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Wednesday
August 13, 1986

Briefings on How to Use the Federal Register—
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

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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.

WASHINGTON, DC

WHEN: September 25; at 9 am.

WHERE: Office of the Federal Register,
First Floor Conference Room,
1100 L Street NW., Washington, DC.

RESERVATIONS: Doris Tucker 202–523–3419

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DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Commodity Credit Corporation

7 CFR Part 770

Food Security Act; Interim Rule

AGENCY: Commodity Credit Corporation and Agricultural Stabilization and Conservation Service, USDA.

ACTION: Interim rule.

SUMMARY: The Food Security Act of 1985 (the "1985 Act"), approved on December 23, 1985, amended the Agricultural Act of 1949 (the "1949 Act") to authorize price support, payment and production adjustment programs for the 1986 through 1990 crops of rice, upland cotton, feed grains and wheat. An interim rule was published on March 11, 1986 (51 FR 8428), which set forth the terms and conditions of these programs. The Food Security Improvements Act of 1986 (the "1986 Act"), approved on March 20, 1986, further amended the 1949 Act with respect to such programs. Another interim rule was published on June 16, 1986 (51 FR 21828) to amend the regulations found at 7 CFR Part 713 to implement the provisions of the 1986 Act and to amend certain other provisions of the regulations found at 7 CFR Parts 713, 770, 795 and 1425.

This interim rule amends the regulations found at 7 CFR 770.4 (g)(2) with respect to commodity certificates issued as payments to first handlers of upland cotton and inventory protection payments with respect to upland cotton to make them applicable also to commodity certificates which are issued as payments to upland cotton producers who agree to forgo obtaining loans and with are issued as additional yield payments to upland cotton producers whose farm program payment yields were reduced below the farm program payment yield for the 1985 crop year. Under the amended regulations, certificates issued as loan deficiency payments and as additional yield payments to producers of upland cotton will be treated in the same manner with respect to the exchange of the certificates for CCC-owned upland cotton as certificates issued as payments to first handlers of upland cotton.

Since this interim rule amends provisions of Title 7 of the Code of Federal Regulations which were added by interim rules published on March 11, 1986 (51 FR 8428) and June 16, 1986 (51 FR 21828), the comment periods for the previously published interim rules have been extended to coincide with the comment period applicable to this interim rule.

EFFECTIVE DATES: August 1, 1986. Comments must be received on or before August 28, 1986, in order to be assured of consideration. The comment periods for the interim rules published at 51 FR 8428, March 11, 1986 and at 51 FR 21828, June 16, 1986 are extended to August 28, 1986.

ADDRESS: Send comments to: Director, Cotton, Grain, And Rice Price Support Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Tom VonGarlem, Assistant Deputy Administrator, State and County Operations, ASCS, P.O., Box 22415, Washington, DC, (202) 447-6761.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under USDA procedures implementing Executive Order 12291 and Departmental Regulation 1512-1 and has been classified "not major". It has been determined that this rule will not result in: (1) An annual effect on the economy or $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Impact Analyses are being prepared with respect to the programs for the 1986 crops of wheat, feed grains, cotton and rice. Copies of the analyses will be available to the public from Director, Commodity Analysis Division, Agricultural Stabilization and Conservation Service, USDA, Room 3741, South Agriculture Building, 14th and Independence Ave., P.O., Box 2415, Washington, DC 20013.

The titles and number of the Federal Assistance Programs to which this interim rule applies are: Commodity Loans and Purchases—10.051; Cotton Production Stabilization—10.052; Rice Production Stabilization—10.065; as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since neither the Agricultural Stabilization and Conservation Service ("ASCS") nor the Commodity Credit Corporation ("CCC") is required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

This program/activity 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 Part 3015, Subpart V, Published at 48 FR 29115 (June 24, 1983).

Producers have already begun harvest of the 1986 crop of upland cotton and will be immediately requesting loan deficiency payments and additional yield payments. It has been determined, therefore, that the rules governing certificates issued as loan deficiency payments and additional yield payments shall be effective August 1, 1986. However, comments are requested with respect to this interim rule and such comments, in addition to the comments received in response to the interim rules published on March 11, 1986 (51 FR 8428) and June 16, 1986 (51 FR 21828), shall be considered in developing the final rule.

Changed Provisions

The regulations found at 7 CFR 770.4(g)(2) with respect to commodity certificates issued as payments to first handlers and inventory protection payments for upland cotton and

amended to make them applicable to commodity certificates which are issued as payments to upland cotton producers who agree to forgo obtaining loans and those which are issued as additional yield payments to upland cotton producers whose farm program payment yields were reduced below the farm program payment yield for the 1985 crop year. The regulations are also amended for clarity.

List of Subjects in 7 CFR Part 770

Cotton, Feed grains, Price support programs, Wheat and Rice.

Accordingly, the regulations found at Part 770 of Chapter VII of Title 7 of the Code of Federal Regulations are amended as follows:

PART 770—[AMENDED]

1. The authority citation for part 770 continues to read as follows:

Authority: Secs. 4 and 5 of the Commodity Credit Corporation Charter Act, as amended, 62 Stat. 1070, as amended, 1072 (15 U.S.C. 714b and 714c); secs. 101A, 103A, 105C, 107C, 107D, 107E, and 405 of the Agricultural Act of 1949, as amended; 99 Stat 1419, as amended, 1407, as amended, 1395, as amended, 1446, 1383, as amended, 63 Stat. 1054, as amended (7 U.S.C. 1441–1, 1444–1, 1444b, 1444b–2, 1444–3, 1444b–4, 1445d, and 1425).

2. Section 770.4 (g)(2) is revised to read as follows:

§ 770.4 Commodity certificates.

* * * * *

(g) *"Generic" and commodity-specific commodity certificates.*

* * * * *

(2) *Upland cotton—Payments to first handlers, payments to producers who agree to forgo obtaining loans, additional yield payments, and inventory protection payments.* Nothwithstanding any other provision of this section, a certificate issued as payment to first handlers of cotton, as payment to upland cotton producers who agree to forgo obtaining price support loans, or as an additional yield payment to producers of upland cotton, as determined by CCC in accordance with sections 103A(a)(5)(D)(ii), 103A(b), and 506(b)(2), respectively, of the Agricultural Act of 1949, as amended, may not be exchange for CCC-owned upland cotton until after the expiration of five months following the month in which such certificate is issued. Certificates issued as payments which are determined to be necessary to make raw upland cotton in inventory on August 1, 1986, available at competitive prices as determined by CCC in accordance with section 103A(a)(5)(D)(ii) of the Agricultural Act of 1949, as amended, may be exchanged for CCC-owned upland cotton only during such period or periods as may be determined and announced by CCC.

* * * * *

Signed at Washington, DC, on August 6, 1986.

Milt Hertz,

Acting Executive Vice President, Commodity Credit Corporation and Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 86–18068 Filed 8–12–86; 8:45 am]

BILLING CODE 3410–05–M

Agricultural Marketing Service

7 CFR Part 932

Grade and Size Requirements for Limited Use Olives Grown in California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule extends until July 31, 1987, the grade and size requirements for processed olives which are used in the production of limited use styles olives (such as halved, segmented, sliced, or chopped canned ripe olives). This action permits the use of olives too small to be desirable for use as whole (pitted or unpitted) ripe olives in the production of other styles of olives.

EFFECTIVE DATE: August 13, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250; Telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

This regulation is issued under the marketing agreement, as amended, and Order No. 932, as amended (7 CFR Part 932), regulating the handling of olives grown in California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action was recommended by the California Olive Committee at its meeting of July 8, 1986, and will continue a relaxation of the regulation which allows the use of smaller olives for limited purposes. The committee works with the Department in administering the marketing agreement and order.

Section 932.52(a)(3) provides that processed olives smaller than the sizes prescribed for whole and pitted styles may be used annually for limited use. The subparagraph further provides for the establishment of a size tolerance as recommended by the committee and approved by the Secretary. The sizes are specified in terms of minimum weights for individual olives in the various size categories.

The committee recommended that the grade and size requirements in effect for limited use olives for the 1985–86 crop year also apply for the 1986–87 crop year (August 1–July 31). This will allow handlers to take advantage of the strong demand for halved, segmented, sliced, and chopped canned ripe olives by allowing the use of olives too small to be used as whole or pitted olives. The effect of the action will be to enhance supplies and give handlers additional marketing flexibility.

After consideration of all relevent matter presented, including the recommendation of the committee, it is determined that the grade and size requirements in effect for limited use olives during the 1985–86 crop year shall apply during the 1986–87 season, and that the use of small olives for such purposes during the 1986–87 season will tend to effectuate the declared policy of the act.

It is found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that: (1) There is insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act; (2) handlers are aware of this action as proposed by the California Olive Committee; (3) compliance with this regulation will require no special preparation by handlers because this regulation is the

same as the one for the 1985–86 season; and (4) this action relieves restrictions on handlers.

List of Subjects in 7 CFR Part 932

Marketing agreements and orders, Olives, California.

PART 932—[AMENDED]

1. The authority citation for 7 CFR Part 932 continues to read as follows:

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

2. Section 932.153 is revised to read as follows:

§ 932.153 Establishment of grade and size requirements for processed 1986–87 crop year olives for limited use.

(a) *Grade.* On and after August 1, 1986, any handler may use processed olives of the respective variety group in the production of limited use styles of canned ripe olives if such olives were processed after July 31, 1986, and meet the grade requirements specified in § 932.52(a)(1) as modified by § 932.149.

(b) *Sizes.* On and after August 1, 1986, any handler may use processed olives in the production of limited use styles of canned ripe olives if such olives were harvested during the period August 1, 1986, through July 31, 1987, and meet the following requirements:

(1) The processed olives shall be identified and kept separate and apart from any olives harvested before August 1, 1986, or after July 31, 1987.

(2) Variety Group 1 olives, except the Ascolano, Barouni, or St. Agostino varieties, shall be of a size which individually weigh 1/90 pound: *Provided,* That not to exceed 25 percent of the olives in any lot or sublot may be smaller than 1/90 pound;

(3) Variety Group 1 olives of the Ascolano, Barouni, of St. Agostino varieties shall be of a size which individually weigh 1/140 pound: *Provided,* That not to exceed 25 percent of the olives in any lot or sublot may be smaller than 1/140 pound;

(4) Variety Group 2 olives, except the Obliza variety, shall be of a size which individually weigh 1/180 pound: *Provided,* That not to exceed 20 percent of the olives in any lot or sublot may be smaller than 1/180 pound;

(5) Variety Group 2 olives of the Obliza variety shall be of a size which individually weigh 1/140 pound: *Provided,* That not to exceed 20 percent of the olives in any lot or sublot may be smaller than 1/140 pound.

Dated: August 8, 1986.

Thomas R. Clark,

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

[FR Doc. 86–18223 Filed 8–12–86; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of United Airlines, Inc.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends the listing of transportation lines which have entered into agreements with the Service for the preinspection of their passengers and crew at locations outside the United States by adding the name of United Airlines, Inc.

EFFECTIVE DATE: August 4, 1986.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: The Commissioner of Immigration and Naturalization entered into an agreement with United Airlines, Inc. on August 4, 1986, to provide for the preinspection of their passengers and crew as provided by section 238(b) of the Immigration and Nationality Act, as amended (8 U.S.C. 1228(b)). Preinspection outside the United States facilitates processing passengers and crew upon arrival at a U.S. port of entry and is a convenience to the traveling public.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely adds transportation lines' names to the present listing and is editorial in nature.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Aliens, Common carriers, Government contracts, Inspections, Transportation lines.

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

PART 238—CONTRACTS WITH TRANSPORTATION LINES

1. The authority citation for Part 238 continues to read as follows:

Authority: Secs. 103 and 238 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103 and 1228).

§ 238.4 [Amended]

2. In § 238.4 Preinspection outside the United States, the listing of transportation lines is amended by adding the name United Airlines, Inc. under "at Calgary."

Dated: August 5, 1986.

Harriet B. Marple,

Acting Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 86–18207 Filed 8–12–86; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86–ASO–10]

Alteration of VOR Federal Airway V–512

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes that portion of V–512 which is aligned from Lexington, KY, to Elkins, WV. This airway is not utilized and except for one segment is identical to existing airways.

EFFECTIVE DATE: 0901 UTC, October 23, 1986.

FOR FURTHER INFORMATION CONTACT: William Davis, Airspace and Air Traffic Rules Branch (ATO–230), Airspace–Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

History

On May 23, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revoke that portion of V–512 which is aligned from Lexington, KY, to Elkins, WV, via Newcombe, KY, and Charleston, WV (51 FR 18895). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal

were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations revokes that portion of V–512 which is aligned from Lexington, KY, to Elkins, WV, via Newcombe, KY, and Charleston, WV. The airway is not utilized and except for one segment is identical to other existing airways. Revocation precludes dual numbering and resolves current boundary as well as air traffic control computer problems experienced between Charleston and Elkins.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal Airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

2. Section 71.123 is amended as follows:

V–512 [Amended]

By removing the words "Lexington; Newcombe, KY; Charleston, WV; INT Charleston 083° and Elkins, WV, 228° radials; to Elkins" and by substituting the words "to Lexington."

Issued in Washington, DC, on August 6, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–18149 Filed 8–12–86; 8:45 am]

BILLING CODE 4910–13–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1209

Boards and Committees

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: The National Aeronautics and Space Administration is amending 14 CFR 1209 by revising Subpart 1209.3, "Contract Adjustment Board." The proposed changes will conform the regulation with the way the Board is actually organized and understood by the general public. This revision reflects a change in the cite to the applicable procurement regulations and a change in the cite to the NASA Management Instruction which sets forth the standards and procedures governing requests for extraordinary contractual adjustments.

Since this action is internal and administrative in nature and does not affect the existing regulations, notice and public comment are not required.

EFFECTIVE DATE: August 13, 1986.

ADDRESS: Contract Adjustment Board, Code GG, National Aeronautics and Space Administration, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Helen S. Kupperman, 202–453–2465.

SUPPLEMENTARY INFORMATION: The National Aeronautics and Space Administration has determined that:

1. This rule is not subject to the requirements of the Regulatory Flexibility Act; 5 U.S.C. 601–612, since it will not exert a significant economic impact on a substantial number of small entities.

2. This rule is not a major rule as defined in Executive Order 12291.

List of Subjects in 14 CFR Part 1209

Contract Adjustment Board, Organizations and functions.

PART 1209—BOARDS AND COMMITTEES

14 CFR Part 1209 is amended by revising Subpart 1209.3 to read as follows:

Subpart 1209.3—Contract Adjustment Board

Authority: Pub. L. 85–804 and 42 U.S.C. 2473(c)(1).

Subpart 1209.3—Contract Adjustment Board

§ 1209.300 Scope.

This subpart continues in effect the Contract Adjustment Board (hereinafter referred to as "the Board") to consider and dispose of requests for extraordinary contractual adjustments by contractors of the National Aeronautics and Space Administration (hereinafter referred to as NASA).

§ 1209.301 Authority.

(a) The Act of August 28, 1958 (50 U.S.C. 1431–35) (hereinafter referred to as "the Act"), empowers the President to authorize departments and agencies exercising functions in connection with the national defense to enter into contracts or into amendments or modifications of contracts and to make advance payments, without regard to other provisions of law relating to the making, performance, amendment, or modification of contracts, whenever the President deems that such action would facilitate the national defense.

(b) Executive Order No. 10789, dated November 14, 1958 (23 FR 8897), authorizes the Administrator, NASA, to exercise the authority conferred by the Act and to prescribe regulations for the carrying out of such authority.

(c) Federal Acquisition Regulation (FAR), Part 50, April 1, 1985, and NASA/FAR Supplement 84–2, Part 18–50, October 19, 1984, establishes standards and procedures for the disposition of requests for extraordinary contractual adjustments by NASA contractors.

§ 1209.302 Establishment of Board.

The Board was established on May 15, 1961, and is continued in effect by NASA Management Instruction (NMI) 1152.5 and this regulation.

§ 1209.303 Functions of Board.

(a) The Board is authorized to act for and exercise the authority of the Administrator in cases involving request by NASA contractors for extraordinary contractual adjustments under the Act. Such authority will be exercised in accordance with the standards and procedures established by the

Administrator, subject to such limitations as the Administrator may prescribe.

(b) The Board shall have the power to approve, authorize or direct any action, including the modification or release of any obligations, and to make determinations and findings which are necessary or appropriate for the conduct of its functions, and may adopt such rules of procedure as it considers desirable.

(c) The concurring vote of a majority of the total Board membership shall constitute an action of the Board. Decisions of the Board shall be final but the Board may reconsider and modify, correct or reverse any Board decision previously made.

§ 1209.304 Membership.

The Board will consist of a chairperson and four other members, all of whom shall be appointed by the Administrator.

§ 1209.305 Legal advice and assistance.

The General Counsel of NASA shall provide the Board with all necessary advice and assistance.

James C. Fletcher,

Administrator.

[FR Doc. 86-18168 Filed 8-12-86; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF COMMERCE

15 CFR Part 20

[Docket No. 60467-6067]

Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance

AGENCY: Department of Commerce.

ACTION: Final rule.

SUMMARY: The Department of Commerce (DOC) is required to issue regulations implementing the Age Discrimination Act (Act) of 1975, as amended. The DOC is issuing specific regulations to carry out this responsibility which will apply to all entities within the Department that administer programs of Federal financial assistance. The Act prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. It contains certain exceptions which permit, under limited circumstances, continued use of age distinctions or factors other than age which may have a disproportionate effect on a particular age group. The Act excludes from its coverage most employment practices. The Department of Commerce has no statutory, regulatory or administrative age distinctions; however, we must ensure that adequate and effective protection is provided for any person who may have a compliant under this statute.

EFFECTIVE DATE: September 12, 1986.

FOR FURTHER INFORMATION CONTACT: Arthur E. Cizek, Chief, Compliance Division, Office of Civil Rights, U.S. Department of Commerce, Washington, DC 20230, (202) 377-4993.

SUPPLEMENTARY INFORMATION: The history of the Act can be found in the background section of the general regulations issued by the Department of Health, Education and Welfare (HEW), now the Department of Health and Human Services (HHS), to implement the Act and to guide the development of each agency's specific regulations. *See* 44 FR 33768 (June 12, 1979). The Act is designed to prohibit discrimination on the basis of age in programs or activities which receive Federal financial assistance. The Act also contains certain exceptions which permit, under certain circumstances, age distinctions and factors other than age to continue in use. The Act applies to persons of all ages.

Proposed DOC regulations were published at 45 FR 46437 on July 10, 1980. No comments were received relative to those proposed regulations. The final rules were cleared by HHS on September 10, 1985, as consistent with their final regulations with no revisions necessary.

Although the Act generally covers all programs and activities which receive Federal financial assistance, it does not apply to any age distinction "established under authority of any law" which provides benefits or establishes criteria for participation on the basis of age or in age-related terms. Thus, age, distinctions which are "established under authority of any law" may continue in use. The phrase "any law" means Federal statutes, State statutes or local statutes adopted by elected, general purpose legislative bodies.

The Act excludes from its coverage most employment practices, except for programs funded under the public service employment titles. The regulations cover any program or activity which is both a program of Federal financial assistance and provides employment. The Age Discrimination in Employment Act (ADEA) of 1967, as amended, administered by the Equal Employment Opportunity Commission, prohibits employment discrimination for persons between the ages of 40 and 70. Individuals in this age range who experience employment discrimination, other than in public service employment programs, must look to the ADEA for relief, not to the Age Discrimination Act (ADA). The ADA authorizes a complainant to bring a private lawsuit after the exhaustion of administrative remedies.

The DOC programs of Federal financial assistance are listed in 15 CFR Part 8 Appendix A. The list of programs covered by Title VI of the Civil Rights Act of 1964, 43 FR 49303 (October 23, 1978) and 44 FR 12642 (March 8, 1979) is being revised.

By separate document a new Appendix B will be added to 15 CFR Part 8 reflecting that DOC has no age distinctions which appear in Federal statutes and regulations which affect the agency's programs of Federal financial assistance.

Executive Order 12291

This final rule is not a "major rule" as defined in Executive Order 12291 because it will not 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 on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The General Counsel of the Department of Commerce has 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 rule simply establishes basic substantive and procedural elements necessary for the Department to carry out its responsibility under the Age Discrimination Act of 1975. The statutory requirements can be easily integrated into existing nondiscrimination activities and compliance procedures. As a result, neither an initial nor final Regultory Flexibility Analysis has been or will be prepared.

Paper Reduction Act

Under section 3518 of the Paperwork Reduction Act of 1980 and 5 CFR 1320.(c), the information contained in this regulation is not subject to the

Office of Management and Budget review and approval.

List of Subjects in 15 CFR Part 20

Aged; Grants administration.

Katherine M. Bulow,

Assistant Secretary for Administration.

Part 20 is added to Title 15 of the Code of Federal Regulations to read as follows:

PART 20—NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Subpart A—General

Sec.

Subpart B—Standards for Determining Age Discrimination

Subpart C—Responsibilities of DOC Recipients

Subpart D—Investigation, Conciliation, and Enforcement Procedures

Authority: Age Discrimination Act of 1975, as amended, 42 U.S.C. Sec. 6101 *et seq.* and the government-wide regulations implementing the Act, 45 CFR Part 90.

Subpart A—General

§ 20.1 The purpose of DOC's age discrimination regulations.

The purpose of these regulations is to set out DOC's policies and procedures under the Age Discrimination Act of 1975 and the general age discrimination regulations at 45 CFR Part 90. The Act and the general regulations prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act and the general regulations permit federally assisted programs and activities, and recipients of Federal funds, to continue to use age distinctions and factors other than age which meet the requirements of the Act and its implementing regulations.

§ 20.2 Programs to which these regulations apply.

(a) The Act and these regulations apply to each DOC recipient and to each program or activity operated by the recipient which receives or benefits from Federal financial assistance provided by any entity of DOC.

(b) The Act and these regulations do not apply to:

(1) An age distinction contained in that part of a Federal, State, or local statute or ordinance adopted by an elected, general purpose legislative body which:

(i) Provides benefits or assistance to persons based on age; or

(ii) Establishes criteria for participation in age-related terms; or

(iii) Describes intended beneficiaries or target groups in age-related terms.

(2) Any employment practice or any employer, employment agency, labor organization, or any labor-management joint apprenticeship training program, except for any program or activity receiving Federal financial assistance for public service employment.

§ 20.3 Definitions.

As used in these regulations, the following terms are defined as follows:

(a) "Act" means the Age Discrimination Act of 1975, as amended (Title III of Pub. L. 94–135).

(b) "Action" means any act, activity, policy, rule, standard, or method of administration; or the use of any policy, rule, standard, or method of administration.

(c) "Age" means how old a person is, or the number of years from the date of a person's birth.

(d) "Age distinction" means any action using age or an age-related term.

(e) "Age-related term" means a word or words which necessarily imply a particular age or range of ages (for example: "children," "adult," "older persons," but not "student").

(f) "Agency" means a Federal department or agency that is empowered to extend financial assistance.

(g) "DOC" means the U.S. Department of Commerce.

(h) "Federal financial assistance" means any grant, entitlement, loan, cooperative agreement, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the agency provides or otherwise makes available assistance in the form of:

(1) Funds; or

(2) Services of Federal personnel; or

(3) Real and personal property or any interest in or use of property, including:

(i) Transfers or leases of property for less than fair market value or for reduced considerations; and

(ii) Proceeds from a subsequent transfer or lease of property if the Federal share of its fair market value is not returned to the Federal Government.

(i) "Normal operation" means the operation of a program or activity without significant changes that would impair its ability to meet its objectives.

(j) "Recipient" means any State or its political subdivision, any instrumentality of a State or its political sub-division, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended, directly or through another recipient. Recipient includes any successor, assignee, or transferee, but excludes the ultimate beneficiary of the assistance.

(k) "Secretary" means the Secretary of Commerce or his or her designee.

(l) "Statutory objective" means any purpose of a program or activity expressly stated in any Federal statute, State statute, or local statute or ordinance adopted by an elected, general purpose legislative body.

