40 CFR 403.11, such modification shall be deemed a minor modification subject to the procedures in § 122.63.

* * * * *

30. 40 CFR 122.63 is amended by adding a new paragraph (g) to read as follows:

§ 122.63 Minor modifications of permits.

* * * * *

(g) Incorporate conditions of a POTW pretreatment program that has been approved in accordance with the procedures in 40 CFR 403.11 as enforceable conditions of the POTW's permit.

* * * * *

FR Doc. 86–12540 Filed 6–3–86; 8:45 am]
BILLING CODE 6560–50–M

federal register

Wednesday
June 4, 1986

Part VII

Department of Health and Human Services

Health Care Financing Administration

42 CFR Parts 405 and 412

Medicare Program; Changes to the Inpatient Hospital Prospective Payment System and FY 1987 Rates; Correction of Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405 and 412

[BERC-353-CN]

Medicare Program; Changes to the Inpatient Hospital Prospective Payment System and FY 1987 Rates; Correction

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects the proposed rule, published on June 3, 1986, that would amend the Medicare regulations governing the inpatient hospital prospective payment system (51 FR 19970). We inadvertently failed to discuss in the preamble of the proposed rule an option concerning treatment of capital payments under the prospective payment system.

FOR FURTHER INFORMATION CONTACT: Linda Magno, (301) 594–9343.

SUPPLEMENTARY INFORMATION: We are making this correction to add an option that we inadvertently failed to include in our proposals for payment of capital-related costs under the prospective payment system as described in the preamble to the June 3, 1986 notice of proposed rulemaking (NPRM). In section II.C. of that document, we discuss our proposed changes for the phase-in of payment of capital under the prospective payment system. In determining the capital-related hospital-specific rate, we proposed to update that rate by the prospective payment update factor, that is, the applicable percentage change under section 42 CFR 412.63(e) of the regulations.

In section II.D. of the preamble to the June 3, 1986 NPRM, we listed for public consideration a number of options for treatment of capital payments under the prospective payment system, in addition to our specific proposal. We listed these options because we wish to ensure that the capital payment method we use is fair and appropriate. We recognize that the capital payment transition period will be a critical time for hospitals to adjust their operations and plans in preparation for a single comprehensive payment mechanism.

However, in this section, we inadvertently omitted an important option which had been discussed in our March 14, 1986 Report to Congress ("Hospital Capital Expenses: A Medicare Payment Strategy for the Future"). Therefore, in the June 3, 1986 proposed rule (the public comment period for which ends on July 3, 1986, as specified in that rule) **Federal Register** Doc. 86–12287, make the following addition. Following section II.D.6. of the preamble, add section II.D.7. as follows:

II.D.7. Update of the Capital-Related Hospital-Specific Rate

Rather than updating the capital-related hospital-specific rate by the overall prospective payment update factor (Section 412.63(e)), we would alternatively update that rate by the amount of change in the capital component of the hospital market basket. The capital component of the hospital market basket represents the change from year to year of hospitals' cost of making capital investments.

This option has the advantage of using an inflation factor that is associated specifically with hospital investment. If the costs of capital investments increase, the capital component of the hospital market basket would increase in a similar fashion. Likewise, if the capital cost of investments decreases, the capital component of the hospital market basket would decrease.

If this option is adopted in the final rule, we would expect to forecast the changes in the capital component of the hospital market basket by hospital cost reporting period. We would provide for corrections for forecast errors in the capital component of the hospital market basket.

We note that this option could not be used in conjunction with the rolling base-year option, because the rolling base-year option would use actual capital costs for each year rather than updating a fixed base-year amount.

(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare—Hospital Insurance Program)

Authority: Secs. 1102, 1122, 1871, and 1886 of the Social Security Act, as amended (42 U.S.C. 1302, 1320a–1(d), 1395hh, and 1395ww).

Dated: June 2, 1986.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: June 3, 1986.

Otis R. Bowen, M.D.,

Secretary.

[FR Doc. 86–12708 Filed 6–3–86; 11:19 am]

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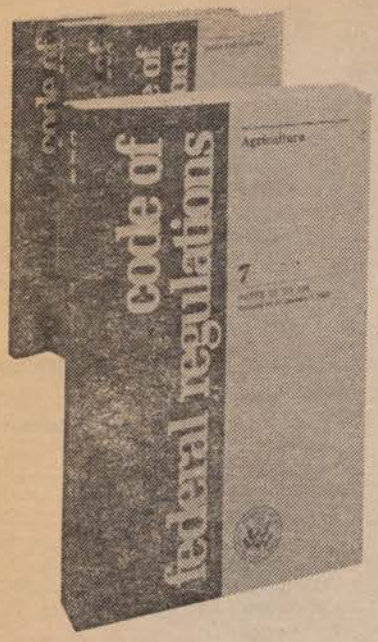
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S. 2460 / Pub. L. 99-331

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