(m) "Subrecipient" means any of the entities in the definition of "recipient" to which a recipient extends or passes on Federal financial assistance. A subrecipient is generally regarded as a recipient of Federal financial assistance and has all the duties of a recipient in these regulations.

(n) "United States" means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, the Northern Marianas, and the territories and possessions of the United States.

Subpart B—Standards for Determining Age Discrimination

§ 20.4 Rules against age discrimination.

The rules stated in this section are limited by the exceptions contained in § 20.5.

(a) General rule: No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

(b) Specific rules: A recipient may not, in any program or activity receiving Federal financial assistance, directly or through contractual licensing, or other arrangements, use age distinctions or

take any other actions which have the effect, on the basis of age, of:

(1) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under, a program or activity receiving Federal financial assistance, or

(2) Denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance.

(c) The specific forms of age discrimination listed in paragaph (b) of this section do not necessarily constitute a complete list.

(d) If a recipient operating a program provides special benefits to the elderly or to children, such use of age distinctions shall be presumed to be necessary to the normal operation of the program, notwithstanding the provisions of § 20.5.

§ 20.5 Exceptions to the rules.

(a) *Normal operations or statutory objective of any program or activity.* A recipient is permitted to take an action otherwise prohibited by § 20.4 if the action reasonably considers age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity. An action meets this standard if:

(1) Age is used as a measure or approximation of one or more other characteristics; and

(2) The other characteristic(s) must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective or the program or activity; and

(3) The other characteristic(s) can be reasonably measured or approximated by the use of age; and

(4) The other characteristic(s) are impractical to measure directly on an individual bases.

(b) *Reasonable factors other than age.* A recipient is permitted to take an action otherwise prohibited by § 20.4 which is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. An action may be based on a factor other than age only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective.

§ 20.6 Burden of proof.

The burden of proving that an age distinction or other action falls within the exceptions outlined in § 20.5 is on the recipient of Federal financial assistance.

Subpart C—Responsibilities of DOC Recipients

§ 20.7 General responsibilities.

Each DOC recipient has primary responsibility to ensure that its programs and activities are in compliance with the Act, the general regulations, and these regulations, and shall take steps to eliminate violation of the Act.

(a) Each DOC recipient will provide an assurance that the program for which it is receiving Federal financial assistance will be conducted in compliance with all requirements for the Act and these and other DOC regulations. A recipient also has responsibility to maintain records, provide information, and to afford DOC reasonable access to its records and facilities to the extent necessary to determine whether it is in compliance with the Act and these regulations.

(b) *Recipient assessment of age distinctions.* (1) To assess the recipient's compliance with the Act, DOC may, as part of a compliance review under § 20.10 or a complaint investigation under § 20.11, require a recipient employing the equivalent or 15 or more employees, to complete, in a manner specified by the responsible Department official, a written self-evaluation of any age distinction imposed in its program or activity receiving Federal financial assistance from DOC.

(2) Whenever an assessment indicates a violation of the Act and the DOC regulations, the recipient shall take corrective action.

§ 20.8 Notice of subrecipients

Where a recipient passes on Federal financial assistant from DOC to subrecipients, the recipient shall give subrecipients written notice of their obligations under the Act and these regulations.

§ 20.9 Information requirements

Upon DOC's request, each recipient shall provide access and make information available for DOC to determine whether the recipient is complying with the Act and these regulations.

Subpart D—Investigation, Conciliation, and Enforcement Procedures

§ 20.10 Compliance reviews.

(a) DOC may conduct compliance reviews and pre-award reviews or use other similar procedures that will permit it to investigate and correct violations of the Act and these regulations. DOC may conduct such review even in the absence of a complaint against a recipient. The review may be as comprehensive as necessary to determine whether a violation of the Act and these regulations has occurred.

(b) If a compliance review of pre-award review indicates a violation of the Act or these regulations, DOC will attempt to achieve voluntary compliance with the Act. If voluntary compliance cannot be achieved, DOC will arrange for enforcement as described in § 20.15.

§ 20.11 Complaints.

(a) Any person, individually, or as a member of a class, or on behalf of others, may file a complaint with DOC alleging discrimination prohibited by the Act or these regulations based on an action occurring on or after July 1, 1979. A complainant shall file a complaint within 180 days from the date the complainant first had knowledge of the alleged act of discrimination. However, for good cause shown, DOC may extend this time limit.

(b) DOC will attempt to facilitate the filing of complaints wherever possible, including taking the following measures:

(1) Accepting as a sufficient complaint, any written statement which: identifies the parties involved and the date the complainant first had knowledge of the alleged violation; describes generally the action or practice complained of; and is signed by the complainant;

(2) Freely permitting a complainant to add information to the complaint to meet the requirements of a sufficient complaint;

(3) Considering as the filing date, the date on which a complaint is sufficient to be processed;

(4) Notifiying the complainant and the recipient of their rights and obligations under the compliant procedure, including the right to have a representative at all stages of the process;

(5) Notifying the complainant and the recipient (or their representatives) of their right to contact DOC for information and assistance regarding the complaint resolution process.

(c) DOC will return to the complainant any complaint outside the jurisdiction of these regulations, and will state the reason(s) why it is outside the jurisdiction of these regulations.

§ 20.12 Mediation.

(a) DOC will refer to a mediation service designated by the Secretary all sufficient complaints that:

(1) Fall within the jurisdiction of the Act and these regulations, unless the age distinction complained of is clearly within an exception; and

(2) Contain all information necessary for further processing.

(b) Both the complainant and the recipient shall participate in the mediation process to the extent necessary to reach an agreement or to make an informed judgment that an agreement is not possible.

(c) If the complainant and the recipient reach an agreement, the mediator shall prepare a written statement of the agreement and have the complainant and the recipient sign it. The mediator shall send a copy of the agreement to DOC. DOC will take no further action on the complaint unless the complainant or the recipient fails to comply with the agreement.

(d) The mediator is required to protect the confidentiality of all information obtained in the course of the mediation process. No mediator shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained, in the course of the mediation process without prior approval of the head or the mediation service.

(e) The mediation will proceed for a maximum of 60 days after a complaint is filed with DOC. Mediation ends if:

(1) 60 days elapse from the time DOC receives the complaint; *or*

(2) Prior to the end of that 60-day period, an agreement is reached; *or*

(3) Prior to the end of that 60-day period, the mediator determines that an agreement cannot be reached.

(f) The mediator shall return unresolved complaints to DOC.

§ 20.13 Investigation.

(a) Informal investigation:

(1) DOC will investigate complaints that are unresolved after mediatioin or are reopended because of a violation of a mediation agreement.

(2) As part of the initial investigation, DOC will use informal factfinding methods, including joint or separate discussions with the complainant and recipient, to establish the facts and, if possible, settle the complaint on terms that are mutually agreeable to the parties. DOC may seek the assistance of any involved State program agency.

(3) DOC will put any agreement in writing and have it signed by the parties and an authorized offical at DOC.

(4) The settlement shall not affect the operation of any other enforcement effort of DOC, including compliance reviews and investigation or other complaints which may involve the recipient.

(5) The settlement is not a finding of discrimination against a recipient.

(b) Formal investigation: If DOC cannot resolve the complaint through informal investigation, it will begin to develop formal findings through further investigation of the complaint. If the investigation indicates a violation of these regulations, DOC will attempt to obtain voluntary compliance. If DOC cannot obtain voluntary compliance, it will begin enforcement as described in § 8a.15.

§ 20.14 Prohibition against intimidation or retaliation.

A recipient may not engage in acts of intimidation or retaliation against any person who:

(a) Attempts to assert a right protected by the Act or these regulations; or

(b) Cooperates in any mediation, investigation, hearing, or other part of DOC's investigation, conciliation, and enforcement process.

§ 20.15 Compliance procedure.

(a) DOC may enforce the Act and these regulations by:

(1) Terminating the Federal financial assistance to the recipient under the program or activity found to have violated the Act or these regulations. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before an administrative law judge. If a case is settled during mediation, or prior to hearing, Federal financial assistance to the program will not be terminated.

(2) Any other means authorized by law including but not limited to:

(i) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations of the recipient created by the Act or these regulations.

(ii) Use of any requirement of or referral to any Federal, State, or local government agency that will have the effect of correcting a violation of the Act or these regulations.

(b) DOC will limit any termination under this section to the particular recipient and particular program or activity or part of such program and activity DOC finds in violation of these regulations. DOC will not base any part of a termination on a finding with respect to any program or activity of the recipient which does not receive Federal financial assistance from DOC.

(c) DOC will take no action under paragraph (a) until:

(1) The head of the organization providing the financial assistance has advised the recipient of its failure to comply with the Act and these regulations and has determined that voluntary compliance cannot be obtained.

(2) Thirty days have elapsed after the Secretary has sent a written report of the circumstances and grounds of the action to the committees of the Congress having legislative jurisdiction over the Federal program or activity involved. The Secretary will file a report whenever any action is taken under paragraph (a).

(d) DOC also may defer granting new Federal financial assistance to a recipient when a hearing under § 20.16 is initiated.

(1) New Federal financial assistance from DOC includes all assistance for which DOC requires an application or approval, including renewal or continuation of existing activities, or authorization of new activities, during the deferral period. New Federal financial assistance from DOC does not include increases in funding as a result of changed computation of formula awards or assistance approved prior to the beginning of a hearing under § 20.16.

(2) DOC will not begin a deferral until the recipient has received a notice of an opportunity for a hearing under § 20.16. DOC will not continue a deferral for more than 60 days unless a hearing has begun within that time, or the time for beginning the hearing has been extended by mutual consent of the recipient and the head of the organization providing Federal financial assistance. DOC will not continue a deferral for more than 30 days after the close of the hearing, unless the hearing results in a finding against the recipient.

(3) DOC will limit any deferral to the particular recipient and particular program or activity or part of such program or activity DOC finds in violation of these regulations. DOC will not base any part of a deferral on a finding with respect to any program or activity of the recipient which does not, and would not in connection with the new funds, receive Federal financial assistance for DOC.

§ 20.16 Hearings, decisions, post-termination proceedings.

Certain DOC procedural provisions applicable to Title VI of the Civil Rights Act of 1964 apply to DOC enforcement of these regulations. They are found in 15 CFR Part 8, § 8.12 and § 8.13.

§ 20.17 Remedial action by recipients.

(a) Where DOC finds that a recipient has discriminated on the basis of age, the recipient shall take any remedial action that DOC may require to overcome the effects of the discrimination. If another recipient exercises control over the recipient that

has discriminated, DOC may require both recipients to take remedial action.

(b) Even in the absence of a finding of discrimination, a recipient may take affirmative action to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity on the basis of age.

§ 20.18 Alternative funds disbursal procedure.

(a) When, under the provisions of these regulations, DOC terminates the funding of a recipient, the Secretary may, using undisbursed funds from the terminated award, make a new award to an alternate recipient, *i.e.* any public or non-profit private organization or agency, or State or political subdivision of the State.

(b) The Secretary will require any alternate recipient to demonstrate:

(1) The ability to comply with these regulations; and

(2) The ability to achieve the goals of the Federal statute authorizing the program or activity.

§ 20.19 Private lawsuits after exhaustion of administrative remedies.

(a) A complainant may file a civil action following the exhuastion of administrative remedies under the Act. Administrative remedies are exhausted if:

(1) 180 days have elapsed since the complainant filed the complaint and DOC has made no finding with regard to the complaint; or

(2) DOC issues any finding in favor of the recipient.

(b) If DOC fails to make a finding within 180 days or issues a finding in favor of recipient, DOC shall:

(1) Promptly advise the complainant of this fact; and

(2) Advise the complainant of his or her right to bring civil action for injunctive relief; and

(3) Inform the complainant that:

(i) The complainant may bring a civil action only in a United States district court for the district in which the recipient is located or transacts business;

(ii) A complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that the complainant must demand these costs in the complaint;

(iii) Before commencing the action, the complainant shall give 30 days notice by registered mail to the Secretary, the Attorney General of the United States, and the recipient;

(iv) The notice shall contain the alleged violation of the Act, the relief requested, the court in which the complainant is bringing the action, and whether or not attorney's fees are demanded in the event the complainant prevails; and

(v) The complainant may not bring an action if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States.

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BILLING CODE 3510-BP-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 74

[Docket No. 86N-0282; Formerly Docket No. 83C-0130]

[Phthalocyaninato(2-)] Copper; Migration from Nonabsorbable Sutures

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the color additive regulations by removing the provision that prohibits the migration of [phthalocyaninato(2-)] copper from nonabsorbable sutures to the surrounding tissues when the sutures are used for the purposes specified in their labeling. FDA is taking this action based on a proposal published previously in the **Federal Register**. The proposal made clear that the restriction is impractical and unnecessary to assure the safety or suitability of the use of [phthalocyaninato(2-)] copper in coloring nonabsorbable sutures.

DATES: Effective September 15, 1986, except as to any provisions that may be stayed by the filing of proper objections; objections by September 12, 1986. FDA will publish notice of the objections received or lack thereof in the **Federal Register**.

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

FOR FURTHER INFORMATION CONTACT: Marvin D. Mack, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 25, 1985 (50 FR 16310), FDA proposed that 21 CFR Part 74 be amended in § 74.3045 (21 CFR 74.3045) by removing paragraph (c)(1)(iii). As explained in the proposal, paragraph (c)(1)(iii) contains the provision that prohibits the migration of [phthalocyaninato(2-)] copper from a suture to surrounding tissues under the conditions of use. FDA is taking this action because, as explained in the proposal, the restriction is not necessary to assure the safety or suitability of the use of [phthalocyaninato(2-)] copper in sutures.

In the proposed rule, FDA gave interested persons until June 24, 1985, to file comments. The agency did not receive any comments on the proposed rule. Therefore, FDA is publishing the final rule without change.

The agency has previously considered the environmental effects of this rule as announced in the proposed rule (April 25, 1985; 50 FR 16310). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

In accordance with the Regulatory Flexibility Act, the agency previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

Any person who will be adversely affected by this regulation may at any time on or before September 12, 1986 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this

document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. FDA will publish notice of the objections that the agency has received or lack thereof in the **Federal Register.**

List of Subjects in 21 CFR Part 74

Color additives, Cosmetics, Drugs, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 74 is amended as follows:

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 74 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); 21 CFR 5.10.

§ 74.3045 [Amended]

2. Section 74.3045 [*Phthalocyaninato(2-)*] copper is amended by removing paragraph (c)(1)(iii).

Dated: August 6, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–18218 Filed 8–8–86; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 178

[Docket No. 84F-0170]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of a mixture of reaction products, produced by reacting octadecylamine with ethylene oxide and further reacting this product with octadecanoic acid, as an antistatic agent for polypropylene film. This action responds to a petition filed by Matsumoto Yushi-Seiyaku Co., Ltd.

DATES: Effective August 13, 1986; objections by September 12, 1986. The Director of the Federal Register approves the incorporation by reference of certain publications at 21 CFR 178.3130 effective August 13, 1986.

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

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St., SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 14, 1984 (49 FR 24601), FDA announced that a petition (FAP 4B3801) has been filed by Matsumoto Yushi-Seiyaku Co., Ltd., c/o Center for Regulatory Services, 2347 Paddock Lane, Reston, VA 22091, proposing that § 178.3130 (21 CFR 178.3130) be amended to provide for the safe use of ethoxylated octadecylamine (ethylene oxide reacted with octadecylamine) reacted with octadecanoic acid as an antistatic agent in polypropylene films complying with 21 CFR 177.1520.

FDA, in its evaluation of the safety of this additive, reviewed the safety of both the additive and the starting materials used to manufacture the additive. Although ethoxylated octadecylamine reacted with octadecanoic acid has not been found to cause cancer, it may contain mimute amounts of ethylene oxide and 1,4-dioxane as byproducts of its production. These chemicals have been shown to cause cancer in test animals. Residual amounts of reactants and manufacturing aids, such as these chemicals, are commonly found as contaminants in chemical products, including food additives.

I. Determination of Safety

Under section 409(c)(3)(A) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(c)(3)(A)), the so-called "general safety clause" of the statute, a food additive cannot be approved for a particular use unless a fair evaluation of the data available to FDA establishes that the additive is safe for that use. The concept of safety embodied in the Food Additives Amendment of 1958 is explained in the legislative history of the provision: "Safety requires proof of a reasonable certainty that no harm will result from the proposed use of an additive. It does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable circumstance." H. Rept. 2284, 85th Cong., 2d Sess. 4 (1958). This definition of safety has been incorporated into FDA's food additive regulations (21 CFR 170.3(i)). The anticancer or Delaney clause of the Food Additive Amendment (section 409(c)(3)(A) of the act (21 U.S.C. 348(c)(3)(A))) provides further that no food additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal.

In the past, FDA has often refused to approve the use of an additive that contained or was suspected of containing even minor amounts of a carcinogenic chemical, even though the additive as a whole had not been shown to cause cancer. The agency now believes, however, that developments in scientific technology and experience with risk assessment procedures make it possible for FDA to establish the safety of additives that contain carcinogenic chemicals but that have not themselves been shown to cause cancer.

In the preamble to the final rule permanently listing D&C Green No. 6 published in the **Federal Register** of April 2, 1982 (47 FR 14138), FDA explained the basis for approving the use of a color additive that had not been shown to cause cancer, even though it contains a carcinogenic constituent.

Since that decision, FDA has approved the use of other color additives and food additives on the same basis. FDA fully explained the scientific, legal, and policy underpinnings for these decisions in the advance notice of proposed rulemaking on a policy for regulating carcinogenic chemicals in food and color additives, published in the **Federal Register** of April 2, 1982 (47 FR 14464).

The agency now believes that the Delaney or anticancer clause is applicable only when the food additive as a whole is found to cause cancer. An additive that has not been shown to cause cancer, but that contains a carcinogenic constituent, may properly be evaluated under the general safety clause of the statute using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the proposed use of the additive.

The agency's position is supported by *Scott* v. *FDA*, 728 F.2d 322 (6th Cir. 1984). That case involved a challenge to FDA's decision to approve the use of D&C Green No. 5, which contains a carcinogenic chemical but has itself not been shown to cause cancer. Relying heavily on the reasoning in the agency's decision to list this color additive, the United States Court of Appeals for the Sixth Circuit rejected the challenge to FDA's action and affirmed the listing regulation.

II. Safety of Petitioned Use

FDA estimates that the petitioned use of ethoxylated octadecylamine reacted

with octadecanoic acid will result in extremely low levels of exposure to this additive. The agency has calculated an estimated daily intake of ethoxylated octadecylamine reacted with octadecanoic acid based on considerations such as the migration of the additive under the most severe intended use conditions and the probable concentration of the additive in the daily diet from food-contact articles that contain this substance. The estimated daily intake for the additive is 0.19 milligram per day (0.64 part per million in the diet) for a 60 kilogram person.

FDA does not ordinarily consider chronic testing to be necessary to determine the safety of an additive whose use will result in such low exposure levels (Refs. 1 and 2) and has not required such testing here. Because ethoxylated octadecylamine reacted with octadecanoic acid has not been shown to cause cancer, the anticancer clause does not apply to it.

FDA has evaluated the safety of this additive under the general safety clause, using risk assessment procedures to estimate the upper bound limit of risk presented by the carcinogenic chemicals that may be present as impurities in the additive. Based on this evaluation, the agency has concluded that the additive is safe under the proposed conditions of use.

The risk assessment procedures that FDA used in this evaluation are similar to the methods that it has used to examine the risk associated with the presence of minor carcinogenic impurities in various other food and color additives that contain carcinogenic impurities (see, e.g., 49 FR 13018, 13019; April 2, 1984). This risk evaluation of the carcinogenic impurities ethylene oxide and 1,4-dioxane has two aspects: (1) Assessment of the worst case exposure to the impurities from the proposed use of the additive and (2) extrapolation of the risk observed in the animal bioassays to the conditions of probable exposure to humans.

A. 1,4-Dioxane

Based on the fraction of the daily diet that may be in contact with surfaces containing ethoxylated octadecyamine reacted with octadecanoic acid, as well as the level of 1,4-dioxane that may be present in the additive (Ref. 5), FDA estimated the hypothetical worst case exposure to 1,4-dioxane from the use of this additive to be 0.7 nanogram per person per day. The agency used data in a carcinogenesis bioassay on 1,4-dioxane conducted for the National Cancer Institute (Ref. 4) to estimate the upper bound level of lifetime human risk from exposure to this chemical stemming from the proposed use of ethoxylated octadecylamine reacted with octadecanoic acid. The results of the bioassay on 1,4-dioxane demonstrated that the material was carcinogenic for female rats under the conditions of the study. The test material caused significantly increased incidences of squamous cell carcinomas and hepatocellular tumors in female rats.

The Center for Food Safety and Applied Nutrition's Cancer Assessment Committee reviewed this bioassay and other relevant data available in the literature and concluded that the findings of carcinogenicity were supported by this information on 1,4-dioxane. The committee further concluded that an estimate of the upper bound level of lifetime human risk from potential exposure to 1,4-dioxane stemming from the proposed use of ethoxylated octadecylamine reacted with octadecanoic acid could be calculated from the bioassay.

The agency used a quantitative risk assessment procedure (linear proportional model) to extrapolate from the dose used in the animal experiment to the very low doses encountered under the proposed conditions of use. This procedure is not likely to underestimate the actual risk from very low doses and may, in fact, exaggerate it because the extrapolation models used are designed to estimate the maximum risk consistent with the data. For this reason, the estimate can be used with confidence to determine to a reasonable certainty whether any harm will result from the proposed conditions and levels of use of the food additive. Based on a worst case exposure of 0.7 nanogram per person per day, FDA estimates that the upper bound limit of individual lifetime risk from potential exposure to 1,4-dioxane from the use of ethoxylated octadecylamine reacted with octadecanoic acid is $3X10^{-11}$ or less than 3 in 100 billion. Because of numerous conservatisms in the exposure estimate, lifetime averaged individual exposure to 1,4-dioxane is expected to be substantially less than the estimated daily intake, and therefore the calculated upper bound risk would be less. Thus, the agency concludes that there is a reasonable certainty of no harm from exposure to 1,4-dioxane that results from the proposed use of ethoxylated octadecylamine reacted with octadecanoci acid.

B. Ethylene Oxide

Based on the fraction of the daily diet that may be in contact with surfaces containing ethoxylated octadecylamine reacted with octadecanoic acid, as well as the level of ethylene oxide that may be present in the additive (Ref. 5), FDA estimated the hypothetical worst case exposure to ethylene oxide from the use of this additive to be 0.7 nanogram per person per day. The agency used data in a carcinogenesis bioassay on ethylene oxide conducted by the Institute of Hygiene, University of Mainz, West Germany (Ref. 3), to estimate the upper bound level of lifetime human risk from exposure to this chemical stemming from the proposed use of this additive. The results of the bioassay on ethylene oxide demonstrated that this material was carcinogenic for feamle rats under the conditions of the study. The test material caused significantly increased incidences of squamous cell carcinoma of the forestomach and carcinoma in situ of the glandular stomach.

The Center for Food Safety and Applied Nutrition's Cancer Assessement Committee reviewed this bioassay and other relevant data available in the literature and concluded that this information on ethylene oxide supported the finding of carcinogenicity. The committee further concluded that an estimate of the upper bound limit of lifetime human cancer risk from potential exposure to ethylene oxide could be made from the bioassay.

Based on a worst case exposure of 0.7 nanogram per person per day, FDA estimates, using a linear proporational model, that the upper bound limit of lifetime risk from potential exposure to ethylene oxide from the use of ethoxylated octadecylamine reacted with octadecanoic is $1X10^{-9}$ or less than 1 in 1 billion. Because of numerous conservatisms in the exposure estimate, lifetime averaged individual exposure to ethylene oxide is expected to be substantially less than the estimated daily intake, and therefore, the calculated upper bound risk would be less. Thus, the agency concludes that there is a reasonable certainty of no harm from the exposure to ethylene oxide that results from the use of ethoxylated octadecylamine reacted with octadecanoic acid.

C. Need for Specifications

The agency has also considered whether a specification is necessary to control the amount of the ethylene oxide and 1,4-dioxane impurities in the food additive. The agency finds that a specification is not necessary for the following reasons: (1) Because of the levels at which ethylene oxide and 1,4-dioxane are used in production of the additive, the agency would not expect these impurities to become components

of food at other than extremely small levels; and (2) the upper bound limit of lifetime risk from exposure to these impurities, even under worst case assumptions, is very low, less than 1 in 1 billion.

D. Conclusion on Safety

FDA has evaluated the available toxicity data and the exposure calculation for the additive and has determined that the additive is safe for its proposed use.

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

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25) have been replaced by a rule published in the Federal Register of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an abbreviated environmental assessment under 21 CFR 25.31a(b)(1).

References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Carr, G. M., "Carcinogenicity Testing Programs" *in* "Food Safety: Where Are We?," Committee on Agriculture, Nutrition, and Forestry, United States Senate, July 1979, p. 59.

2. Kokoski, C. J., "Regulatory Food Additive Toxicology" presented at the "Second International Conference on Safety Evaluation and Regulation of Chemicals," October 24, 1983, Cambridge, MA.

3. Dunkelberg, H., "Carcinogenicity of Ethylene Oxide and 1,2-Propylene Oxide upon Intragastric Administration to Rats," *British Journal of Cancer*, 46:924, 1982.

4. "Bioassay of 1,4-Dioxane for Possible Carcinogenicity," National Cancer Institute, NCI–CG–TR–80, 1978.

5. Memorandum dated February 13, 1986, from Food Additive Chemistry Evaluation Branch to Indirect Additives Branch, "Exposure to Ethylene Oxiode (EO) and 1,4-Dioxane (DX)."

Any person who will be adversely affected by this regulation may at any time on or before September 12, 1986 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR Part 178 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. In § 178.3130(b) by alphabetically inserting a new item in the list of substances to read as follows:

§ 178.3130 Antistatic and/or antifogging agents in food-packaging materials.

* * * * *

(b) * * *

List of substances	Limitations
* * *	* *
Octadecanoic acid 2-[2-hydroxyethyl) octadecylamino]ethyl ester (CAS Reg. No. 52497-24-2), (octadecylimino) diethylene distearate (CAS Reg. No. 94945-28-5), and octadecyl bis(hydroxyethyl)amine (CAS Reg. No. 10213-78-2), as the major components of a mixture prepared by reacting ethylene oxide with octadecylamine and further reacting this product with octadecanoic acid, such that the final product has: a maximum acid value of 5 mg KOH/g and total amine value of 86 ±6 mg KOH/g as determined by a method entitled "Total Amine Value," which is incorporated by reference. Copies of the method are available from the Division of Food and Color Additives, Center for Food Safety and Applied Nutrition (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408..	For use only as an antistatic agent at levels such that the product of film thickness in microns times the weight percent additive does not exceed 16, in polypropylene films complying with § 177.1520(c)1.1 of this chapter, and used for packaging food (except for food containing more than 8 percent alcohol) under conditions of use B through H described in Table 2 of § 176.170(c) of this chapter.
* * *	* *

Dated: August 6, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-18219 Filed 8-12-86; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 522 and 556

Animal Drugs, Feeds, and Related Products; Ivermectin Injection

Correction

In FR Doc. 86-16938, beginning on page 27020, in the issue of Tuesday, July 29, 1986, make the following corrections:

1. On page 27021, first column, fourth line in the "For Further Information Contact" caption, the telephone number is corrected to read "301-443-4913".

§ 552.1192 [Corrected]

2. On the same page, second column, § 552.1192 (d)(4)(ii), last line, "scabiei" was misspelled.

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Parts 315, 332, 352, and 353

[Department of the Treasury Circular No. 530, 11th Revision; No. 905, Seventh Revision; Public Debt Series Nos. 2–80, Second Revision, and 3–80]

U.S. Savings Notes and U.S. Savings Bonds; Series A, B, C, D, E, F, G, H, J, K, EE, and HH

Correction.

In FR Doc. 86–14782 beginning on page 23752 in the issue of Tuesday, July 1, 1986, the **EFFECTIVE DATE** should have read "December 28, 1986".

BILLING CODE 1505-01-M

Office of Foreign Assets Control

31 CFR Parts 545 and 550

South African Transactions Regulations; Libyan Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Treasury Department is amending the South African Transactions Regulations and the Libyan Sanctions Regulations to reflect approval by the Office of Management and Budget ("OMB") of information collection provisions contained in those regulations.

EFFECTIVE DATE: August 13, 1986.

FOR FURTHER INFORMATION CONTACT: Marilyn L. Muench, Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, Tel. (202) 376–0408.

SUPPLEMENTARY INFORMATION: The South African Transactions Regulations, 31 CFR Part 545 (50 FR 41682, October 15, 1985; and 50 FR 46726, November 12, 1985), were issued by the Treasury Department in implementation of Executive Order 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) and Executive Order 12535 of October 1, 1985 (50 FR 40325, October 3, 1985).

The Libyan Sanctions Regulations, 31 CFR Part 550 (51 FR 1354, January 10, 1986; 51 FR 2462, January 16, 1986; 51 FR 19751, June 2, 1986; 51 FR 22802, June 23, 1986; 51 FR 25634, July 15, 1986; and 51 FR 26687, July 25, 1986), were issued by Treasury in implementation of Executive Order 12543 of January 7, 1986 (51 FR 875, January 9, 1986) and Executive Order 12544 of January 8, 1986 (51 FR 1235, January 10, 1986).

The South African Transactions Regulations and the Libyan Sanctions Regulations are being amended to insert notices of OMB approval of information collection provisions contained in these regulations.

Since the Regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, does not apply. Because the Regulations are issued with respect to a foreign affairs function of the United States, they are not subject to Executive Order 12291 of February 17, 1981, dealing with Federal regulations.

List of Subjects in 31 CFR Parts 545 and 550

Reporting and recordkeeping requirements.

PART 545—SOUTH AFRICAN TRANSACTIONS REGULATIONS

31 CFR Chapter V, Part 545, is amended as set forth below:

1. The authority citation for Part 545 continues to read as follows:

Authority: 50 U.S.C. 1701 *et seq.*; E.O. 12532, 50 FR 36861, September 10, 1985; E.O. 12535, 50 FR 40325, October 3, 1985.

2. The table of contents for Part 545 is amended by removing the word "[Reserved]" from the entry for § 545.901 and inserting "Paperwork Reduction Act Notice" in its place.

Subpart I—Miscellaneous

3. Section 545.901 is added to read as follows:

§ 545.901 Paperwork Reduction Act Notice.

The information collection requirements in §§ 545.503, 545.504, 545.601, and 545.602 have been approved by the Office of Management and Budget and assigned control number 1505–0091.

PART 550—LIBYAN SANCTIONS REGULATIONS

31 CFR Chapter V, Part 550, is amended as set forth below:

1. The authority citation for Part 550 continues to read as follows:

Authority: 50 U.S.C. 1701 *et seq.*; E.O. 12543, 51 FR 875, January 9, 1986; E.O. 12544, 51 FR 1235, January 10, 1986.

Subpart I—Miscellaneous

2. Section 550.901 is revised to read as follows:

§ 550.901 Paperwork Reduction Act Notice.

The information collection requirements in §§ 550.210(d), 550.511 (g) and (h), 550.568 (b), (c), and (i), 550.601, 550.602, and 550.801(b) (2), (3), and (5) have been approved by the Office of Management and Budget and assigned control number 1505–0092. The information collection requirements in §§ 550.560 (c) and (d) and 550.605 have been approved by the Office of Management and Budget and assigned control number 1505–0093.

Dated: August 11, 1986.

Dennis M. O'Connell,

Director, Office of Foreign Assets Control.

[FR Doc. 86–18338 Filed 8–11–86; 1:39 pm]

BILLING CODE 4810-25-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment; USS ARKANSAS

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Sectetary of the Navy has determined that USS ARKANSAS (CG 31) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS without interfering with its special function as a naval cruiser. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 24, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stoval Street, Alexandria, VA 22332–2400, Telephone number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the

Secretary of the Navy has certified that USS ARKANSAS (CGN 41) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, and Annex I, section 3(a), pertaining to the horizontal distance between the forward and aft masthead lights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special function and purpose of the vessel. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a) (i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a) (ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a) (i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex 1, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex 1, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex 1, sec. (3)(a)	Percentage horizontal separation attained.
USS ARKANSAS	CGN 41	N/A	N/A	N/A	N/A	N/A	×	×	18

Dated: July 24, 1986.

John Lehman,

Secretary of the Navy.

[FR Doc. 86-18170 Filed 8-12-86; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment; USS CHARLES F. ADAMS et at.

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS CHARLES F. ADAMS (DDG 2), USS JOHN KING (DD 3), USS BARNEY (DDG 6), USS HENRY B. WILSON (DDG 7), USS LYNDE Mc CORMICK (DDG 8), USS ROBINSON (DDG 12), USS BUCHANAN (DDG 14), USS BERKELEY (DDG 15), and USS RICHARD E. BYRD (DDG 23) are vessels of the Navy which, due to their special construction and purpose, cannot compy fully with certain provisions of the 72 COLREGS without interfering with their special functions as naval destroyers. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 24, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stoval Street, Alexandria, VA 2232-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS CHARLES F. ADAMS (DDG 2), USS JOHN KING (DDG 3), USS BARNEY (DDG 6), HENRY B. WILSON (DDG 7), USS LYNDE Mc CORMICK (DDG 8), USS ROBINSON (DDG 12), USS BUCHANAN (DG 14), USS BERKELEY (DDG 15), and USS RICHARD E. BYRD (DDG 23) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 2(a)(i), regarding the height above the hull of the forward masthead light, without interfering with their special functions as naval destroyers. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS CHARLES F. ADAMS (DDG 2), USS JOHN KING (DDG 3), USS BARNEY (DDG 6), USS HENRY B. WILSON (DDG 7), USS LYNDE Mc CORMICK (DDG 8), USS ROBINSON (DDG 12), USS BUCHANAN (DDG 14), USS BERKELEY (DDG 15), and USS RICHARD E. BYRD (DDG 23) are members of the DDG 2 class of vessels for which certain exemptions, pursuant to 72 COLREGS, Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of section 706.3, are equally applicable to these vessels.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unecessary, and contray to public interest since it is based on technical findings that the placement of lights on these vessels in a manner differently from that prescribed herein will adversely affect the vessels' abilities to perform their military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table One of § 706.2 is amended by adding the following vessels:

Vessel	Number	Distance in meters of forward masthead light below minimum required height. § 2(A)(i), Annex I
USS CHARLES F. ADAMS	(DDG 2)	2.38
USS JOHN KING	(DDG 3)	2.3
USS BARNEY	(DDG 6)	2.42
USS HENRY B. WILSON	(DDG 7)	2.25
USS LYNDE MC CORMICK	(DDG 8)	2.4
USS ROBINSON	(DDG 12)	2.4
USS BUCHANAN	(DDG 14)	2.35
USS BERKELEY	(DDG 15)	2.36
USS RICHARD E. BYRD	(DDG 23)	2.04

Dated: July 24, 1986.

John Lehman,

Secretary of the Navy.

[FR Doc. 86-18171 Filed 8-12-86; 8:45 am]

BILLING CODE 3810-AE-M

Department of the Navy

32 CFR Part 706

Amendment of Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS ALAMO and USS HERMITAGE

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS ALAMO (LSD 33) and USS HERMITAGE (LSD 34) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with their special function as naval dock landing ships. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 24, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC U.S. Navy Admiralty Counsel, Office of the Judge Advocate General Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400. Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS ALAMO (LSD 33) and U.S.S. *Hermitage* (LSD 34) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with their special function as dock landing ships. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on these vessels in a manner differently from that prescribed herein will adversely affect the ships ability to perform their military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table Five of § 706.2 is amended by adding the following vessels:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
USS ALAMO	LSD 33	N/A	N/A	N/A	N/A	N/A	N/A	×	47
USS HERMITAGE	LSD 34	N/A	N/A	N/A	N/A	N/A	N/A	×	55

Dated: July 24, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-18169 Filed 8-12-86; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Amendment of Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS MARS

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has

determined that USS MARS (AFS 1) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a combat stores vessel. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 14, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400. Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS MARS (AFS 1) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special functions as a combat stores vessel. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage, horizontal separation attained.
USS MARS	AFS 1	N/A	N/A	N/A	N/A	N/A	N/A	×	98

Dated: July 14, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-18175 Filed 8-12-86; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Amendment of Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS Mc CLOY

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS Mc CLOY (FF 1038) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval frigate. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 24, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400. Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS Mc CLOY (FF 1038) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 2(a)(i), regarding the height above the hull of the forward masthead light, without interfering with its special function as a naval frigate. The Secretary of the Navy has also certified that the above-mentioned light is located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table One of § 706.2 is amended by adding the following vessel:

Vessel	Number	Distance in meters of forward masthead light below minimum required height. Sec. 2(a)(i), Annex I
USS Mc CLOY	FF 1038	1.6

Dated: July 24, 1986.
Approved:
John Lehman,
Secretary of the Navy.
[FR Doc. 86-18176 Filed 8-12-86; 8:45 am]
BILLING CODE 3810-AE-M

32 CFR Part 706

Amendment of Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS PORTLAND and USS PENSACOLA

AGENCY: Department of the Navy, DOD.
ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS PORTLAND (LSD 37) and USC PENSACOLA (LSD 38) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with their special function as naval dock landings ships. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 24, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400. Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS PORTLAND (LSD 37) and U.S.S. *Pensacola* (LSD 38) are vessels of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with their special function as dock landing ships. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on these vessels in a manner differently from that prescribed herein will adversely affect the ships ability to perform their military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as folllows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following vessels:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained.
USS PORTLAND	LSD 37	N/A	N/A	N/A	N/A	N/A	N/A	×	46
USS PENSACOLA	LSD 38	N/A	N/A	N/A	N/A	N/A	N/A	×	46

Dated: July 24, 1986.
Approved:
John Lehman,
Secretary of the Navy.
[FR Doc. 86-18178 Filed 8-12-86; 8:45 am]
BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment; USS RODNEY M. DAVIS

AGENCY: The Department of the Navy, DOD.
ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS RODNEY M. DAVIS (FFG 60) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval frigate. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 29, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS RODNEY M. DAVIS (FFG 60) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(a), regarding the arc of visibility of the forward masthead light; Annex I, section 2(a)(i), regarding the height

above the hull of the forward masthead light; and Annex I, section 3(b), regarding the horizontal relationship of the side-lights to the forward masthead light, without interfering with its special function as a naval frigate. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS RODNEY M. DAVIS (FFG 60) is a member of the FFG 7 class of vessels for which certain exemptions, pursuant to 72 COLREGS, Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to this vessel.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from the prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table One of § 706.2 is amended by adding the following vessel:

Vessel	Number	Distance in meters of forward masthead light below minimum required height. § 2(a)(i), Annex I
USS RODNEY M. DAVIS.	FFG 60	1.6

2. Table Four of § 706.2 is amended by adding to the existing paragraph 8 the following vessel: Table Four.

8. * * *

USS RODNEY M. DAVIS ..... FFG 60

3. Table Four of § 706.2 is amended by adding to the existing paragraph 9 the following vessel:

9. * * *

Vessel	Number	Distance of side-lights forward of masthead light in meters
USS RODNEY M. DAVIS.	FFG 60	2.75

Dated: July 29, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-18180 Filed 8-12-86; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Amendment of Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS WHITE PLAINS

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS WHITE PLAINS (AFS 4) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a combat stores vessel. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 14, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS WHITE PLAINS (AFS 4) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special functions as a combat stores vessel. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above the hull. Annex I, sec. 2(a)(i))	Aft masthead light less than 4.5 meters above forward masthead light. Annex 1, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex 1, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex 1, sec. 2(a)(i)	Aft masthead lighs not visible over forward light 1,000 meters ahead of ship in all normal degress of trim. Annex 1, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex 1, sec. 3(a)	After masthead light not less than ½ ship's length aft of forward masthead light. Annex 1, sec. 3(a)	Percentage horizontal separation attained
USS WHITE PLAINS	AFS 4	N/A	N/A	N/A	N/A	N/A	N/A	×	98

Dated: July 14, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-18181 Filed 8-12-86; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Amendent of Certifications and Exemptions Under the International Regulations For Preventing Collisions at Sea, 1972; USS HALEAKALA

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS HALEAKALA (AE 25) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as naval ammunition ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 24, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS HALEAKALA (AE 25) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special function as a Navy ship. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
USS HALEAKALA	AE 25	N/A	N/A	N/A	N/A	N/A	N/A	×	87

Dated: July 24, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-18172 Filed 8-12-86; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Amendment of Certifications and Exemptions Under the International Regulations For Preventing Collisions at Sea, 1972; USS Luce et al.

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS LUCE (DDG 38), USS COONTZ (DDG 40), USS KING (DDG 41), USS MAHAN (DDG 42), USS WILLIAM V. PRATT (DDG 44), and USS DEWEY (DDG 45) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with their special function as naval

destroyers. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 24, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400, Telephone number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS LUCE (DDG 38), USS COONTZ (DDG 40), USS KING (DDG 41), USS MAHAN (DDG 42), USS WILLIAM V. PRATT (DDG 44), and USS DEWEY (DDG 45) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(a), regarding the arc of visibility of the forward masthead light, and Annex I, section 3(a), regarding the location of the forward masthead light in the forward quarter of the ship and the horizontal distance between the forward and after masthead lights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special functions and purposes of the vessels. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on these vessels in a manner differently from that prescribed herein will adversely affect the vessels, ability to perform their military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table Four of § 706.2 is amended by adding to the existing paragraph 22 the following vessels:

Table Four

* * * * *

Vessel	Number	Obscured angles relative to ship's heading
USS LUCE	DDG 38	18.4° and 341.6°
USS COONTZ	DDG 40	18.4° and 341.6°
USS KING	DDG 41	18.4° and 341.6°
USS MAHAN	DDG 42	18.4° and 341.6°
USS WILLIAM V. PRATT	DDG 44	18.4° and 341.6°
USS DEWEY	DDG 45	18.7° and 341.3°

2. Table Five of § 706.2 is amended by adding the following vessels:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
USS LUCE	DDG 38	N/A	N/A	N/A	N/A	N/A	×	×	24
USS COONTZ	DDG 40	N/A	N/A	N/A	N/A	N/A	×	×	24
USS KING	DDG 41	N/A	N/A	N/A	N/A	N/A	×	×	23
USS MAHAN	DDG 42	N/A	N/A	N/A	N/A	N/A	×	×	23
USS WILLIAM V. PRATT	DDG 44	N/A	N/A	N/A	N/A	N/A	×	×	24
USS DEWEY	DDG 45	N/A	N/A	N/A	N/A	N/A	×	×	23

Dated: July 24, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86–18173 Filed 8–12–86; 8:45 am]

BILLING CODE 3810–AE–M

32 CFR Part 706

Amendent of Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS NITRO

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, (1972 COLREGS), to reflect that the Secretary of the Navy has determined that USS NITRO (AE 23) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as naval ammunition ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 24, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stoval Street, Alexandria, VA 22332–2400, Telephone number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS NITRO (AE 23) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special function as a Navy ship. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is

impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine Safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degres of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthed light less than ½ ship's length aft of forward masthead Annex I, sec. (3)(a)	Percentage horizontal separation attained
USS NITRO	AE 23	N/A	N/A	N/A	N/A	N/A	N/A	×	86

Dated: July 24, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-18177 Filed 8-12-86; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Amendment of Certifications and Exemptions Under the International Regulations for Preventing Collision at Sea, 1972; USS PYRO

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS PYRO (AE 24) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as naval ammunition ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 24, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS PYRO (AE 24) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special function as a Navy ship. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	After masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
SS PYRO	AE 24	N/A	N/A	N/A	N/A	N/A	N/A	×	87

Dated: July 24, 1986.
Approved:
John Lehman,
Secretary of the Navy.
[FR Doc. 86-18179 Filed 8-12-86; 8:45 am]
BILLING CODE 3810-AE-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 85-256; RM-4924]

Radio Broadcasting Services; Hoxie, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 263A to Hoxie, Arkansas as that community's first local service, in response to a petition filed by Dennis Mitchell.

With this action, this proceeding is terminated.

DATES: Effective September 11, 1986; The window period for filing applications will open on September 12, 1986, and close on October 14, 1986.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 85-256, adopted July 21, 1986, and released August 4, 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.

PART 73—[AMENDED]

47 CFR Part 73 is amended as follows:

1. The authority citation for Part 73 continues to read:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b) the Table of Allotments is amended by adding the following:

§ 73.202 FM Table of Allotments.

* * * * *

(b) * * *

City	Channel No.
Hoxie, AR	263A

Federal Communications Commission.
Charles Schott,
Chief, Policy and Rules Division, Mass Media Bureau.
[FR Doc. 86-18185 Filed 8-12-86; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-261; RM-4951]

Radio Broadcasting Services; Paauilo, HI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Class C Channel 279 for Channel 240A at Paauilo, Hawaii, and modifies the permit for Station KCHR (FM) to specify the new channel at the request of Hamakua Broadcasting Corporation. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 11, 1986.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 85-261, adopted July 3, 1986, and released August 4, 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.

PART 73—[AMENDED]

1. The authority citation for Part 73 is revised to read:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b) is amended by revising the following entry:

§ 73.202(b) Table of Allotments.

* * * * *

(b) * * *

City	Channel No.
Paauilo, HI	279

Mark N. Lipp,
Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.
[FR Doc. 86-18186 Filed 8-12-86; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-384; RM-4985]

Radio Broadcasting Services; Willow Springs, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates FM Channel 262C2 to Willow Springs, Missouri, in response to a petition filed by Woodridge Enterprises, Inc., and modifies the construction permit of Woodridge Enterprises, Inc., to specify operation on Channel 262C2. This allotment could provide Willow Springs with its first wide area coverage channel. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 11, 1986.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 85-384, adopted July 21, 1986, and released August 4, 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.

PART 73—[AMENDED]

47 CFR Part 73 is amended as follows:

1. The authority citation for Part 73 continues to read:

Authority: 47 U.S.C. 154, 303.

2. Section 73.202(b) is amended by revising the following entry in the FM Table of Allotments:

§ 73.202 FM Table of Allotments.

* * * * *

(b) * * *

City	Channel No.
Willow Springs, MO	262C2

Federal Communications Commission.
Charles Schott,
Chief, Policy and Rules Division, Mass Media Bureau.
[FR Doc. 86-18187 Filed 8-12-86; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-70; RM-5131]

Radio Broadcasting Services; Las Vegas and North Las Vagas, NV

AGENCY: Federal Communications Commission.
ACTION: Final rule.

SUMMARY: This document substitutes Channel 278 for Channel 277 at Las Vegas, Nevada, and Channel 282 for Channel 281 at North Las Vegas, Nevada, at the request of Holiday Broadcasting Company, licensee of Station KCRR, Bullhead City, Arizona. The substitution of channels could permit Station KCRR to resume operation with its full authorized facilities. The applicants for the Las Vegas and North Las Vegas allotments can amend their applications without loss of cut-off status. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 11, 1986.
FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.
SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-70, adopted June 21, 1986, and released August 5, 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.

PART 73—[AMENDED]

47 CFR Part 73 is amended as follows:
1. The authority citation for Part 73 continues to read:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b) is amended by adding the following channels and community:

§ 73.202 FM Table of Allotments.

* * * * *

(b) * * *

City	Channel No.
Las Vegas, NV	222, 226, 242, 246, 253, 270, 278, 286C2, 293.
North Las Vegas, NV	282.

Federal Communications Commission.
Charles Schott,
Chief, Policy and Rules Division, Mass Media Bureau.
[FR Doc. 86-18188 Filed 8-12-86; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

48 CFR Parts 223, 228, 242 and 252

Department of Defense Federal Acquisition Regulation Supplement; Safety Precautions for Ammunition and Explosives

AGENCY: Department of Defense (DoD).
ACTION: Interim rule and request for comment.

SUMMARY: The Defense Acquisition Regulatory Council has approved changes to DFARS section 228.7102 and the clause at DFARS 252.228-7007. The changes: (i) revise and relocate § 228.7102 to a new Subpart 223.70; (ii) revise and relocate the clause at 252.228-7007 to § 223.7001; (iii) require a preaward safety survey of prospective contractors and subcontractors before award of contracts involving ammunition and explosives; (iv) require contractors to provide notification of subcontract placement; (v) provide authorized representation access to contractor and subcontractor facilities for the purpose of evaluating compliance with contractual safety requirements; and (vi) add a new clause at DFARS 252.223-7002 which requires contractors to obtain contracting officer approval before changing any place of performance of ammunition and explosives work.

DATE: Comments should be submitted in writing to the Executive Secretary, DAR Council, at the address shown below, on or before October 14, 1986 to be considered in the formation of a final rule. Please cite DAR Case 85-16 in all correspondence related to this subject.
ADDRESS: Interested parties should submit written comments to: Defense Acquisition Regulatory Council, ATTN: Mr. Charles W. Lloyd, Executive Secretary, ODASD(P)/DARS, c/o. OASD(A&L) (M&RS), Room 3C841, The Pentagon, Washington, DC 20301-3062.
FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, (202) 697-7266.
SUPPLEMENTARY INFORMATION:

A. Background

The Department of Defense has prescribed ammunition and explosive safety standards in DoD Manual 4145.26-M for work performed under DoD contracts by contractors. Such standards are necessary in order to minimize the potential for mishaps that could interrupt DoD operations, delay project/product completion dates, adversely impact upon the DoD production base or capability, damage or destroy DoD-owned material/equipment, cause injury to DoD personnel, or endanger the safety of the general public. Presently, the language contained in 252.228-7007 requires contractors to comply with DoD 4125.26-M, DoD Contractors' Safety Manual for Ammunition and Explosives. During the transition from the DAR to the DFARS, coverage enabling the contracting officer to direct the contractor to cease operations was inadvertently omitted. This omission leaves contracting officers without a remedy in certain circumstances where the safety of Government personnel or contract performance may be endangered by the failure of the contractor to comply with the safety requirements of its contract. Public comments are necessary, but the regulation must be issued immediately because these urgent and compelling circumstances make waiting through the publicizing period impracticable. Therefore, these revisions are published as an interim rule, after which any comments received will be considered in the formulation of a final rule.

B. Determination To Issue a Temporary Regulation

A determination has been made under the authority of the Secretary of Defense that the regulations promulgated by the Military Departments must be issued as temporary regulations in compliance with section 22 of the Office of Federal Procurement Policy Act, as amended.

C. Regulatory Flexibility Act

The changes to DFARS 223, 228, 242 and 252 do not appear to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). In FY 1985 only 2% of

the total dollar value of awards was made to contractors for ammunition. Of that percent, only 10% of the total dollar value of awards was made to small business. Comments are invited.

D. Paperwork Reduction Act

The rule contains information collection requirements which require approval of OMB under 44 U.S.C. 3501 et seq. The collection of information requirements has been submitted to OMB for review under Section 3504(h) of the act. Comments should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for DoD.

List of Subjects in 48 CFR Parts 223, 228, 242 and 252

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Therefore, 48 CFR Parts 223, 228, 242 and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 223, 228, 242 and 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 223—ENVIRONMENT, CONSERVATION, AND OCCUPATIONAL SAFETY

2. A new Subpart 223.70, consisting of Sections 223.7001 through 223.7004, is added to read as follows:

Subpart 223.70—Safety Precautions for Ammunition and Explosives

Sec.
223.7001 Definition.
223.7002 Policy and contract clauses.
223.7003 Preaward considerations.
223.7004 Postaward considerations.

Subpart 223.70—Safety Precautions for Ammunition and Explosives

223.7001 Definition.

The term "ammunition and explosives", as used in this subpart, means liquid and solid propellants and explosives, pyrotechnics, incendiaries and smokes in any of the following: bulk form, ammunition, rockets, missiles, warheads, devices, and components thereof, except for wholly inert items.

223.7002 Policy and contract clauses.

(a) The requirements of DoD 4145.26–M, "DoD Contractors' Safety Manual for Ammunition and Explosives", are to be applied to all contracts involving ammunition or explosives. To accomplish this policy, all solicitations/requests for quotations, and resulting contracts involving development, testing, research, manufacturing, handling, loading, assembling, packaging, storage, transportation, renovation, demilitarization, modification, repair, disposal, inspection, or other use of ammunition and explosives shall include, in its entirety, the clause set forth in 252.223–7001, except as noted below:

(i) The clause is not to be included in contracts solely because of inert components containing no explosives, propellants, or pyrotechnics.

(ii) The clause is not to be included in contracts which are solely for flammable liquids, acids, oxidizers, powdered metals, or other materials having fire or explosive characteristics. However, the clause shall be included in contracts which require the use or incorporation of such materials for initiation, propulsion, or detonation as an integral or component part of an explosive, an ammunition or explosive end item, or a weapon system.

(iii) When work is to be performed on a Government-owned installation, ammunition and explosives regulations of the DoD Component or installation for handling ammunition and explosives may be used to supplement or substitute for DoD 4145.26–M (the manual). The regulations used to supplement or substitute for the manual must be cited in the contract.

(b) The purpose of incorporating the DoD Manual into the contract is to minimize the potential for mishaps that could interrupt DoD operations, delay project/product completion dates, adversely impact upon DoD production base or capabilities, damage or destroy DoD-owned material/equipment, or cause injury to DoD personnel.

(c) The clause at 252.223–7002 shall be inserted in all solicitations and contracts containing the clause at 252.223–7001.

223.7003 Preaward considerations.

(a) The contracting officer shall obtain a preaward ammunition and explosives safety survey before awarding any contract (including purchase orders) involving ammunition and explosives. When the prospective contractor proposes subcontracting any ammunition and explosives work, the preaward safety survey will also include the subcontractor(s) facility.

(b) Omission of the clause from solicitations and contracts referred to in 223.7002, or waiver of mandatory requirements of the manual prior to contract award, must be approved by the HCA or designee. When mandatory requirements of the manual are to be waived prior to award, the specific requirements to be waived must be set forth in the solicitation or by modification thereto. When requested deviations from mandatory requirements of the manual are rejected by the HCA or designee, but the prospective contractor proposes corrective action acceptable for compliance, then the contractor's proposed corrective actions must be set forth in the schedule of the resulting contract. All requested waivers, deviations, or omissions of the clause must be reviewed by safety personnel responsible for ammunition and explosives safety prior to forwarding for HCA or designee approval.

(c) In contracts involving shipment of ammunition and explosives, applicable Department of Transportation (DOT)/Military Traffic Management Command (MTMC) requirements and other needed transportation, packaging, marking, and labeling requirements will be addressed within the schedule of the contract.

(d) The contracting office will include instructions within the contract concerning final disposition of excess (to include defective/reject) Government-Furnished Material (GFM) containing ammunition and explosives.

223.7004 Postaward considerations.

(a) Compliance with the standards required by the clause is the responsibility of the contractor (see 242.302(a)(39)). Contract administration personnel have the responsibility to verify that these contract requirements are being implemented in a manner which will tend to reduce or eliminate the probability of a mishap occurrence to the maximum extent practicable. As provided in the clause, the standards of the manual are to be applied only to the contractor's operations relating or exposed to ammunition and explosives.

(b) The contracting officer will review contractor requests for waiver of contractual safety standards and submissions for site plan modification or construction review. The manual requires the contractor to submit these requests through the ACO. If the request for review does not include the ACO review and recommendation, coordination with the ACO or return of the submission to the ACO is required. The contracting officer must also obtain a review and recommendation from the appropriate servicing safety department responsible for ammunition and explosives safety. The approval/disapproval determination by the contracting officer should be made to the contractor, through the ACO, as soon as practicable.

(c) *Subcontracts.* (1) The clause at 252.223–7001 requires the contractor to

notify the contracting officer prior to placing subcontracts for ammunition and explosives. When notifications are received, the contracting officer should, in coordination with safety personnel, request supporting contract administration in accordance with FAR 42.204, and should normally request supporting administration when the nature of the subcontract work potentially endangers Government property, Government personnel, production capability or contract completion.

(2) When a preaward safety survey identifies areas in which the subcontractor is in noncompliance with the manual and those noncompliances could be corrected prior to the starting up of production, the contracting officer shall require a preoperations survey to verify that the corrections have been made.

(3) When postaward safety reviews by the Government uncover safety deficiencies in the subcontractor's, operation (whether or not they are immediately corrected or correctable), the cognizant ACO for the subcontractor shall be informed. The ACO cognizant of the subcontractor shall immediately notify the ACO cognizant of the prime contractor, who shall formally notify the prime contractor of the subcontractor deficiencies requiring correction. In the event of critical safety deficiencies, the foregoing notifications shall be accomplished by the most expeditious means available.

PART 228—BONDS AND INSURANCE

228.7102 [Removed]

3. Section 228.7102 is removed.

PART 242—CONTRACT ADMINISTRATION

4. Section 242.302 is amended by adding paragraph (a)(39) to read as follows:

242.302 Contract administration functions.

(a) * * *

(39) For contracts containing ammunition and explosive requirements, see 223.70.

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.217-7242 [Amended]

5. Section 252.217-7242 is amended by revising the words "clause 252.228-7007 (SEP 1970)" to read "clauses 252.223-7001 (JUL 1986) and 252.223-7002 (JUL 1986)".

6. Sections 252.223-7001 and 252.223-7002 are added to read as follows:

252.223-7001 Safety precautions for ammunition and explosives.

As prescribed in 223.7002(a), insert the following clause in solicitations and contracts.

Safety Precautions For Ammunition and Explosives (Jul 1986)

(a) The term "ammunition and explosives" means liquid and solid propellants and explosives, pyrotechnics, incendiaries and smokes in any of the following: bulk form, ammunitions, rockets, missiles, warheads, devices and components thereof, except for wholly inert items.

(b) The Contractor shall comply with the DoD Contractors' Safety Manual for Ammunition and Explosives (DoD Manual 4145.26-M) (the manual) in effect on the date of the solicitation for this contract, and any other additional requirements included in the schedule of the contract. The Contractor shall allow authorized Government representatives to evaluate safety programs, implementation, and facilities and, in this respect, shall allow the Government access to Contractor facilities, personnel and safety program documentation.

(c) If the Contracting Officer notifies the Contractor of any noncompliance with the manual or schedule provisions, the Contracting shall take immediate steps to correct the noncompliance. Within thirty (30) days (or such other period as the Contracting Officer may direct) from the date of notification, the Contractor shall inform the Contracting Officer of the results of the corrective actions taken. Costs incurred by the Contractor to correct noncompliances with the manual will not, unless otherwise specified within the contract, be reimbursable.

(d) If the Contractor has been notified of a noncompliance and fails or refuses to take corrective action within the time specified by the Contracting Officer, the Contractor may be directed to cease performance on all or part of this contract until the Contracting Officer determines that satisfactory corrective action has been taken. The Contracting Officer may at any time remove Government personnel whenever the Contractor is in noncompliance with the safety requirements of this clause. Either action by the Contracting Officer shall not entitle the Contractor to an adjustment of the contract price or the delivery or performance schedule unless it is later determined that the Contractor had in fact complied with the manual or schedule provisions. In such a case, an equitable adjustment will be made in accordance with the procedures provided for in the clause of this contract entitled "Changes".

(e) The Contractor shall immediately notify the Contracting Officer after an accident involving ammunition or explosives. The Contractor shall also, in accordance with this contract or as required by the Contracting Officer, conduct an investigation and submit a written report of the accident to the Contracting Officer.

(f) Neither the requirements of this clause, nor any act or failure to act by the Government in surveillance of this contract, shall affect or relieve the Contractor of responsibility for the safety of the Contractor's personnel and property, for the safety of the Government's personnel and property, and for the safety of the general public in connection with the performance of this contract.

(g) The frequency or number of Government inspections and the degree of surveillance which the Government exercises with respect to the enforcement of the contract terms and conditions is a matter solely within the discretion of the Government, and does not relieve the Contractor of responsibility for performance of the contract. Nor shall any act or failure to act by the Government in surveillance or enforcement of this contract impose or add to any liability of the Government.

(h) The Contractor shall insert this clause, including this paragraph (h), with appropriate changes in the designation of the parties, in every subcontract hereunder which involves ammunition or explosives as defined in paragraph (a) above, except for: subcontracts for inert components containing no explosives, propellants, or pyrotechnics or subcontracts for flammable liquids, acids, powdered metals or other materials having fire or explosive characteristics unless the subcontractor is using or incorporating these materials for initiation, propulsion, or detonation as an integral or component part of an explosive, an ammunition and explosive and item, or a weapon system. Such clause shall include a provision allowing authorized Government safety representatives to evaluate subcontractor safety programs, implemenation, and facilities as determined necessary. NOTE: All safety communiques from the Government Contracting Officer or authorized representative will be to the prime Contractor, although copies may be furnished to the subcontractor involved. Prime contractors shall change references to the "Government" to cite the name of the prime Contractor while assuring that the subcontractor(s) understand and agree to the Government's right to access to review compliance with contract safety requirements. In addition, the prime Contractor or higher level subcontractors shall include provisions to allow direction to cease performance of the subcontract as a result of a serious uncorrected or recurring safety deficiency potentially causing an imminent hazard to DoD personnel, property or contract performance.

(i) The Contractor shall notify the Contracting Officer, or authorized representative, prior to issuing any subcontract when it involves ammunition or explosives. In the event that the proposed subcontract represents a change in place of performance, the Contractor shall request approval for such change in accordance with the clause of this contract entitled "Change in Place of Performance—Ammunition and Explosives".

(j) Nothing contained herein shall relieve the Contractor from complying with

applicable Federal, state, and local laws, ordinances, codes, and regulations (including the obtaining of licenses and permits) in connection with the performance of this contract.
(End of clause)

252.223-7002 Change in place of performance—ammunition and explosives.

As prescribed in 223.7002(b), insert the following clause in solicitations and contracts.

Change in Place of Performance—Ammunition and Explosives (Jul 1986)

(a) The Offeror must stipulate in the Place of Performance Clause included in this solicitation (FAR 52.214-14 or FAR 52.215.20) information pertinent to the place of performance of all ammunition and explosives work covered by the Safety Precautions for Ammunition and Explosives Clause (DFARS 252.223-7001). Failure to furnish this information with the offer may result in rejection of the offer.

(b) No change in the place(s) of performance shall be permitted between the opening/closing date of the solicitation/Request for Quotation and the award except where time permits and then only upon receipt of the Contracting Officer's written approval.

(c) Any change in place(s) of performance cited in this offer and in any resulting contract is prohibited unless it is specifically approved in advance by the Contracting Officer.
(End of clause)

[FR Doc. 86-18193 Filed 8-12-86; 8:45 am]
BILLING CODE 3510-01-M

48 CFR Part 232

Department of Defense Federal Acquisition Regulation Supplement; Contract Financing

AGENCY: Department of Defense (DoD).
ACTION: Final rule.

SUMMARY: The Defense Acquisition Regulatory Council has approved a change to the coverage in the DoD FAR Supplement at 232.501-1 to make the progress payment rates for Foreign Military Sales (FMS) Contracts the same level as provided by DoD on domestic defense contracts. This means that the progress payment rate would be 80% for other than small businesses and 90% for small businesses.

EFFECTIVE DATE: On all contracts awarded on or after 1 August 1986.

FOR FURTHER INFORMATION CONTACT: Defense Acquisition Regulatory Council, ATTN: Mr. Charles W. Lloyd, Executive Secretary, ODASD(P)DARS, c/o OASD(A&L) (MRS), Room 3C841, The Pentagon Washington, DC 20301-3062 (202-697-7266).

SUPPLEMENTARY INFORMATION:

A. Background

These changes are made in a response to a recommendation contained in DoD Defense Financial and Investment Review (DFAIR). DFAIR had concluded that the working capital requirements on FMS contracts were higher than experienced on domestic defense contracts. Thus the progress payment rates should not be different. The Defense Acquisition Regulatory Council published a proposed rule in the Federal Register on June 3, 1986 (51 FR 19865). Only one substantive comment was received and that comment principally concerned the timing of the change and not the change itself. The profit recognition that will be given to FMS contracts will be considered in a future change to DoD's profit as a whole. DFAIR had found that current levels of profit on FMS contracts were substantially higher than on domestic defense contracts. Compensating adjustments for lowering the FMS progress payments are not necessary at this time. Interested parties may submit proposed revisions to this supplement directly to the DAR Council.

B. Regulatory Flexibility Act

A Regulatory Flexibility Analysis was performed and provided to the Chief Counsel of Advocacy of the Small Business Administration as a result of the proposed rule published in the Federal Register on June 3, 1986 (51 FR 19865). There were no public comments received that addressed the Regulatory Flexibility Analysis. Therefore, the analysis as originally proposed has not been changed.

C. Paperwork Reduction Act

The rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Part 232

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Adoption of Amendments

Therefore, the DoD FAR Supplement contained in 48 CFR Chapter 2 is amended as set forth below.

1. The authority citation for 48 CFR Part 232 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 232—CONTRACT FINANCING

2. Section 232.501-1 is amended by revising paragraph (a) to read as follows:

232.501-1 Customary progress payment rates.

(a) The customary progress payment rate applicable to Foreign Military Sales requirements is the same as that applicable to DoD requirements. The customary progress payment rate for flexible progress payments is the rate determined by use of either the CASH II or CASH III computer program as applicable in accordance with the requirements of 232.502-1(71).

* * * * *

[FR Doc. 86-18194 Filed 8-12-86; 8:45 am]
BILLING CODE 3810-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Final Frameworks for Selecting Early Hunting Seasons on Certain Migratory Game Birds in the United States for the 1986-87 Season

AGENCY: Fish and Wildlife Service, Interior.
ACTION: Final rule.

SUMMARY: This rule prescribes final frameworks (i.e., the outer limits for dates and times when shooting may begin and end, hunting areas, and the numbers of birds which may be taken and possessed) for early-season migratory bird hunting regulations from which States may select season dates and daily bag and possession limits for the 1986-87 season. These seasons may open prior to October 1, 1986, and apply to mourning doves; white-winged and white-tipped doves; band-tailed pigeons; rails; woodcock; snipe; common moorhens and purple gallinules; teal (September only, in designated States); sea ducks (Atlantic Flyway only); experimental September duck seasons in Florida, Iowa, Kentucky and Tennessee; an experimental early September Canada goose season in parts of Michigan; sandhill cranes in the Central Flyway and Arizona; sandhill cranes and Canada geese in southwestern Wyoming; and extended falconry seasons.

DATES: Effective on August 13, 1986. Selected season dates are to be transmitted to the U.S. Fish and Wildlife Service (hereinafter the Service) for

publication in the **Federal Register** as amendments to §§ 20.103 through 20.106 and 20.109 of 50 CFR Part 20.

ADDRESSES: Season selections from States are to be mailed to: Director (FWS/MBMO U.S. Fish and Wildlife Service, Department of the Interior, Matomic Building—Room 536, Washington, DC 20240. Comments received are available for public inspection during normal business hours at the Service's office in Room 536, Matomic Building, 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, Department of the Interior, Washington, DC 20240, telephone (202) 254–3207.

SUPPLEMENTARY INFORMATION: On March 21, 1986, the U.S. Fish and Wildlife Service published for public comment in the **Federal Register** (51 FR 9854) initial proposals to amend 50 CFR Part 20, with comment periods ending June 19, 1986, for Alaska, Hawaii, Puerto Rico and the Virgin Islands frameworks; July 14, 1986, for other early-season frameworks; and August 25, 1986, for late-season frameworks. The March 21, 1986, document dealt with establishment of seasons, limits and shooting hours for migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of Subpart K. A supplemental proposed rulemaking for both the early and late hunting season frameworks appeared in the **Federal Register** dated June 6, 1986 (51 FR 20677).

On June 19, 1986, a public hearing was held in Washington, D.C., to review the status of mourning doves, woodcock, bank-tailed pigeons, white-winged and white-tipped doves, sandhill cranes and other species. The meeting was announced in the **Federal Register** on March 21, 1986, (51 FR 9854) and June 6, 1986 (51 FR 20677). Proposed hunting regulations were discussed for these species and for common snipe; rails; common moorhens and purple gallinules; September teal seasons in the Mississippi and Central Flyways; experimental early duck seasons in Florida, Iowa, Kentucky and Tennessee; an experimental early September Canada goose season in parts of Michigan; special sea duck seasons in the Atlantic Flyway; sandhill cranes in the Central Flyway and Arizona; sandhill cranes and Canada geese in southwestern Wyoming; extended falconry seasons and hunting regulations for Alaska, Puerto Rico and the Virgin Islands. Public comments on these matters were received.

On July 3, 1986, the Service published in the **Federal Register** (51 FR 24415) a third document in the series of proposed and final rulemaking documents dealing specifically with proposed frameworks for the 1986–87 season from which, when finalized, wildlife conservation agency officials may select season dates and bag limits for hunting certain migratory birds in their respective jurisdictions during the 1986–87 season. On July 25, 1986, the Service published in the **Federal Register** (51 FR 26712) a fourth document in the series which dealt specifically with final frameworks for Alaska, Puerto Rico and the Virgin Islands.

This rulemaking is the fifth in the series and deals specifically with final frameworks for other early-season migratory game bird hunting regulations from which State wildlife conservation agency officials may select season dates and daily bag and possession limits for the 1986–87 season. These seasons may open prior to October 1, 1986, and apply to mourning doves; white-winged and white-tipped doves; band-tailed pigeons; rails; woodcock; snipe; common moorhens and purple gallinules; teal (September only, in designated States); sea ducks (Atlantic Flyway only); experimental September duck seasons in Florida, Iowa, Kentucky and Tennessee; an experimental early September Canada goose season in parts of Michigan; sandhill cranes in the Central Flyway and Arizona; sandhill cranes and Canada geese in southwestern Wyoming; and extended falconry seasons.

These regulations contain no information collections subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980.

Review of Public Comments

The Service has already responded to earlier comments on proposed regulations published in the **Federal Register** on March 21, 1986, (51 FR 9854) and June 6, 1986, (51 FR 20677), and discussed at the June 19, 1986, public hearing in Washington, D.C. These responses appeared in the **Federal Register** on June 6, 1986, (51 FR 20677), July 3, 1986, (51 FR 24415), and July 25, 1986 (51 FR 26712). Nine additional comments, relating to proposed early-season frameworks, have been received and are discussed here. They are discussed in the same order as the items to which they apply are listed in previous 1986 **Federal Register** publications.

8. *Experimental September duck seasons.* In the March 21, 1986, **Federal Register** (at 51 FR 9862), the Service proposed to continue the experimental September duck hunting seasons in Iowa, Kentucky, Tennessee and Florida in 1986 unless the final progress reports provide evidence of a detrimental effect on any segment of the duck resource. The Service noted in the June 6, 1986, **Federal Register** (at 51 FR 20679) the Mississippi Flyway Council Lower Region Regulations Committee's recommendation for continuation of the experimental September duck hunting seasons in Kentucky and Tennessee in 1986, with modification if deemed necessary after evaluation of the final reports. In the July 3, 1986, **Federal Register** (at 51 FR 24420), the Service stated that while September duck seasons are in principle a feasible harvest management strategy, the current situation with regard to their evaluation and their suitability for widespread application is under review. The Service indicated the flyway-wide aspects of the management of target species will be reviewed with the appropriate flyway council to effectively evaluate September duck seasons. The Service proposed to continue in 1986 the experimental September duck seasons in Iowa, Kentucky, Tennessee and Florida under the same regulatory provisions as provided during the study periods with the exception of a restriction in Kentucky and Tennessee that only 2 of the 4 ducks permitted in the daily bag may be wood ducks. The Service proposed the change because of concern over the decrease in the survival rate of wood ducks measured by the experimental studies in these two States.

(a) Kentucky has indicated it feels the Service's proposal to reduce the bag limit on wood ducks is premature for 1986. The State has recommended that the frameworks for the 1986 experimental season be the same as those of 1985 and that the implications of the survival and recovery rates for local wood duck populations measured by its study be considered by the Mississippi Flyway Council and the Service during the coming year.

Response. A recent report completed by the Service, at the request of the Mississippi Flyway Council, indicates that the experimental September duck seasons in Kentucky and Tennessee provided a considerable amount of additional recreation and probably reduced the survival rates of wood ducks. The reduced survival, as well as increases in band recovery rates have raised the Service's concerns about the impact of special seasons on the status of local wood duck populations. It is difficult to assess the impact of changes in recovery rates, harvest and survival rates on local wood duck numbers

without additional information on recruitment. However, in light of these recent findings the Service does not believe it prudent to continue the experimental season in both States without change, and intends to consult with the Flyway Council on the matter.

(b) Tennessee has requested that the Service defer action on any changes in the State's experimental September duck season until the respective States, in conjunction with the Mississippi Flyway Council and Technical Section, have had an opportunity to review study findings. The State suggested that the survival rates of wood ducks measured by its study might not be significantly different from the survival rates of wood ducks of the Mississippi Flyway (minus Tennessee and Kentucky).

Response. In responding above to a similar comment from Kentucky, the Service notes that although it is difficult to assess the impact of changes in recovery rates, survival rates, and harvest of local wood duck numbers without additional information on recruitment, in light of recent findings, to continue the experimental September duck season in Tennessee or Kentucky without change would not be prudent waterfowl management.

(c) Florida has expressed concern that although its request for operational status of its experimental September duck season was endorsed by the Atlantic Flyway Council and Technical Section in 1985, the Service is proposing to continue the State's September season on an experimental basis in 1986.

Response. In the July 3, 1986, **Federal Register** (at 51 FR 24418), the Service noted that the Memorandum of Agreement between the Service and Florida for the State's experimental September duck season specifically asked that the impacts of the season on resident wood duck populations be assessed by banding. Results of the banding information provided in Florida's final report on its study were less than adequate to appraise impacts stemming from the increased harvest. The Service noted the difficulty in obtaining sufficient samples of banded wood ducks but indicated operational status cannot be granted in the absence of this information. The Service feels the September duck season in Florida should be continued experimental in 1986–87 with the conditions that adequate pre-season bandings of wood ducks be obtained, and that the overall approach to the experiment be modified as needed.

(d) The Wildlife Management Institute urged that experimental September duck seasons continue to be monitored carefully and regulatory adjustments be made to ensure increasing populations of the waterfowl species involved.

Response. The experimental September duck seasons will continue to be monitored, and the regulatory measures for these seasons, established in this document, are designed to avoid jeopardizing any segment of the duck resource.

14. *Frameworks for geese and brant in the conterminous United States—outside dates, season length and bag limits.* In the June 6, 1986, **Federal Register** (at 51 FR 20680), the service gave notice of the Mississippi Flyway Council Upper Region Regulations Committee's endorsement of Michigan's request for an early September Canada goose hunting season (focused on local giant Canada geese) and solicited comments on the same. In the **Federal Register** of July 3, 1986 (at 51 FR 24420), the Service noted receipt of additional information from Michigan dated June 3, 1986, in support of its request for an 8-day early September (8th–15th) Canada goose season limited to the Lower Peninsula (exclusive of major goose migration/concentration areas) and two small areas on the Upper Peninsula. In responding to the additional information, the Service indicated it still feels acceptable evidence is lacking concerning the numbers and distribution of migrant geese in the designated hunt area during the requested season.

(a) In response to the July 3, 1986, **Federal Register** document, Michigan provided more data on July 11, 1986, concerning Canada goose neckband observations and migration counts for the State. The State indicated that neckbanding and observation data confirm that very few migrant Canada geese would be present in southwest Michigan during the proposed September 8–15, 1986, season. However, the State indicated that the likelihood of unintended harvest of some migrant Canada geese during the proposed early season is greater than it originally expected near the Fish Point Wildlife Area and the Shiawassee River State Game Area, and therefore proposed to expand the closed zone around both areas.

Response. The Service believes the additional information provided supports the contention that few migrant geese are present in the proposed hunt areas in early September. There are still concerns, however, that population surveys indicate numbers of migrant Canada geese on some areas increase sharply after September 10, observations of neck-collared Canada geese in early September are either limited or missing in many areas and there are few measurements of goose parts from geese taken during early September.

The Service believes an experimental early September season (6 consecutive days) on giant Canada geese in Michigan is warranted and the regulatory measures established in this document permit such a season, provided the following conditions are met and a Memorandum of Agreement governing the experimental season is developed by the Service and Michigan.

1. Outside dates for the season are September 1 and September 10.

2. The State must conduct neck collar observations and population surveys throughout the first half of September in all hunt areas.

3. The State must collect sufficient data to ascertain the probable source population of the Canada geese in the bag.

4. The State will report in writing on the results of this early season prior to the Service's June 1987 early-season regulations meeting.

In view of the interest in both early and late experimental seasons to aid in control of nuisance Canada geese and the acknowledged widespread growth of local nesting Canada goose populations, the Service requests the Mississippi Flyway Council and other interested Councils to develop flyway plans including criteria for proposal, implementation and evaluation of such seasons. These plans should be developed prior to advancing proposals for such seasons. Service personnel will discuss this topic in detail at coming Technical Section and Council Meetings.

(b) The Little Prairie Hunt Club of Saginaw, Michigan expressed support for an early September Canada goose season in Michigan to control local giant Canada geese, and urged the Service to consider such a season. The Club indicated that there are rapidly expanding local goose populations that have a potential for crop depredation or nuisance problems, and that an early goose season would provide an excellent opportunity to obtain significant data needed for population control in the future.

Response. The Service agrees an early goose season is appropriate under the conditions outlined in the response to 14(a), above.

(c) The Chief Wildlife Biologist of Michigan State University's Kellogg Bird Sanctuary expressed his feelings that an early September Canada goose season would have little or no adverse impact on migrant geese, but may be an ideal time to subject local giant Canada geese to additional harvest pressure. He further indicated he felt migrant and

local Canada goose populations are robust enough to stand the additional harvest of an early September hunting season.

Response. The Service will permit an early goose season in Michigan as outlined in the respone to 14(a), above.

21. *Woodcock.* (a) The Wildlife Management Institute expressed support for restrictive regulations for woodcock in the Atlantic Flyway, and urged that efforts should continue to be directed toward encouraging increases in the eastern woodcock population.

Response. The Service appreciates the concern of the Wildlife Management Institute over the population status of the woodcock in the Atlantic Flyway. In 1985 the Service initiated a program of restrictive hunting regulations for woodcock in the Atlantic Flyway to bring harvest opportunities to a level commensurate with current population status. The regulatory measures established in this document reflect no change in the 1986–87 season frameworks for woodcock from those of 1985–86.

(b) New Jersey reiterated its request for a proportionate penalty for selecting zoning as a woodcock harvest strategy when compared to the season length framework for other Atlantic Flyway States. The State indicated it felt the 67 percent reduction in woodcock harvest it experienced in 1985 from that of 1984 is excessive, and that the Service should give more consideration to the numerous studies and findings the State conducted to evaluate the effects of zoning on the woodcock harvest.

Response. As noted in the June 6, 1986, **Federal Register** (at 51 FR 20681), the 10-day penalty taken by New Jersey for selecting its option to zone for woodcock hunting is longstanding and the Service feels it should be continued in 1986–87. The Service believes zoning has the potential to increase the harvest of woodcock and therefore questions the wisdom of offering the option to zone for woodcock hunting. The Service notes that all other Atlantic Flyway states are offered a 45-day season but are not permitted zones for woodcock. New Jersey may select a 45-day season provided they do not zone.

(c) The Virginia Quail Association requested that Virginia be permitted to establish an east and a west zone for woodcock hunting because of the two woodcock migration corridors within the State.

Response. The Service notes this request, but does not support such action at a time when a program of restrictive woodcock hunting regulations has been established to bring harvest opportunities to a level commensurate with the current population.

23. *Mourning doves.* Mr. Donald Heintzelman, representing the Wildlife Information Center, Inc. (hereinafter WIC) reemphasized his objections to mourning dove hunting as stated at the Public Hearing for Early Season Regulations. He particularly objected to hunting being permitted in the Western Management Unit due to a downward population trend. He also contended the dove hunting in September resulted in doves with young being killed by hunters. He claimed that dove hunting resulted in other protected wildlife being slaughtered indiscriminately as evidenced by WIC data. Based on WIC surveys in California and Pennsylvania, Mr. Heintzelman also claimed that the majority of Americans did not favor hunting, therefore, hunting should be prohibited.

Response. The Service has responded previously to similar comments by Mr. Heintzelman in the July 3, 1986, **Federal Register** (51 FR 24417). The Service again expresses its concern for the dove population decline in the Western Management Unit. A subcommittee of the Western Migratory Upland Game Bird Technical Committee which includes Service representatives is investigating the reasons for this decline. The Services supports this effort and awaits the findings of the subcommittee.

The Service responded to Mr. Heintzelman on the subject of September hunting in 51 FR 24417 (July 3, 1986). A number of references were made to previous **Federal Registers** in which this issue was discussed. In the July 12, 1982, **Federal Register** (47 FR 30163–30164), for example, the Service reported on an extensive dove nesting study. A report was subsequently prepared and distributed in 1982 entitled Mourning Dove Nesting: Seasonal Patterns and Effects of September Hunting. The study concluded that dove hunting under current regulations has no detectable effect on recruitment of fledglings into the mourning dove population.

Regarding the indiscriminate slaughter of other protected wildlife by dove hunters, the Service has not received any quantitative evidence from the WIC or other sources for evaluation, indicating other wildlife populations are being adversely affected in conjunction with dove hunting. Although the Service recognizes that some misidentification does occur in conjunction with dove hunting and species other than doves may be killed, it is not believed to be a significant factor.

Concerning public attitudes toward hunting, the Service notes once again that the Migratory Bird Treaty Act of 1918 specifically recognizes hunting as a legitimate use of the migratory game bird resource. Wildlife populations are a renewable resource and provide recreation to millions of Americans both hunters and nonhunters. Careful studies of the attitudes of people throughout the United States indicate that, while a majority of people do not hunt, they do not oppose hunting (Kellert 1979).

24. *White-winged doves.* (a) The Wildlife Management Institute expressed support for the Service's proposal to permit Texas a 4-day white-winged dove season in the State's special white-winged dove area of its South Dove Zone, but cautioned that the large take of whitewings in Mexico should be monitored carefully to avoid an excessive harvest.

Response. The Service notes the Wildlife Management Institute's support for the regulations frameworks for white-winged doves in Texas. Regarding the hunting of whitewings in Mexico, the Service has no control of migratory game bird harvest there, but recognizes that American hunters presently harvest substantial numbers of white-winged doves in northeastern Mexico each year. Through the U.S.-Mexico Joint Agreement on Wildlife Conservation, the Service and Mexico's Direccion General de Conservacion Ecologica de Recursos Naturales are monitoring whitewing populations in both countries. It is believed that the current level of harvest is commensurate with the present population size. However, accelerated agricultural development in northeastern Mexico is threatening whitewing nesting habitat through deforestation. Both official and private efforts are being made to safeguard the 20–22 major nesting colonies to ensure continued high population levels. If the clearing of native brush habitat continues and whitewing populations subsequently are reduced in Mexico, the need for modified harvest management strategies will be brought to the attention of the Joint Committee.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 25241). In addition, several environmental assessments have been prepared on specific matters which

serve to supplement the material in the Final Environmental Statement. Copies of the environmental assessments are available from the Service.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act "[and]" . . . by taking such action necessary to insure that any action authorized, funded, or carried out . . . is not likely to jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species . . . which is determined to be critical." The Service therefore initiated section 7 consultation under the Endangered Species Act for the proposed hunting season frameworks.

On June 23, 1986, the Chief, Office of Endangered Species, concluded that the proposed actions were not likely to jeopardize the continued existence of listed species.

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species.

The Service's biological opinions resulting from its consultation under section 7 are considered public documents and are available for inspection in the Office of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240.

Regulatory Flexibility Act and Executive Order 12291

In the **Federal Register** dated March 21, 1986 (51 FR 9860), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Executive Order 12291 and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240.

Memorandum of Law

The Service published its Memorandum of Law, as required by Section 4 of Executive Order 12291, in the **Federal Register** dated July 25, 1986 (51 FR 26712).

Authorship

The primary author of this final rulemaking is Morton M. Smith, Office of Migratory Bird Management, working under the direction of Rollin D. Sparrowe, Chief.

Regulations Promulgation

The rulemaking process for migratory bird hunting must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed rules were published March 21, June 6, and July 3, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that at the periods' close, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that States would have insufficient time to select their season dates, shooting hours and limits; to communicate those selections to the Service; and finally establish and publicize the necessary regulations and procedures to implement their decisions.

Therefore, the Service under authority of the Migratory Bird Treaty Act of July 3, 1918, as amended, (40 Stat. 755; 16 U.S.C. 703 et seq.), prescribes final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and hunting areas, from which State conservation agency officials may select hunting season dates and other options. Upon receipt of season and option selections from State officials, the Service will publish in the **Federal Register** a final rulemaking amending 50 CFR Part 20 to reflect seasons, limits, and shooting hours for the contiguous United States, Alaska, Puerto Rico and Virgin Islands for the 1986–87 season.

The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act and these frameworks will, therefore, take effect immediately upon publication.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

The rules that eventually will be promulgated for the 1986–87 hunting season are authorized under the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.) as amended.

Final Regulations Frameworks for 1986–87 Early Hunting Seasons on Certain Migratory Birds

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved final frameworks which prescribe season lengths, bag limits shooting hours and outside dates within which States may select seasons for mourning doves; white-winged and white-tipped doves; band-tailed pigeons; rails; woodcock; snipe; common moorhens and purple gallinules; teal in September; experimental September duck season in Iowa, Florida, Kentucky and Tennessee; an experimental September Canada goose season in Michigan; see ducks (scoters, eiders, and oldsquaw) in certain defined areas of the Atlantic Flyway; sandhill cranes; sandhill cranes-Canada geese in southwestern Wyoming; and extended falconry seasons. For the guidance of State conservation agencies, these frameworks are summarized below.

Notice

Any State desiring its hunting seasons for mourning doves, white-winged doves, white-tipped doves, band-tailed pigeons, rails, woodcock, common snipe, common moorhens and purple gallinules, sandhill cranes or extended falconry seasons to open in September must make its selection no later than July 31, 1986. States desiring these seasons to open after September 30 may make their selections at the time they select regular waterfowl seasons. Season selections for the five States offered experimental September waterfowl seasons and Wyoming special sandhill crane-Canada goose season must also be made by July 31, 1986.

Atlantic Flyway coastal States desiring their seasons on sea ducks in certain defined areas to open in September must make their selection no later than July 31, 1986. Those desiring this season to open after September may make their selections when they select their regular waterfowl seasons.

Outside Dates: All dates noted are inclusive.

Shooting Hours: Between ½ hour before sunrise and sunset daily for all species except as noted below. The

hours noted here and elsewhere also apply to hawking (taking by falconry).

Mourning Doves

Outside Dates: Between September 1, 1986, and January 15, 1987, except as otherwise provided, States may select hunting seasons and bag limits as follows:

Eastern Management Unit

(All States east of the Mississipi River and Louisiana)

Hunting Seasons, and Daily Bag and Possession Limits:

Not more than 70 days with bag and possession limits of 12 and 24, respectively. Not more than 60 days with bag and possession limits of 15 and 30, respectively. Hunting seasons may be split into not more than 3 periods under either option.

Shooting Hours: Between ½ hour before sunrise and sunset daily.

Zoning: Alabama, Georgia, Illinois, Louisiana and *Mississippi,* may elect to zone their States as follows:

A. Two zones per State having the following descriptions or division lines:

Alabama—South Zone: Mobile, Baldwin, Escambia, Covington, Coffee, Geneva, Dale, Houston and Henry Counties, North Zone: Remainder of the State.

Georgia—The Northern Zone shall be that portion of the State lying north of a line running west to east along U.S. Highway 280 from Columbus to Wilcox County, thence southward along the western border of Wilcox County, thence east along the southern border of Wilcox County to the Ocmulgee River, thence north along the Ocmulgee River to Highway 280, thence east along Highway 280 to the Little Ocmulgee River; thence southward along the Little Ocmulgee River to the Ocmulgee River; thence southwesterly along the Ocmulgee River to the western border of Jeff Davis County; thence south along the western border of Jeff Davis County; thence east along the southern border of Jeff Davis and Appling Counties; thence north along the eastern border of Appling County to the Altamaha River; thence east to the eastern border of Tattnall County; thence north along the eastern border of Tattnall County; thence north along the western border of Evans to Candler County; thence east along the northern border of Evans to Bulloch County; thence north along the western border of Bulloch County to Highway 301; thence northwest along Highway 301 to the South Carolina line.

Illinois—U.S. Highway 36.

Louisiana—Interstate Highway 10 from the Texas State line to Baton Rouge, Interstate Highway 12 from Baton Rouge to Slidell and Interstate Highway 10 from Slidell to the Mississippi State line.

Mississpppi—U.S. Highway 84.

B. Within each zone, these States may select hunting seasons of not more than 70 days (or 60 under the alternative) which may be split into not more than 3 periods.

C. The hunting seasons in the South Zones of Alabama, Georgia, Louisiana and Mississppi may commence no earlier than September 20, 1986.

D. Regulations for bag and possession limits, seasons length, and shooting hours must be uniform within specific hunting zones.

Central Management Unit

(Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas and Wymong)

Hunting Seasons and Daily Bag Possession Limits:

Not more than 70 days with bag possession limits of 12 and 24, respectively,

or

Not more than 60 days with bag and possession limits of 15 and 30, respectively. Hunting seasons may be split into not more than 3 periods under either option.

Texas Zoning: In addition to the basic framework and the alternative, Texas may select hunting seasons for each of 3 zones described below.

North Zone—That portion of the State north of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Interstate Highway 20; northeast along Interstate Highway 20 to Interstate Highway 30 at Forth Worth; northeast along Interstate Highway 30 to the Texas-Arkansas State line.

South Zone—That portion of the State south and west of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Van Horn, south and east on U.S. 90 to San Antonio; than east on Interstate 10 to Orange, Texas.

Special, White-Winged Dove Area in the South Zone—That portion of the State south and west of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Van Horn, south and east on U.S. Highway 90 to Uvalde, south on U.S. Highway 83 to State Highway 44; east along State Highway 44 to State Highway 16 at Freer; south along State Highway 16 to State Highway 285 at Hebbronville; east along State Highway 285 to FM 1017; southeast along FM 1017 to State Highway 186 at Linn; east along State Highway 186 to the Mansfield Channel at Port Mansfield; east along the Mansfield Channel to the Gulf of Mexico.

Central Zone—That portion of the State lying between the North and South Zones.

Hunting seasons in these zones are subject to the following conditions:

A. The hunting season may be split into more than 2 periods, except that, in that portion of Texas where the special 4-day white-winged dove season is allowed, a limited mourning dove season may be held concurrently with the white-winged dove season and with shooting hours coinciding with those for white-winged doves (see white-winged dove frameworks).

B. Each zone may have a season of not more than 70 days (or 60 under the alternative). The North and Central zones may select a season between September 1, 1986 and January 25, 1987; the South zone between September 20, 1986 and January 25, 1987.

C. Except during the special 4-day white-winged dove season in the South Zone, each zone may have an aggregate daily bag limit of 12 doves, (or 15 under the alternative), no more than 2 of which may be white-winged doves and no more than 2 of which may be white-tipped doves. The possession limit is double the daily bag limit.

D. Regulations for bag and possession limits, season length, and shooting hours must be uniform within each hunting zone.

Western Management Unit

(Arizona, California, Idaho, Nevada, Oregon, Utah and Washington)

Hunting Seasons, and Daily Bag and Possession Limits:

Not more than 70 days with bag and possession limits of 12 and 24, respectively,

or

In all states except Arizona, not more than 60 days with bag and possession limits 15 and 30, respectively. Hunting seasons may be split into not more than 3 periods under either option.

White-Winged Doves

Outside Dates: Arizona, California, Nevada, New Mexico, and *Texas* (except as shown below) may select hunting seasons between September 1 and December 31, 1986. *Florida* may select hunting seasons between September 1, 1986 and January 15, 1987.

Arizona may select a hunting season of not more thant 29 consecutive days running concurrently with the first period of the split mourning dove season. The daily bag limit may not exceed 12 mourning and white-winged doves in the aggregate, no more than 6 of which may be white-winged doves, and a possession limit twice the daily bag limit after the opening day.

In the *Nevada* counties of Clark and Nye, and the *California* counties of Imperial, Riverside and San Bernardino, the aggregate daily bag and possession limits of mourning and white-winged doves may not exceed 12 and 24, respectively, with a 70-day season, or 15 and 30 if the 60-day option for mourning doves is selected; however, in either season, the bag and possession limits of white-winged doves may not exceed 10 and 20, respectively.

New Mexico may select a hunting season with daily bag and possession limits not to exceed 12 and 24 (or 15 and 30 if the 60-day option for mourning doves is selected) white-winged and mourning doves, respectively, singly or in the aggregate of the 2 species. Dates, limits, and hours are to conform with those for mourning doves.

Texas may select a hunting season of not more than 4 days for the special white-winged dove area of the South Zone. The daily bag limit may not exceed 10 white-winged, mourning, and white-tipped doves in the aggregate including no more than two mourning doves and two white-tipped doves per day; and the possession limit may not exceed 20 white-winged, mourning and white-tipped doves in the aggregate including no more than four mourning doves and four white-tipped doves in possession.

and

In addition, *Texas* may also select a white-winged dove season of not more than 70 days (or 60 under the alternative for mourning doves) to be held between September 1, 1986, and January 25, 1987, and coinciding with the mourning dove season. The daily bag limit may not exceed 12 white-winged, mourning and white-tipped doves (or 15 under the alternative) in the aggregate, of which not more than 2 may be white-winged doves and not more than 2 of which may be white-tipped doves. The possession limit may not exceed 24 white-winged, mourning and white-tipped doves (or 30 under the alternative) in the aggregate, of which not more than 4 may be white-winged doves and not more than 4 of which may be white-tipped doves.

Florida may select a white-winged dove season of not more than 70 days (or 60 under the alternative for mourning doves) to be held between September 1, 1986, and January 15, 1987, and coinciding with the mourning dove season. The aggregate daily bag and possession limits of mourning and white-winged doves may not exceed 12 and 24 (or 15 and 30 if the 60-day option for mourning doves is selected); however, for either option, the bag and possession limits of white-winged doves may not exceed 4 and 8, respectively.

Band-Tailed Pigeons

Pacific Coast States and Nevada: California, Oregon, Washington and the Nevada counties of Carson City, Douglas, Lyon, Washoe, Humboldt, Pershing, Churchill, Mineral and Storey.

Outside Dates: Between September 1, 1986, and January 15, 1987.

Hunting Seasons, and Daily Bag and Possession Limits: Not more than 30 consecutive days, with a bag and possession limit of 5.

Zoning: California may select hunting seasons of 30 consecutive days in each of the following two zones:

1. In the counties of Alpine, Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama and Trinity; and

2. The remainder of the State.

Four-Corners States: Arizona, Colorado, New Mexico and Utah.

Outside Dates: Between September 1 and November 30, 1986.,

Hunting Seasons, and Daily Bag and Possession Limits: Not more than 30 consecutive days, with bag and possession limits of 5 and 10, respectively.

Areas: These seasons shall be open only in the areas delineated by the respective States in their hunting regulations.

Zoning: New Mexico may be divided into North and South Zones along a line following U.S. Highway 60 from the Arizona State line east to Interstate Highway 25 at Socorro and south along Interstate Highway 25 from Socorro to the Texas State line. Hunting seasons not to exceed 20 consecutive days may be selected between September 1 and November 30, 1986, in the North Zone and October 1 and November 30, 1986, in the South Zone.

Rails

(Clapper, King, Sora and Virginia)

Outside Dates: States included herein may select seasons between September 1, 1986, and January 20, 1987, on clapper, king, sora and Virginia rails as follows:

Hunting Seasons: The season may not exceed 70 days. Any State may split its season into two segments.

Clapper and King Rails

Daily Bag and Possession Limits: In *Rhode Island, Connecticut, New Jersey, Delaware,* and *Maryland,* 10 and 20 respectively, singly or in the aggregate to these two species. In *Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina,* and *Virginia,* 15 and 30, respectively, singly or in the aggregate of the two species.

Sora and Virginia Rails

Daily Bag and Possession Limits: In the Atlantic, Mississippi and Central [1] Flyways and portions of Colorado, Montana, New Mexico and Wyoming in the Pacific Flyway,[2] 25 daily and 25 in possession, singly or in the aggregate of the two species.

Woodcock

Outside Dates: States in the Atlantic Flyway may select hunting seasons between October 1, 1986, and January 31, 1987. States in the Central and Mississippi Flyways may select hunting seasons between September 1, 1986, and February 28, 1987.

Hunting Seasons, and Daily Bag and Possession Limits: In the Atlantic Flyway, seasons may not exceed 45 days, with bag and possession limits of 3 and 6, respectively; in the Central and Mississippi Flyways, seasons may not exceed 65 days, with bag and possession limits of 5 and 10, respectively. Seasons may be split into two segments.

Zoning: New Jersey may select seasons by north and south zones divided by State Highway 70. The season in each zone may not exceed 35 days.

Common Snipe

Outside Dates: Between September 1, 1986, and February 28, 1987. In *Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland* and *Virginia* the

season must end no later than January 31.

Hunting Seasons, and Daily Bag and Possession Limits: Seasons may not exceed 107 days in the Atlantic, Mississippi and Central Flyways and 93 days in Pacific Flyway portions of Montana, Wyoming, Colorado and New Mexico. In the remainder of the Pacific Flyway the season shall coincide with the duck seasons. Seasons may be split into two segments. Bag and possession limits are 8 and 16, respectively.

Common Moorhens and Purple Gallinules

Outside Dates: September 1, 1986, through January 20, 1987, in the Atlantic and Mississippi Flyways and September 1, 1986, through January 18, 1987, in the Central Flyway. States in the Pacific Flyway must select their hunting seasons to coincide with their duck seasons.

Hunting Seasons, and Daily Bag and Possession Limits: Seasons may not exceed 70 days in the Atlantic, Mississippi and Central Flyways; in the Pacific Flyway seasons must be the same as the duck seasons. Seasons may be split. Bag and possession limits are 15 and 30 common moorhens and purple gallinules, singly or in the aggregate of the two species, respectively; except the daily bag and possession limits in the Pacific Flyway may not exceed 25 coots and common moorhens, singly or in the aggregate of the two species.

Sandhill Cranes

Regular Seasons in the Central Flyway:

Seasons not to exceed 58 days between September 1, 1986, and February 28, 1987, may be selected in the following States: *Colorado* (the Central Flyway portion except the San Luis Valley); *Kansas; Montana* (the Central Flyway portion except that area south of I–90 and west of the Bighorn River); *North Dakota* (west of U.S. 281); *South Dakota;* and *Wyoming* (in the counties of Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte and Weston).

For the remainder of the flyway, seasons not to exceed 93 days between September 1, 1986 and February 28, 1987 may be selected in the following States: *New Mexico* (the counties of Chaves, Curry, DeBaca, Eddy, Lea, Quay and Roosevelt); *Oklahoma* (that portion west of I–35); and *Texas* (that portion west of a line from Brownsville along U.S. 77 to Victoria; U.S. 87 to Placedo; Farm Road 616 to Blessing; State 35 to Alvin; State 6 to U.S. 290; U.S. 290 to Sonora; U.S. 277 to Abilene; Texas 351 to Albany; U.S. 283 to Vernon; and U.S. 183 to the Texas-Oklahoma boundary).

Bag and Possession Limits: 3 and 6, respectively.

Permits: Each person participating in the regular sandhill crane seasons must obtain and have in his possession while hunting, a valid Federal sandhill crane hunting permit.

Special Seasons in the Pacific Flyway: Arizona may select a sandhill crane season subject to the following conditions:

1. The season may not exceed 6 days in November 1986.

2. The hunting area is confined to Game Management Units 30A, 30B, 31, and 32.

3. Each hunter must obtain and have in possession while hunting a special permit issued by the State. No more than 200 permits may be issued. Each permittee may take 2 sandhill cranes per season.

4. Emergency closures for all crane hunting may be invoked as necessary.

Special Sandhill Crane-Canada Goose Season

Wyoming may select a season(s) on sandhill cranes and Canada geese subject to the following conditions:

1. Outside dates for the season(s) are September 1–22, 1986.

2. Hunting will be by State permit.

3. No more than 125 permits may be issued for the Bear River drainage and 125 permits issued for Star Valley, all in Lincoln County. Each permittee may take 2 sandhill cranes and 3 Canada geese per season.

4. No more than 75 permits may be issued in the Eden-Farson Agricultural Project in Sweetwater and Sublette Counties, each permittee may take no more than 3 cranes and 1 goose per season, and the season may not exceed 14 days.

5. Emergency closures for all crane hunting may be invoked as necessary.

Scoter, Eider, and Oldsquaw Ducks (Atlantic Flyway)

Outside Dates: Between September 15, 1986, and January 20, 1987.

Hunting Seasons, and Daily Bag and Possession Limits: Not to exceed 107 days, with bag and possession limits of 7 and 14, respectively, singly or in the aggregate of these species.

Bag and Possession Limits During Regular Duck Season: Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may set, in addition to the limits applying to other ducks during the regular duck season, a daily limit of 7 and a possession limit of 14 scoter, eider and oldsquaw ducks, singly or in the aggregate of these species.

Areas: In all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in *Maine, New Hampshire, Massachusetts, Rhode Island* and *Connecticut;* in those coastal waters of the State of *New York* lying in Long Island and Block Island Sounds and associated bays eastward from a line running between Miamogue Point in the town of Riverhead to Red Cedar Point in the town of Southampton, including any ocean water of *New York* lying south of Long Island; in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 1 mile of open water from any shore, island and emergent vegetation in *New Jersey, South Carolina,* and *Georgia;* and in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island and emergent vegetation in *Delaware, Maryland, North Carolina* and *Virginia;* and provided that any such areas have been described, delineated and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks and they must be included in the regular duck season conventional of point-system daily bag and possession limits.

Deferred Selection: Any State desiring its sea duck season to open in September must make its selection no later than July 31, 1986. Any State desiring its sea duck season to open after September may make its selection at the time it selects its waterfowl season.

September Teal Season

Outside Dates: Between September 1 and September 30, 1986, an open season on all species of teal may be selected by *Alabama, Arkansas, Colorado* (Central Flyway portion only), *Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, New Mexico,* (Central Flyway portion only), *Ohio Oklahoma, Tennessee* and *Texas* in areas delineated by State regulations.

Hunting Seasons, and Bag and Possession Limits: Not to exceed 9 consecutive days, with bag and possession limits of 4 and 8, respectively.

Shooting Hours: From sunrise to sunset daily.

Deadline: States must advise the Service of season dates and special

provisions to protect non-target species by July 31, 1986.

Special September Duck Seasons

Iowa September Duck Season: Iowa may experimentally hold a portion of its regular duck hunting season in September. All ducks which are legal during the regular duck season may be taken during the September segment on the season. In 1986, the 5-day season segment may commence no earlier than September 20, with daily bag and possession limits being the same as those in effect during the 1986 regular duck season.

Florida September Duck Season: An experimental 5-consecutive-day duck season may be selected in September subject to the following conditions:

1. The season will be in lieu of the extra teal option.

2. The daily bag limit will be 4 ducks, no more than one of which may be a species other than teal or wood duck, and the possession limit will be double the daily bag limit.

Tennessee, and Kentucky September Duck Seasons: Experimental 5-consecutive-day duck seasons may be selected in September by *Tennessee* and *Kentucky* subject to the following conditions:

1. The seasons will be in lieu of September teal seasons.

2. The daily bag limit will be 4 ducks, no more than 2 of which may be wood ducks, and no more than 1 of which may be a species other than teal or wood duck. The possession limit will be double the daily bag limit.

Special Early September Canada Goose Season

Michigan September Canada Goose Season: An experimental 6-consecutive-day Canada goose season may be selected in September by *Michigan* subject to the following conditions:

1. Outside dates for the season are September 1–10, 1986.

2. The daily bag limit will be 2 Canada geese, and the possession limit will be double the daily bag limit.

3. Areas opened to the hunting of Canada geese are limited to the Lower Peninsula (exclusive of major goose migration/concentration areas) and must be described, delineated and designated as such in the State's hunting regulations.

Special Falconry Regulations

Extended Seasons: Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States may select an extended season for taking migratory game birds in accordance with the following:

Framework Dates: Seasons must fall within the regular season framework dates and, if offered and accepted, other special season framework dates for hunting.

Daily Bag and Possession Limits: Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during both regular hunting seasons and extended falconry seasons.

Regulations Publication: Each State selecting the special season must inform the Service of the season dates and publish said regulations.

Regular Seasons: General hunting regulations, including seasons, hours, and limits, apply to falconry in each State listed in 50 CFR 21.29(k) which does not select an extended falconry season.

Note.—In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September seasons, special scaup season, special scaup and goldeneye season for falconry season) exceed 107 days for a species in one geographical area.

Dated: August 5, 1986.

William P. Horn,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-18225 Filed 8-12-86; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 60477-6077]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce (Secretary) announces the closure of the treaty Indian salmon fishery in the fishery conservation zone (FCZ) from the U.S.-Canada border to Point Chehalis, Washington, at midnight August 8, 1986, because the chinook salmon quota has been met. The Director, Northwest Region, NMFS (Regional Director), has determined that the ocean quota of 12,500 chinook salmon for the treaty Indian tribes will be reached by that time and date. This action is required by the ocean salmon regulations, and is intended to ensure conservation of chinook salmon.

EFFECTIVE DATE: Closure of the FCZ from the U.S.-Canada border to Point Chehalis, Washington (46°53'18" N. latitude), to treaty Indian salmon fishing is effective at 2400 hours Pacific Daylight Time, August 8, 1986. Comments on this notice will be received until August 22, 1986.

ADDRESS: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, NMFS, BIN C15700, 7600 Sand Point Way NE., Seattle, WA 98115–0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten (Regional Director), 206–526–6150.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries at 50 CFR Part 661 specify at § 661.21(a) (1) that: "When a quota for the commercial or the recreational fishery, or both, for any salmon species in any portion of the fishery management area is projected by the Regional Director to be reached on or by a certain date, the Secretary will, by publishing a notice in the **Federal Register** under § 661.23, close the commercial or recreational fishery, or both, for all salmon species in the portion of the fishery management area to which the quota applies as of the date the quota is projected to be reached." The regulations further specify at § 661.10 that: "Except as otherwise provided in this part, treaty Indian fishing in any part of the fishery management area is subject to the provisions of this part, the Magnuson Act, and any other regulations issued under the Magnuson Act."

Management measures for 1986 were effective on April 30, 1986 (51 FR 16520, May 5, 1986). Under these regulations, the treaty Indian ocean fishery for all species except coho extended from May 1 to the earlier of May 31 or the chinook quota. The treaty Indian ocean fishery for all salmon species opened on June 1, 1986, and extends until the earliest of October 31 or the chinook or coho quota in the Makah fishing area is reached and until the earliest of September 15 or the chinook or coho quota in the Quileute, Hoh, and Quinault fishing areas is reached. Treaty Indian quotas are 12,500 chinook and 86,000 coho (or a ratio of 1 chinook to nearly 7 coho).

Early in July, it became apparent that treaty Indian fishermen were harvesting a higher percentage of chinook salmon

in their catch than would allow full attainment of both chinook and coho quota. Through June 29, 7,410 chinook and 18,826 coho were landed, a ratio of approximately 1 chinook for each 2.5 coho. Continued unrestricted fishing for both species would have resulted in the treaty Indian chinook quota being met, and the fishery closed, with 25,093 coho salmon remaining in the quota.

The Pacific Fishery Management Council (Council) considered this ratio problem at its July 9–10 meeting in Portland, Oregon, and recommended to the tribes that they act to close their fisheries until early August, when coho salmon would be larger and more abundant. Rather than implementing a closure, the tribes elected to establish by tribal regulations or guidelines a "ratio" fishery requiring or advising their fishermen to land only 1 chinook for each 20 coho landed. The actual ratio of chinook to coho salmon landed subsequent to tribal action was variable. By July 25, an estimated 900 chinook and 22,700 coho remained to be caughf in the treaty Indian ocean salmon quotas, or a ratio of 1 chinook for 25 coho salmon.

In mid-July, members of the Council's Salmon Plan Development Team (Team) estimated that about 350 chinook would be killed as a result of being hooked and released in the tribal ratio fishery. Their estimate was based on the ratio of chinook to coho (1:10) in landings during the week of July 7–13 and the standard assumption that thirty percent of salmon hooked and released die. Applied to the approximately 1,170 chinook remaining in the quota, the tribal ratio fishery of 1 chinook to 20 coho (rather than the 1:10 ratio which prevailed in the unrestricted fishery between July 7–13) would mean that 1 chinook would be released for each one landed and that thirty percent of these would die, yielding a hooking mortality of 350 chinook.

When a ratio fishery is imposed, there is always an associated hooking mortality. Sound management of the ocean salmon fisheries therefore requires inclusion of an estimate of hooking mortality as a component of ocean quotas whenever hooking mortalities occur, and hooking mortality always has been included as a part of the ocean catch whenever quotas are computed. Establishment and modification of hooking mortality also are expressly authorized by an emergency rule (51 FR 18451, May 20, 1986) which, among other things, established inseason management provisions for the 1986 season.

The emergency rule authorizes inseason adjustments to management measures if the adjustments are consistent with fishery regimes established by the U.S.-Canada Pacific Salmon Commission, ocean escapement goals, conservation of the salmon resource, any adjudicated Indian fishing rights, and the ocean allocation schemes in the framework amendment (49 FR 43679, October 31, 1984). In addition, all inseason adjustments must be based on consideration of the following factors: Predicted sizes of salmon runs; harvest quotas and hooking mortality limits for the area and total allowable impact limitations if applicable; amount of recreational, commercial and treaty Indian catch for each species in the area to date; amount of recreational, commercial, and treaty Indian fishing effort in the area to date; estimated average daily catch per fisherman; predicted fishing effort for the area to the end of the scheduled season; and other factors as appropriate.

After consideration of the factors and criteria in the emergency rule, and after consultation with the affected treaty tribes, the Regional Director decided to apply a 250 chinook hooking mortality toward achievement of the treaty Indian ocean salmon quotas and advised the treaty Indian tribes of his decision on August 1. He chose a smaller number than that recpmmended by the Team because data on the actual ratio of chinook to coho in the ocean are extremely variable, the use of the smaller number would provide the tribes the longest possible season consistent with the Federal obligation to close the fishery on attainment of the chinook quota, his concern for the sound principle of accounting for hooking mortality in a ratio fishery, and his concern that the tribes may have been unaware of his obligation to apply hooking mortality in every ocean fishery.

Based on the best available information, the treaty Indian ocean fishery is projected to reach its 12,500 chinook salmon quota by midnight August 8, 1986. Depending upon the ratio of chinook to coho landed, approximately 3,400–6,400 coho salmon are expected to remain unharvested in the treaty Indian coho salmon quota.

The Regional Director consulted with the Washington Department of Fisheries (WDF), the Oregon Department of Fish and Wildlife, the Pacific Fishery Management Council, the Washington coastal Indian tribes, the Muckleshoot Tribe, and Columbia River Indian tribes, regarding his proposed action to close the treaty Indian ocean salmon fisheries at midnight on August 8, 1986. The WDF Director confirmed that the State will close the treaty Indian fishery in State waters adjacent to this area of the FCZ effective midnight August 8, 1986. Representatives of the Hoh and Quileute Indian tribes indicated their intent to implement tribal ordinances closing their ocean salmon fisheries in concert with this State and Federal action. The Quinault Indian ocean salmon fishery already has been closed by tribal ordinance. The Makah tribal representative opposed a closure, and it is uncertain whether the Tribe will comply with the Federal closure.

Representatives of the Columbia River Indian tribes and the Muckleshoot Tribe urged that the treaty Indian ocean salmon fisheries be closed when the quota was projected to be reached. The Regional Director considered not only the preseason regulations governing the ocean salmon fisheries, but also the effect of an over-quota harvest in the ocean on treaty Indian and non-Indian fisheries in Puget Sound and in the Columbia River. Federal closure when the quota is reached is mandated by the Federal regulations cited above, a 1982 order of the U.S. District Court in *Hoh et al.* v. *Baldrige*, and an understanding reached among the United States, the States of Washington and Oregon, and the tribes who are parties to *U.S.* v. *Oregon and Wahington* (1986 Ocean and In-River Management Agreement for Upper Columbia River Fall Chinook and Coho Salmon).

Therefore, the Secretary issues this notice to close the treaty Indian salmon fishery in the FCZ from the U.S.-Canada border to Point Chehalis, Washington, effective at midnight August 8, 1986. This notice does not apply to non-Indian fisheries operating in the same area or to other salmon fisheries which may be operating in other areas.

Pursuant to § 661.21(a)(2) of the framework salmon regulations, the Secretary will consider reopening the treaty Indian ocean salmon fisheries if he finds that the actual catch has been overestimated and that part of the tribal quota remains, that a reopening of the fishery is consistent with the management objectives for the affected species, and that the additional open period is no less than 24 hours.

Other Matters

This notice is provided under § 661.23 and is in compliance with Executive order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

Dated: August 8, 1986.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 86–18231 Filed 8–8–86; 4:20 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 156
Wednesday, August 13, 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 71

[Airspace Docket No. 86-AWA-30]

Proposed Alteration of Detroit, MI, Terminal Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter slightly one of the areas of the Detroit, MI, Terminal Control Area (TCA). To ensure containment of instrument approaches to Runways 21R and 27 within TCA airspace, Area "B" would be expanded slightly to the east and northeast. In addition, this proposal would correct an error relative to the correct charting of navigational aid magnetic radials which describe TCA airspace and which were incorrectly depited on the October 1985 TCA chart. This correction would apply to all four areas of the TCA.

DATE: Comments must be received on or before September 29, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Great Lakes Region, Attention: Manager, Air Traffic Division, Docket No. 86-AWA-30, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Gene Falsetti, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9249.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-AWA-30." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to modify slightly Area "B" of the Detroit, MI, TCA. After the major reconfiguration of the TCA effective October 1985, it was found that Area "B" did not entirely contain an instrument approach to Runway 21R and two instrument approaches to Runway 27. To provide necessary containment, Area "B" would be expanded laterally to the northeast and east. The proposed lateral extension is 1 NM to the northeast and the widest point of extension is approximately 2 NM to the east. In addition, it was found that the navigational aid radials used to describe and chart the TCA were not the original magnetic radials which should have appeared on the chart. Rather, the original magnetic radials were incorrectly interpreted to be true radials and then converted to magnetic radials for purposes of charting. This proposal would correct that error by ensuring that the original magnetic radials used to describe the boundaries are the radials used to chart the TCA. All four areas of the TCA would be affected by this correction. Section 71.401(b) of Part 71 of the Federal Aviation Regulations was republished in Handbank 7400.6B dated January 2, 1986.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore — (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Terminal control areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1345(a), 1510; Executive Order 10845; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.401 [Amended]

2. Section 71.401(b) is amended as follows:

Detroit, MI [Amended]

In Area A, wherever "050° radial" appears substitute "047° T(050° M) radial" Remove the present Area B and substitute the following:

Area B. That airspace from 2,500 feet MSL to and including 8,000 feet MSL within the lateral limits of the airspace beginning at the intersection of the I-DTW 7-mile DME arc and the Willow Run VOR 047° T(050° M) radial; thence northeast on the Willow Run VOR 047° T(050° M) radial until intercepting the I-DTW 8-mile DME arc; thence clockwise along the I-DTW 8-mile DME arc until intercepting the Willow Run VOR 091° T(095° M) radial, eastbound on the Willow Run VOR 091° T(095° M) radial until the United States shoreline, southbound along the United States shoreline until intercepting the Willow Run VOR 101° T(105° M) radial; thence on a 215° T(220° M) bearing from that intersection until intercepting the I-DTW 11-mile DME arc; thence clockwise along the I-DTW 11-mile DME arc until intercepting the Willow Run VOR 186° T(190° M) radial; thence northeast to the point where the I-DTW 7-mile DME arc intercepts the Detroit Willow Run Airport, MI, Control Zone; thence counterclockwise along the I-DTW 7-mile DME arc to the point of origin.

In Area C, wherever "200° radial" appears substitute "197° T(200° M) radial", wherever "226° radial" appears substitute "220° T(226° M) radial" and wherever "323° radial" appears substitute "317° T(323° M) radial".

In Area D, wherever "050° radial" appears substitute "317° T(323° M) radial", wherever "226° radial" appears substitute "220° T(226° M) radial" and wherever "200° radial" appears substitute "197° T(200° M) radial".

Issued in Washington, DC, on August 6, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-18152 Filed 8-12-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 71 and 75

[Airspace Docket No. 85-ASO-6]

Proposed Alteration of VOR Federal Airways and Jet Routes—Fort Myers, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This notice withdraws the Notice of Proposed Rulemaking (NPRM), Airspace Docket No. 85-ASO-6, which was published in the **Federal Register** on July 1, 1985. The notice proposed to amend various routes in southern Florida by aligning them with a relocated navigational aid near Fort Meyers, FL. The relocation action has been postponed.

EFFECTIVE DATE: August 13, 1986.

FOR FURTHER INFORMATION CONTACT: William Davis, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

The Proposed Rule

On July 1, 1985, a Notice of Proposed Rulemaking was published in the **Federal Register** to realign various VOR Federal Airways and Jet Routes in the vicinity of Fort Meyers, FL (50 FR 27014). Because of encroachment and possible loss of land lease, the Fort Meyers, FL, navigational aid was to be relocated to an on-airport site and was to be renamed the Lee County, FL, VORTAC. The relocation of the Fort Myers, FL, VORTAC was anticipated in early 1986. However, the relocation is now scheduled for mid-1987. An exact rescheduling date is predicated on funding availability. The FAA has concluded that the notice should be withdrawn.

List of Subjects in 14 CFR Parts 71 and 75

Aviation safety, VOR Federal airways, Jet routes.

Accordingly, pursuant to the authority delegated to me, the Notice of Proposed Rulemaking, Airspace Docket No. 85-ASO-6, as published in the **Federal Register** on July 1, 1985, (50 FR 27014), is hereby withdrawn.

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.)

Issued in Washington, DC, on August 6, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-18151 Filed 8-12-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75

[Airspace Docket No. 86-ASO-5]

Proposed Alteration of Jet Route J-89-GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign J-89 between Lakeland, FL, and Atlanta, GA. This action would provide improved en route navigation for pilots, thereby aiding them in maintaining course, and would increase system capacity by permitting a reduction in the minimum en route altitude.

DATES: Comments must be received on or before September 29, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Southern Region, Attention: Manager, Air Traffic Division, Docket No. 86-ASO-5, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office to the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation, Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9254.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory

decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and engergy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86–ASO–5." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to realign J–89 between Lakeland, FL, and Atlanta, GA. J–89 is presently aligned as a direct route between these VORTAC's. However, due to the excessive distance, aircraft are required to maintain a high minimum en route flight level. The proposed realignment of J–89 over Valdosta, GA, which is midway between Lakeland and Atlanta, would permit lower minimum usable flight levels and would increase flight level availability for use on that route segment. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7600.6B dated January 2, 1986.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as follows:

PART 75—[AMENDED]

1. The authority citation for Part 75 continues to read as follows:

Authority. 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J–89 [Amended]

By removing the words "via Atlanta, GA;" and by substituting the words "via Valdosta, GA; Atlanta, GA;"

Issued in Washington, DC, on August 6, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–18150 Filed 8–12–86; 8:45 am]

BILLING CODE 4910–13–M

POSTAL SERVICE

39 CFR Part 10

Proposed Express Mail International Service to Chile, India and Senegal

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: Pursuant to agreements with the postal administrations of Chile, India and Senegal, the Postal Service intends to begin Express Mail International Service with these countries at postage rates indicated in the tables below.

DATE: Comments must be received on or before September 12, 1986.

ADDRESS: Written comments should be directed to the General Manager, Rate Development Division, Office of Rates, Rates and Classification Department, U.S. Postal Service, Washington, DC 20260–5350. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in room 8620, 475 L'Enfant Plaza West, SW., Washington, DC 20260–5350.

FOR FURTHER INFORMATION CONTACT: Leon W. Perlinn, (202) 268–2673.

SUPPLEMENTARY INFORMATION: The International Mail Manual is incorporated by reference in the Code of Federal Regulations, 39 CFR 10.1. Additions to the manual concerning the proposed new services, including the rate tables reproduced below, will be made in due course. Accordingly, although 39 U.S.C. 407 does not require advance notice and the opportunity for submission of comments on international service, and the provisions of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553) do not apply (39 U.S.C. 410(a)), the Postal Service invites interested persons to submit written data, views or arguments concerning the proposed Express Mail International Service to Chile, India and Senegal at the rates indicated in the table below.

List of Subjects in 39 CFR Part 10

Postal Service, Foreign relations.

PART 10—[AMENDED]

The authority citation for Part 10 continues to read as follows:

Authority: 5 U.S.C. 552[a], 39 U.S.C. 401, 404, 407, 408.

CHILE, EXPRESS MAIL INTERNATIONAL SERVICE

Custom designed service [1] [2] up to and including—		On demand service [3] up to and including	
Pounds	Rate	Pounds	Rate
1	$31.00	1	$23.00
2	35.90	2	27.90
3	40.80	3	32.80
4	45.70	4	37.70
5	50.60	5	42.60
6	55.50	6	47.50
7	60.40	7	52.40
8	65.30	8	57.30
9	70.20	9	62.20
10	75.10	10	67.10
11	80.00	11	72.00
12	84.90	12	76.90
13	89.80	13	81.80
14	94.70	14	86.70
15	99.60	15	91.60
16	104.50	16	96.50
17	109.40	17	101.40
18	114.30	18	106.30
19	119.20	19	111.20

CHILE, EXPRESS MAIL INTERNATIONAL SERVICE—Continued

Custom designed service [1] [2] up to and including—		On demand service [2] up to and including	
Pounds	Rate	Pounds	Rate
20	124.10	20	116.10
21	129.00	21	121.00
22	133.90	22	125.90
23	138.80	23	130.80
24	143.70	24	135.70
25	148.60	25	140.60
26	153.50	26	145.50
27	158.40	27	150.40
28	163.30	28	155.30
29	168.20	29	160.20
30	173.10	30	165.10
31	178.00	31	170.00
32	182.90	32	174.90
33	187.80	33	179.80

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail pick up together under the same Service Agreement incurs only one pickup charge.

INDIA, EXPRESS MAIL INTERNATIONAL SERVICE

Custom designed service [1] [2] up to and including—		On demand service [2] up to and including	
Pounds	Rate	Pounds	Rate
1	$31.00	1	$23.00
2	36.90	2	28.90
3	42.80	3	34.80
4	48.70	4	40.70
5	54.60	5	46.60
6	60.50	6	52.50
7	66.40	7	58.40
8	72.30	8	64.30
9	78.20	9	70.20
10	84.10	10	76.10
11	90.00	11	82.00
12	95.90	12	87.90
13	101.80	13	93.80
14	107.70	14	99.70
15	113.60	15	105.60
16	119.50	16	111.50
17	125.40	17	117.40
18	131.30	18	123.30
19	137.20	19	129.20
20	143.10	20	135.10
21	149.00	21	141.00
22	154.90	22	146.90
23	160.80	23	152.80
24	166.70	24	158.70
25	172.60	25	164.60
26	178.50	26	170.50
27	184.40	27	176.40
28	190.30	28	182.30
29	196.20	29	188.20
30	202.10	30	194.10
31	208.00	31	200.00
32	213.90	32	205.90
33	219.80	33	211.80
34	225.70	34	217.70
35	231.60	35	223.60
36	237.50	36	229.50
37	243.40	37	235.40
38	249.30	38	241.30
39	255.20	39	247.20
40	261.10	40	253.10
41	276.00	41	259.00
42	272.90	42	264.90
43	278.80	43	270.80
44	284.70	44	276.70

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail pick up together under the same Service Agreement incurs only one pickup charge.

SENEGAL, EXPRESS MAIL INTERNATIONAL SERVICE

Custom designed service [1] [2] up to and including—		On demand service [2] up to and including	
Pounds	Rate	Pounds	Rate
1	$31.00	1	$23.00
2	35.90	2	27.90
3	40.80	3	32.80
4	45.70	4	37.70
5	50.60	5	42.60
6	55.50	6	47.50
7	60.40	7	52.40
8	65.30	8	57.30
9	70.20	9	62.20
10	75.10	10	67.10
11	80.00	11	72.00
12	84.90	12	76.90
13	89.80	13	81.80
14	94.70	14	86.70
15	99.60	15	91.60
16	104.50	16	96.50
17	109.40	17	101.40
18	114.30	18	106.30
19	119.20	19	111.20
20	124.10	20	116.10
21	129.00	21	121.00
22	133.90	22	125.90
23	138.80	23	130.80
24	143.70	24	135.70
25	148.60	25	140.60
26	153.50	26	145.50
27	158.40	27	150.40
28	163.30	28	155.30
29	168.20	29	160.20
30	173.10	30	165.10
31	178.00	31	170.00
32	182.90	32	174.90
33	187.80	33	179.80
34	192.70	34	184.70
35	197.60	35	189.60
36	202.50	36	194.50
37	207.40	37	199.40
38	212.30	38	204.30
39	217.20	39	209.20
40	222.10	40	214.10
41	227.00	41	219.00
42	231.90	42	223.90
43	236.80	43	228.80
44	241.70	44	233.70

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail pick up together under the same Service Agreement incurs only one pickup charge.

An appropriate amendment to 39 CFR 10.3 to reflect these changes will be published when the final rule is adopted.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 86-18210 Filed 8-12-86; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 5E3249/P399; FRL-3064-9]

Pesticide Tolerance for Triforine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for residues of the fungicide triforine in or on the raw agricultural commodity asparagus. The proposed regulation to establish a maximum permissible level for residues of triforine in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments, identified by the document control number [PP 5E3249/P399], should be received on or before September 12, 1986.

ADDRESS: By mail, submit written comments to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

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 will be available for public inspection in Rm. 236 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: Jack Housenger, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1806).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 5E3249 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project and the Agricultural Experiment Stations of Arizona and California.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, proose the establishment of a tolerance for residues of the fungicide triforine (*N,N'*-[1,4-piperazinediylbis (2,2,2-

trichloroethylidene)]bis(formamide)) in or on the raw agricultural commodity asparagus at 0.01 part per million (ppm). The petitioner proposed that use on asparagus be limited to Arizona and California based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address provided above.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance include:

1. A 2-year dog feeding study with a non-observed-effect level (NOEL) of 2.5 milligrams (mg)/kilogram (kg) of bodyweight (bw)/day. Systemic effects (siderosis of Kepffer cells and bone marrow) were observed at the 25.0 mg/kg bw/day dose level.

2. A 2-year rat oncogenicity/chronic feeding study with a NOEL of 31.25 mg/kg bw/day. The systemic effect (anemia) was observed at the 156.25 mg/kg bw/day dose level. The chemical was not considered to be oncogenic at any of the doses tested (0, 1.25, 6.25, 31.25, and 156.25 mg/kg bw/day) under the conditions of the study.

3. An 18-month mouse oncogenicity study. Under the conditions of the study, the chemical was not considered to be oncogenic at any of the doses tested (0, 4.3, 21.4, and 107 mg/kg bw/day).

4. A rat teratology study that indicated no teratogenic effects up to 1,600 mg/kg bw (the highest dose tested). The NOEL for fetotoxic effect was at 800 mg/kg bw under the conditions of the study.

5. A rabbit teratology study that indicated no teratogenic effects up to 125 mg/kg bw (the highest dose tested). The NOEL for fetotoxic effects was 5 mg/kg bw under the conditions of the study.

6. A three-generation rat reproduction study indicated no reproductive effects up to 125 mg/kg bw/day dose level under the conditions of the study.

7. Two rat metabolism studies that adequately identified the major metabolites.

The acceptable daily intake (ADI), based on the 2-year dog feeding study (NOEL of 2.5 mg/kg bw/day) and using a 100-fold safety factor, is calculated to be 0.025 mg/kg bw/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 1.5 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.1859 mg/day; the current action will increase the TMRC by 0.00002 mg/day (0.01 percent). Published tolerances utilize 12.40 percent of the ADI; the current action will not utilize any additional percent of the ADI.

The nature of the residues is adequately understood and an adequate analytical method, gas chromatography using an electron capture detector, is available in Pesticide Analytical Manual, Volume II (PAM–II), for enforcement purposes. There are presently no actions pending against the continued registration of this chemical.

Based on the information and data considered, and the fact that asparagus is not considered to be an animal feed commodity, the Agency concludes that the tolerance will protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 5E3249/P399]. All written comments filed in response to this petition will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, pesticides and pests.

Dated: August 1, 1986.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.382 is amended by designating the current paragraph and list of tolerances as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 180.382 Triforine; tolerances for residues.

* * * * *

(b) Tolerances with regional registration are established for residues of the fungicide triforine (*N,N'*-[1,4-piperazinediylbis(2,2,2-trichloroethylidene)]bis(formamide)) in or on the following raw agricultural commodities:

Commodities	Parts per million
Asparagus	0.01

[FR Doc. 86–18208 Filed 8–12–86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 74

Administration of Grants; Prior Approval for Budget Revisions, Nonconstruction Projects, Transfer of Amounts Budgeted for Direct Costs To Absorb Increases in Indirect Costs

AGENCY: Department of Health and Human Services (HHS).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Health and Human Services offers interested parties an opportunity to comment on a proposed amendment of its grants administration regulations. The amendment would require prior approval for the transfer of amounts budgeted for direct costs to absorb increases in indirect costs.

This proposal is part of a broader plan to change Departmental policy concerning the reimbursement of indirect costs under project grants and cooperative agreements. Other aspects of this plan are set forth in our companion proposal to amend HHS Grants Administration Manual Chapter 6–150. That proposal is published elsewhere in today's **Federal Register.** We offer both proposals in response to a recommendation by the Office of Science and Technology Policy that HHS adopt certain of the indirect cost reimbursement practices of the National Science Foundation and other Federal agencies.

This proposal would affect HHS project grants and cooperative agreements which provide for reimbursement of indirect costs. It would not affect block grants since they are not subject to Part 74. It also would not affect mandatory grants (i.e. formula grants or open-ended entitlement programs such as AFDC, Medicaid, and Child Support Enforcement) because § 74.100(b) exempts them from the CFR provision being amended.

DATE: Comments must be received by October 14, 1986.

ADDRESS: Comments should be submitted in writing to Joel B. Feinglass, Director, Office of Assistance and Cost Policy, Department of Health and Human Services, Room 513D, 200 Independence Avenue, SW., Washington, DC 20201. All written comments pursuant to this notice will be available for pubic inspection during normal working hours at the above address.

FOR FURTHER INFORMATION CONTACT: John Strauch (202) 245–7565.

SUPPLEMENTARY INFORMATION: HHS has long had a policy of full reimbursement of the indirect costs allocable to its grants and cooperative agreements. Under this policy HHS makes supplemental awards where necessary to cover indirect cost increases beyond the amounts originally awarded. The Department is proposing in a companion notice published elsewhere in today's **Federal Register** to discontinue making such supplemental awards (with certain exceptions). This change is being undertaken in response to a recommendation by the Office of Science and Technology Policy designed to help contain the growth of the indirect cost portion of Federal grant programs and to bring HHS practice more into line with that of other Federal agencies.

This notice proposes to change 45 CFR 74.105(a)(1) to require recipients to obtain prior approval from the HHS awarding agency for any budget revision which would transfer amounts budgeted for direct costs to absorb increases in indirect costs. As discussed more fully in our companion notice elsewhere in today's **Federal Register,** this change will result in some savings to HHS' awarding agencies, but more importantly, it will protect HHS grant-supported projects from risk of adverse programmatic effects due to reductions in direct cost budgets to cover increased indirect costs.

The Department has determined that this action is not a major rule under Executive Order 12291. I also hereby certify that this rule will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. In addition, this rule places no information collection or recordkeeping requirements on recipients; therefore OMB approval under the Paperwork Reduction Act is not required.

List of Subjects in 45 CFR Part 74

Accounting, Administrative practice and procedures, Grant programs—health, Grant programs—social programs, Grants administration.

Accordingly, HHS proposes to amend 45 CFR Part 74 as set forth below.

Dated: July 9, 1986.

Otis R. Bowen,

Secretary of Health and Human Services.

PART 74—[AMENDED]

1. The authority citation continues to read:

Authority: 5 U.S.C. 301; sec. 74.62(a) and Appendix J also issued under sec. 7505 Pub. L. 98–502, 98 Stat. 2333 (31 U.S.C. 7505).

2. In § 74.105, paragraph (a)(1) is amended by adding the words "or vice versa". As revised paragraph (a)(1) reads as follows:

§ 74.105 Budget revisions-nonconstruction grants.

(a) * * *

(1) Involve transfer of amounts budgeted for indirect costs to absorb increases in direct costs or vice versa, or

* * * * *

[FR Doc. 86–17585 Filed 8–12–86; 8:45 am]

BILLING CODE 4150–04–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86–319, RM–5463]

TV Broadcasting Services; Grants Pass, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Freedom Communications, Inc. proposing to assign UHF–TV Channel 30+ to Grants Pass, Oregon. Freedom states that it will apply for use of the channel as a satellite of its Station KTVL(TV) operation at Meford, Oregon.

DATES: Comments must be filed on or before September 25, 1986, and reply comments on or before October 10, 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: Gary M. Epstein, Esq., Joseph D. Sullivan, Esq., Latham, Watkins & Hills, 1333 New Hampshire Ave., NW., Suite 1200, Washington, DC 20036 (Counsel to 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. 86–319, adopted July 21, 1986, and released August 4, 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* contract.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-18189 Filed 8-12-86; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, and 173

[Docket No. HM-145E; Notice No. 86-5]

Reportable Quantity of Hazardous Substances; Extension of Comment Period

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Extension of time to file comments.

SUMMARY: On June 23, 1986, RSPA published a notice of proposed rulemaking (NPRM) under Docket HM-145E [51 FR 22902]. This NPRM proposed to amend the Hazardous Materials Regulations (HMR) by adding certain hazardous substances and their reportable quantities to the Hazardous Materials Table at § 172,101. In order to evaluate the proposals contained in the NPRM, the Hazardous Materials Advisory Council (HMAC) has requested that the comment period of the NPRM be extended for 60 days. RSPA concurs with their request and this Notice extends that comment period.

DATE: The date for filing the comments is extended from August 25, 1986 to October 26, 1986.

ADDRESS: Address comments to the Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Lee Jackson (202) 366-4488 or George Cushmac (202) 366-4545, Office of Hazardous Materials Transportation, RSPA, Washington, DC 20590.

Issued in Washington, DC, on July 30, 1986 under authority delegated in 49 CFR Part 106, Appendix A.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

[FR Doc. 86-18222 Filed 8-12-86; 8:45 am]

BILLING CODE 4910-60-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1152

[Ex Parte No. 274 (Sub-No. 13)]

Rail Abandonments; Use Of Rights-of-Way as Trails; Supplemental Trails Act Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to amend its rules governing implementation of section 208 of the National Trails System Act Amendments of 1983 at 49 CFR 1152.29(b)(1) to provide for a certification process for: (1) Nonprotested abandonment cases; and (2) protested but noninvestigated abandonment cases. The current rules do not provide a certification process when a timely Trails Act Statement is filed in either of these 2 types of cases. A process must be established where trail use has been sought for the Commission timely to obtain information from applicant railroads as to their willingness to negotiate agreements for interim trail use.

DATE: Comments are due September 12, 1986.

ADDRESS: An original and 10 copies of comments referring to Ex Parte No. 274 (Sub-No. 13) should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., (202) 275-7693.

SUPPLEMENTARY INFORMATION: The text of the proposed rules follows as an appendix to this notice.

Additional information is contained in the Commission's full decision. To obtain a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2215, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 275-7428.

This action will enhance the quality of the human environment and conserve energy resources by providing the public with new opportunities for creating recreational trails, utilizing alternative forms of transportation, and preserving transportation corridors along rail rights-of-way.

We certify that these rule changes will not have a significant economic impact on a substantial number of small entities. The rules implement a statutory provision allowing persons to use rail property for trails after it has been authorized for abandonment.

List of Subjects in 49 CFR Part 1152

Administrative practice and procedure, Railroads, Environment.

Decided: August 6, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

Appendix—Proposed Additions to 49 CFR Part 1152

PART 1152—[AMENDED]

1. The authority citation for 49 CFR Part 1152 would be revised to read as follows:

Authority: 49 U.S.C. 10321, 10362, 10505, 10903 *et seq.*; 16 U.S.C. 1247(d); 31 U.S.C. 9701; 45 U.S.C. 904 and 915; and 5 U.S.C. 553, 559 and 704.

§ 1152.29 [Amended]

2. Section 1152.29 is proposed to be amended by adding new paragraphs (b)(1) (i) and (ii).

§ 1152.29 Prospective use of rights-of-way for interim trail use and rail banking.

* * * * *

(b)(1) * * *

(i) In a nonprotested proceeding, when a timely Trails Act statement is filed, the Director of the Office of Proceedings, on the 35th day after the abandonment application is filed, will issue a decision that either: (A) Finds that trails use is not feasible; or (B) finds that trails use is feasible and directs the railroad to notify the Commission within 5 days whether it intends to negotiate an agreement. If trails use is not feasible, if it is feasible but the railroad does not intend to negotiate an agreement, or if the railroad does not timely notify the Commission of its intention to negotiate, the case will be handled under existing procedures and a Certificate and Decision permitting abandonment will be issued by day 45. If the railroad is willing to negotiate an agreement, the Director will issue a Notice of Findings and a Decision and Certificate of Interim Trail Use or Abandonment by day 45.

(ii) In a protested but noninvestigated proceeding, when a timely Trails Act statement is filed and the Director

determines that no investigation is to be undertaken, the Director will issue a noninvestigation decision within 45 days after the application is filed that will include a finding that either: (A) Trails use is not feasible; or (B) trails use is feasible and directing the railroad to notify the Commission within 10 days whether it intends to negotiate an agreement. If trails use is not feasible, if it is feasible but the railroad does not intend to negotiate an agreement, or if the railroad does not timely notify the Commission of its intention to negotiate, the case will be handled under existing procedures, and a decision on the merits will be issued by day 75. If the railroad is willing to negotiate an agreement, and the public convenience and necessity are found to permit abandonment, the Commission by day 75 will issue a Notice of Findings and a Decision and Certificate of Interim Trail Use or Abandonment.

* * * * *

[FR Doc. 86-18198 Filed 8-12-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 60224-6024]

Regulations Governing the Taking and Importing of Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: In response to a 1984 amendment to the Marine Mammal Protection Act (MMPA), the NMFS proposes to amend the marine mammal regulations regarding the importation of yellowfin tuna caught with purse seines in the eastern tropical Pacific Ocean (ETP). Under this rule, any nation that wishes to export yellowfin tuna to the United States and has purse seine vessels in the ETP must provide documentary evidence that the nation has adopted a regulatory program governing the incidental taking (mortality) of marine mammals in the fishery that is comparable to the program of the United States. The nation also must provide documentation that the average rate of incidental mortality of porpoise in the fishery by its vessels is comparable to the rate of incidental mortality of porpoise from fishing by the U.S. fleet.

DATE: Comments on the proposed rule must be postmarked on or before October 14, 1986.

ADDRESS: Comments should be addressed to Robert B. Brumsted, Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, Washington, DC 20235. An Environmental Assessment/Regulatory Impact Review is also available upon request.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead (Marine Resource Management Specialist) NMFS, 202-673-5351.

SUPPLEMENTARY INFORMATION:

Background

The NMFS published regulations in the Federal Register on December 23, 1977 (42 FR 64548-60), governing the taking of marine mammals incidental to commercial fishing operations. These regulations were repromulgated on October 31, 1980 (45 FR 72178-96). Included in these regulations are provisions concerning the importation of yellowfin tuna and tuna products from nations whose vessels participate in the yellowfin tuna purse seine fishery in the ETP. Effective January 1, 1978, these importation provisions made the importation of yellowfin tuna and tuna products from nations known to be involved in the ETP fishery contingent upon certain findings by the Assistant Administrator for Fisheries, NOAA (Assistant Administrator). The Assistant Administrator must find (a) that the fishing operations of the nation concerned "... are conducted in conformance with U.S. regulations and standards ..." or (b) that ... "although not in conformance with these regulations, such fishing is accomplished in a manner which does not result in an incidental mortality and serious injury in excess of that which results from U.S. fishing operations under these regulations." These findings are subject to an annual review in which the information items in 50 CFR 216.24(e)(5)(ii) are updated for the previous calendar year.

Since 1978, 18 nations, in addition to the United States have purse seined in the ETP for some or all of the time. In this period, findings have been made for the following countries: Bermuda, the Cayman Islands, Canada, Costa Rica, Ecuador, El Salvador, Korea, Mexico, Netherlands Antilles, New Zealand, Panama, Spain and Venezuela. Mexico, The Congo, Peru, Spain, Senegal and the Union of Soviet Socialist Republics (U.S.S.R.) have been prohibited from exporting yellowfin tuna to the United States during some period of time under these regulations. The Congo and Senegal subsequently removed their fleets from the ETP, while Peru removed its larger purse seine vessels from active fishing operations in the ETP. The U.S.S.R. remains embargoed. The Republic of Korea, Netherlands Antilles, Nicaragua, and New Zealand have not purse seined in this area in recent years. All other listed nations currently have findings of conformance. Additional information can be found at 50 FR 3950, January 29, 1985; 489 FR 56986, December 27, 1983; 48 FR 30422, July 1, 1983; 48 FR 14431, April 4, 1983; 47 FR 11307, March 16, 1982; and, 46 FR 10974, February 5, 1981.

The most recent information available indicates that the active international purse seine fleets that fish for yellowfin tuna associated with porpoise in the ETP are as follows:

Nation	No. of vessels
Cayman Islands	1
Costa Rica	1
Ecuador	4
Mexico	49
Panama	2
Spain	1
U.S.S.R.	1
Vanuatu	2
Venezuela	12
United States	34

Non-U.S. fleets substantially increased their fishing for yellowfin tuna associated with porpoise in the ETP in 1984. The Inter-American Tropical Tuna Commission (IATTC) estimated that non-U.S. vessels harvested a total of 111,500 tons of tuna on porpoise in the 1979-83 period, an average of about 22,300 tons per year. It has been estimated that in 1984 effort on porpoise was up 50 percent over 1983, no doubt related to the fact that the catch of yellowfin per porpoise set was more than 75 percent higher than in 1983. The non-U.S. fleets are estimated to have taken 38,000 tons of tuna in porpoise sets in 1984. Reports through the first half of 1985 indicate that catch rates continue to be high and that fishing on porpoise is the predominant fishing technique at the present time. In late July 1984, the estimated yellowfin tuna catch in the Commission's Yellowfin Regulatory Area (CYRA) (Figure 1) was 72,400 tons, up 20,200 tons from 1983; in late July 1985, the CYRA catch was 131,000 tons of yellowfin tuna. Similarly, the estimated total fleet capacity in the CYRA in July 1985 was 65,335 short tons, up about 40 percent from 47,535 short tons in July 1984.

Public Law 98-364

On July 17, 1984, the President signed into law an act (Pub. L. 98-364) reauthorizing and amending the MMPA. One amendment is to ensure that nations exporting yellowfin tuna to the United States harvested with purse seines in the ETP have in place a regulatory program for the protection of

porpoise in the fishery which is comparable to the program of the United States. It further requires documentation that the average rate of incidental taking of marine mammals by vessels of the harvesting nation in the ETP tuna fishery is comparable to that of the United States.

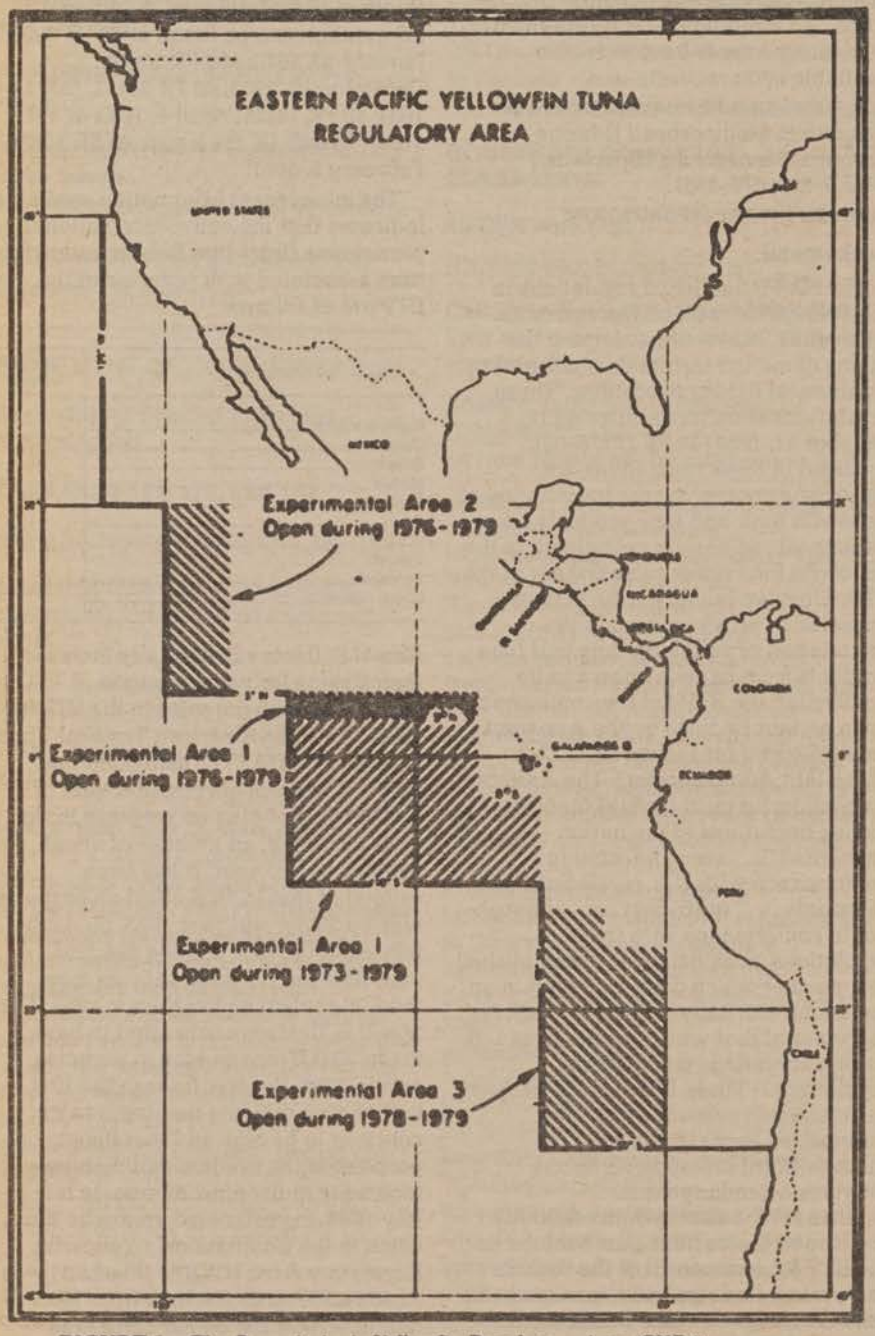

FIGURE 1. The Commission's Yellowfin Regulatory Area (CYRA).

The House Committee on Merchant Marine and Fisheries noted that the regulatory program of the United States is quite extensive and detailed (see H.R. Report 98–758, p. 8). The Committee in reporting this legislation stated that it does not intend to require that the regulatory program of foreign countries should be identical to that of the United States. Programs which require the basic equipment and techniques used to protect porpoises and have as their purpose the minimization of the number of animals incidently taken would be comparable as long as they provided a level of protection that is substantially equivalent to that of the U.S. program. Similarly, the Committee recognized that the average rate of incidental taking will vary from year to year. The Committee does not intend for the importation of tuna products to be banned from a nation if the rate of incidental taking is slightly higher in any given year. However, the report of levels or rates of incidental mortality being consistently higher than those of the United States or significantly higher in any given year should result in the prohibition of imports.

Several important points must be made in this context. First, the statute clearly requires the Secretary to evaluate performance on a country-by-country basis. Second, the Congress indicated NMFS should continue to encourage foreign nations which have not already done so to implement observer programs either on their own or in cooperation with the IATTC. Third, the Congress intended NMFS to require estimates of incidental take that are equivalent in accuracy and reliability to observer data obtained in the U.S. and the IATTC observer programs. In summary, the Congress expects that the importation regulations will result in demonstrable evidence that nations wanting to export to the United States yellowfin tuna caught by purse seining in the ETP have effective programs to prevent or reduce porpoise mortality.

Proposed Action

Keeping in mind the intentions of the Congress and the broader context of the MMPA amendments of 1984, the NMFS is proposing a performance-based import certification program consistent in principle with the performance-based porpoise protection program being implemented for U.S. vessels which take marine mannals incidental to yellowfin tuna purse seine fishing. This certification program is a new approach, elements of which may be modified by NMFS as new information becomes available and if experience demonstrates better ways to achieve lower mortality.

A two-part test will be used to determine whether to grant or extend a finding of conformance for any individual nation. First, each nation must be found to have a regulatory program to protect porpoise that is comparable to the program of the United States. This evaluation will consider the regulations and laws which govern the gear and techniques which each nation's vessels must use to prevent or minimize porpoise mortality when purse seining for yellowfin with porpoise. Second, the effectiveness of each nation's requirements will be assessed. Each nation must demonstrate using reliable data that the rates of incidental mortality of porpoise per set on porpoise

and per ton of tuna taken with porpoise from fishing by its vessels are comparable to the incidental rates of porpoise mortality achieved by U.S. vessels. Each of these tests will be applied each year, as described below.

Initial Certification

All current nation findings of conformance will terminate on December 31, 1986, or ninety days after publication of final rulemaking, whichever is later. Any nation having vessels using purse seine gear in the ETP which desires to export yellowfin tuna or tuna products to the United States after that date must submit documentation to support a new finding. The Assistant Administrator will review each nation's submission for completeness and will assess each nation's described program for comparability with the U.S. program. He may request additional information from the nation before issuing a finding. It is noted that the U.S. program is extensive and detailed, and other nations' programs need not be equally detailed to be found "comparable" to the U.S. program. However, an affirmative finding is likely to be issued if the program contains provisions similar to those in the U.S. program described below. Copies of the relevant U.S. regulations will be provided to all interested nations. Each nation's submission must contain sufficient detail so that the Assistant Administrator will be able to determine that the nation's program is comparable in substance and effectiveness to the U.S. program. At a minimum, the documentation must contain:

1. A description of gear and procedural requirements, including copies of relevant laws and implementing regulations, to reduce or prevent the incident mortality and injury of porpoise in purse seine fishing by its vessels;

2. A description of the method (for example, observers' data) by which the incidental mortality of marine mammals is monitored and by which annual species mortality and fleet mortality rates are estimated. If the nation is not participating in the IATTC observer program, but is conducting an independent observer program, the nation must provide details regarding the number and percentage of trips covered, training requirements for observers, the data collected by observers, and the agency to contact for additional information;

3. A description of the methods used to identify problems and solutions to improve the performance of individual fishermen in reducing incidental mortality and how they will be advised;

4. A list of the purse seine vessels in the nation's fleet in 1985 and 1986, with an indication of the status of each vessel in 1986, for example, actively fishing in the ETP, actively fishing in other waters, or inactive; and

5. Data on the performance of its vessels in the previous year including: Total number of purse seine sets; total number of purse seine sets on porpoise; total tons of yellowfin tuna caught by purse seine; total tons of yellowfin tuna caught by purse seine sets on porpoise; total number of porpoise (by species) killed or seriously injured; the number of sets in which more than 15 animals were killed and total mortality from such sets; and, the number of sets in which zero (0) animals were killed.

For the initial documentation, the nations must submit the information required by paragraph 5 for both 1984 and 1985.

As a guide for comparability, the U.S. program has four primary components:

a. Annual limits on incidental mortality of marine mammals, both cumulatively and by species/stock;

b. Porpoise saving gear, equipment and procedural requirements and guidelines;

c. An observer program to monitor the effectiveness of porpoise rescue gear and procedures and record the incidental mortality and serious injury of porpoise associated with U.S. vessels' fishing; and

d. A peer advisory group to identify problems and solutions to improve the performance of individual fishermen in reducing incidental porpoise mortality.

If the Assistant Administrator finds that a nation's program is comparable to the U.S. program, and the nation's kill rate is comparable to the U.S. kill rate, he will issue a finding to that effect to the harvesting nation.

Annual Review

Commencing in July 1987, the Assistant Administrator will annually review all existing findings. The Assistant Administrator will require that each nation submit an annual report if it desires an extension of an affirmative finding for the following year. This annual report will update the information in the original submission as well as provide data on the performance by its vessels in the previous year. The annual report will present the following:

1. Any changes in the gear, equipment, or procedural requirements (including copies of relevant laws, etc.) governing incidental taking of porpoise by the nation's ETP purse seine vessels;

2. Any changes in the number, name or status of vessels on the vessel list submitted orginally;

3. Actions (e.g., participation in IATTC workshops) taken by the nation in the past year to reduce or prevent porpoise mortality and serious injury associated with fishing by its vessels; and,

4. Data on the performance of its vessels in the previous year, including—

Total number of purse seine sets,

Total number of purse seine sets on porpoise,

Total tons of yellowfin tuna caught by purse seine,

Total tons of yellowfin tuna caught by purse seine sets on porpoise,

Total number of marine mammals (by species) killed and seriously injured,

The number of sets in which more than 15 animals were killed, and the total mortality from such high mortality sets,

The number of sets in which zero (0) animals were killed.

This report must describe in detail the method used to obtain these data and must include a certification of the accuracy and authenticity of the data submitted. In this context, the NMFS recognizes the role filled by the IATTC in collecting data on incidental marine mammal mortality and serious injury through its observer program and in estimating total mortality associate with U.S. and non-U.S. fishing. This observer-program is comparable to the U.S. observer program and, as now constituted, provides reliable data to estimate total mortality and rates of mortality for vessels from participating nations. These data and resulting estimates represent the best scientific information available for the purposes of these regulations and will be used to monitor mortality in the fishery. If the above data are submitted to the Assistant Administrator by the IATTC on behalf of the nation requesting certification, those data will be deemed certified as authentic and accurate under these regulations. Similarly, if the data are submitted by the requesting nation and IATTC certifies that the data are accurate, the date will meet this certification requirement. A nation not participating in the IATTC observer program must be able to demonstrate that its data are of comparable accuracy and reliability. The first such annual report will be due July 31, 1987, to cover fishing in the 1986 fishing year.

The Assistant Administrator will review each such report carefully to decide whether to extend or terminate a finding under this program. First, the Assistant Administrator will determine if the nation's protection program

continues to be comparable to the U.S. program. Second, the Assistant Administrator will evaluate the performance of the fleet of that nation with respect to mortality rates. This evaluation will consider the following factors for the nation's fleet in the previous year:

Mortality of porpoise per ton of yellowfin tuna taken on porpoise,

Mortality of porpoise per purse seine set on tuna,

Number of sets with more than 15 porpoise killed,

Proportion of total mortality associated with high mortality sets,

Number of zero (0) mortality sets,

Species composition of total mortality,

Statistical reliability of the mortality estimate for the nation's fleet,

Actions taken or planned to be taken (e.g., new monitoring procedures, participation in IATTC workshops) to reduce future mortality rates.

A negative finding would be likely if the nation's vessels have had mortality per ton and per set rates that were 50 percent or more higher than such rates for U.S. vessels and those rates are not attributable to problems which can be and are expected to be resolved in the next year.

A special note is in order regarding the statistical reliability of mortality estimates for nations with small fleets. The NMFS is aware that such mortality estimates are likely to be highly variable, because a single but not necessarily representative sample may be used as the basis for estimating total mortality for the fleet's total activity during a year. Whether the NMFS would take adverse actions against a nation with a small fleet because of an estimate of unusually high mortality levels or rates for that fleet would depend on such factors as the reliability of the estimate and the change for previous reports. Possible ways to place the one-year estimates in perspective are to use two- or three-year cumulative samples to derive mortality estimates or pooling of samples for nations having small fleets to derive a more reliable composite mortality estimate. The NMFS notes, however, that a nation with a small fleet from which a single sample led to an unusually high mortality estimate must describe in its annual report the measures that are being or have been taken to reduce the likelihood of recurrence of such results.

Subsequent Annual Review

In future years, the general procedure will be to receive annual estimates of total porpoise mortality and mortality by species/stock from the IATTC; to receive annual reports with detailed fleet level data so that the Assistant Administrator can determine whether each nation's porpoise protection program continues to be comparable to the U.S. program and whether any nation's fleet is experiencing significantly higher porpoise mortality rates than the U.S. fleet; and to announce findings at least 60 days before the start of each new calendar year.

Additional Modifications

This rule also proposes to eliminate the requirement that certain fish and fish products, including yellowfin tuna, be accompanied by either a Fisheries Certificate of Origin or a Yellowfin Certificate of Origin because NMFS has found that some of the information required by these forms is not necessary to implement the MMPA and the remaining useful information will be required on the entry documents. Finally, sections covering the importation of salmon and halibut have been revised to eliminate some confusing sections that have never been used. The NMFS has decided that the proposed language accomplishes what is necessary and eliminates some confusing, redundant language.

Classification

The NMFS has determined that the proposed modification to the regulations being made at 50 CFR 216.24(e) will not have a significant impact on the human environment. The NMFS has prepared an Environmental Assessment (EA) on the proposed modification. The finding of that EA was that no significant impact on the human environment would occur from the change and that no Environmental Impact Statement is required. The EA is available upon request (see ADDRESS).

The NOAA Administrator has determined that this proposed rule is not a major rule requiring a regulatory impact analysis under Executive Order 12291. The estimated economic impact of tuna import prohibitions, if any, could be expected to result in short-term slight positive benefit to U.S. fishermen and a short-term slight negative impact on tuna processors if affirmative findings are not made for a nation now exporting ETP tuna to U.S. processors. This impact would exist until such time as any reduction in imports is made up by exports from other areas of the world, especially the western Pacific nations which are not affected by this action. The NMFS has prepared a regulatory impact review as part of its EA which concludes that this rule will not result in (1) an annual major increase in costs or prices for consumers, individual industries or government agencies; (2) an annual effect on the economy of $100 million or more; or (3) significant adverse effect on competition, employment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. A copy of the review is available upon request (see ADDRESS).

The General Counsel of the Department of Commerce has certified to the Small Business Administration that the proposed modification to the regulations will not have a significant economic impact on a substantial number of small entities. The impact, if any, would be limited to the single remaining tuna canning plant in California and the tuna processing facilities in Puerto Rico, Hawaii, and American Samoa. These facilities are by definition not small businesses. it would also affect an unknown number of import-export businesses. The impact on these industries is believed to be insignificant since the availability of yellowfin tuna is world-wide and alternate markets are readily available. As a result, a regulatory flexibility analysis was not prepared on this action.

This rule contains collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). The collections which are subject to the Act are found at § 216.24(e)(3) and § 216.24(e)(4) and have been approved by the Office of Management and Budget under control number 0648-0040.

List of Subjects in 50 CFR Part 216

Administrative practice and procedure, Imports, Indians, Marine mammals, Penalties, Reporting and recordkeeping requirements, Transportation.

Dated: August 7, 1986.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR Part 216 is proposed to be amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

1. The authority citation for Part 216 continues to read as follows:

Authority: 16 U.S.C. 1361–1407.

2. Section 216.3 is amended by adding in alphabetical order two new definitions, one for "ETP", and one for "harvesting nation", to read as follows:

§ 216.3 Definitions.

* * * * *

"ETP" means eastern tropical Pacific Ocean.

* * * * *

"Harvesting nation" means the country under whose flag are documented fish catching vessels from which are caught fish that are a part of any cargo or shipment of fish to be imported into the United States regardless of any intervening transshipments.

* * * * *

3. Section 216.24 is amended by revising paragraphs (e) (1), (2), (3), (4), and (5) to read as follows:

§ 216.24 Taking and related acts incidental to commercial fishing operations.

* * * * *

(e) *Importation.* (1) It is illegal to import into the United States any fish, whether fresh, frozen or otherwise prepared, if such fish have been caught with commercial fishing technology which results in the incidental kill or incidental serius injury of ocean mammals in excess of that allowed under this part for U.S. fishermen.

(2) The following fish and categories of fish, which the Assistant Administrator has determined may be involved with commercial fishing operations which cause the death or injury of marine mammals, are subject to the requirements of this section:

(i) *Yellowfin tuna.* The following U.S. Tariff Schedule Item Numbers identify the categories of tuna and tuna products under which yellowfin tuna is imported into the United States and which the Assistant Administrator has determined are involved with commercial fishing operations which cause the death or injury of marine mammals, and are subject to the restrictions of paragraphs (e)(3) and (e)(5) of this section:

110.10–20 Tuna; yellowfin, whole fish.
110.10–25 Tuna; yellowfin, eviscerated, head on.
110.10–30 Tuna; yellowfin, eviscerated, head off.
110.10–37 Tuna; yellowfin, other.
112.30–40 Tuna; canned, other than white meat, no oil—except cans marked as other than yellowfin tuna in a manner approved in advance by the Assistant Administrator.
112.34–00 Tuna; canned, other, no oil—except cans marked as other than yellowfin tuna in a manner approved in advance by the Assistant Administrator.
112.90–00 Tuna; canned, other, in oil—except cans marked as other than yellowfin tuna in a manner approved in advance by the Assistant Administrator.

(ii) *Salmon and halibut.* The following U.S. Tariff Schedule Item Numbers identify the categories of salmon and halibut products which are imported into the United States and are subject to the restrictions of paragraphs (e)(3) and (e)(4) of this section:

110.20–25 Halibut, fresh or chilled.
110.20–30 Halibut, frozen.
110.20–45 Salmon, fresh or chilled.
110.10–50 Salmon, frozen.
110.70–40 Halibut, other—except portion controlled steaks.
111.48–00 Salmon, salted.
111.88–00 Salmon, smoked or kippered.
112.18–00 Salmon, preserved, not in oil.

(3) All shipments of fish and fish products listed in paragraph (e)(2) of this section, from any nation, may not be entered into the United States for consumption or withdrawn from warehouse for consumption unless accompanied by a commercial invoice and/or a bill of lading indicating the:

(i) Nation of registry of the fishing vessel(s) involved;

(ii) Exporter (name and address);

(iii) Consignee (name and address); and

(iv) Identity and quantity of the fish or fish products to be imported.

(4) *Salmon and halibut.* All shipments of fish and fish products listed in paragraph (e)(2)(ii) of this section, from any nation, may not be entered into the United States for consumption or withdrawn from warehouse for consumption unless one of the following is met:

(i) The shipment is accompanied by a statement by a responsible official of the harvesting nation or the master of the vessel which caught the fish that such fish were not caught in a manner prohibited for U.S. fishermen by these regulations. The statement will identify the species, quantity, and exporter of the fish to which the statement refers, and be submitted at the time of importation; or

(ii) A responsible official of the harvesting nation may certify to the Assistant Administrator that all of its flag vessels are fishing in conformance with these regulations or that the fishing technology practiced by the harvesting nation with respect to the species of fish presented for importation into the United States does not result in a rate of serious injury or death to marine mammals in excess of that which results from U.S. commercial fishing operations as prescribed by these regulations. Upon receipt of a statement of conformance, the Assistant Administrator may then make a finding, and publish such finding in the **Federal Register**, that fish imports listed in paragraph (e)(2) from the nation were not caught with commercial fishing technology which results in the incidential kill or incidental serious injury of ocean mammals in excess of U.S. standards.

(5)(i) *Yellowfin tuna.* Any tuna or tuna products in the classifications listed in paragraph (e)(2)(i) of this section, from nations whose vessels operate in the eastern tropical Pacific Ocean (ETP) tuna purse seine fishery, as determined by the Assistant Administrator, may not enter into the United States for consumption or subsequently withdrawn from a warehouse for consumption unless the Assistant Administrator makes a finding in consultation with the U.S. Department of State, and publishes such finding in the **Federal Register** that (A) the government of the harvesting nation has adopted a regulatory program governing the incidental taking of marine mammals in the course of such harvesting that is comparable to the regulatory program of the United States; and (B) the average rate of that incidental taking by the vessels of the harvesting nation is comparable to the average rate of incidental taking of marine mammals by U.S. vessels in the course of such harvesting. Upon such a finding unloading may be allowed during the period of validity specified in the finding.

(ii) A harvesting nation desiring to obtain a finding which will allow it to export into the United States products listed in paragraph (e)(2)(i) of this section, must submit by appropriate government official, to the Assistant Administrator the following information at least 120 days before the harvesting nation wants to begin exportation to the United States:

(A) A detailed description of the nation's regulatory program governing incidental taking of porpoise in the purse seine fishery for yellowfin tuna, including (*1*) A description, with copies of relevant laws and implementing regulations, of the gear and procedures required in the fishery to protect porpoise; (*2*) A detailed description of the method (e.g., international or national observer records) by which the incidental mortality of marine mammals will be monitored and by which annual species mortality and fleet mortality rates are estimated; and (*3*) A description of the methods used to identify problems and solutions to improve the performance of individual fishermen in reducing incidental mortality and how they will be advised.

(B) A list of its vessels which purse seine for yellowfin tuna in the ETP,

indicating the status of each such vessel (actively fishing in ETP, fishing in other waters, in port for repairs, inactive).

(C) Data on the performance of its vessels in the previous year including:

(1) Total number of purse seine sets;

(2) Total number of purse seine sets on porpoise;

(3) Total tons of yellowfin tuna caught by purse seine;

(4) Total tons of yellowfin tuna caught by purse seine sets on porpoise;

(5) Total numberr of porpoise (by species stock) killed or seriously injured;

(6) The number of sets in which more than 15 animals were killed and total mortality from such sets;

(7) The number of sets in which zero (0) animals were killed;

(iii) The Assistant Administrator's determination on a nation's initial finding will be announced within 120 days of receipt of the information described in section (e)(5)(ii) and will be published in the Federal Register. A finding will be valid only for the calendar year for which it was issued.

(iv) A harvesting nation for which a positive finding under this section is in effect may request a renewal of such a finding for the subsequent calendar year by submitting, by the appropriate government official, to the Assistant Administrator the following information by July 31 of the current year:

(A) A description (with copies of relevant new laws and regulations) of any changes in the regulatory program of that nation governing incidental taking of porpoise in the yellowfin tuna purse seine fishery by its vessels;

(B) Any changes in the names of status of vessels on the nation's list of vessels which may be involved in the taking of marine mammals incidental to yellowfin tuna purse seining in the following year.

(C) Data on the performance of its vessels in the previous year including:

(1) Total number of purse seine sets;

(2) Total number of purse seine sets on porpoise;

(3) Toal tons of yellowfin tuna caught by purse seine;

(4) Total tons of yellowfin tuna caught by purse seine sets on porpoise;

(5) Total number of porpoise (by species) killed or seriously injured;

(6) The number of sets in which more than 15 animals were killed and total mortality from such sets; and

(7) The number of sets in which zero (0) animals were killed.

(D) A description of the actions taken by the nation in the previous year to achieve greater reductions in marine mammal mortality incidental to purse seining by its vessels.

(E) A certification of authenticity and accuracy of the data listed in (C) above. This requirement will be met if data are provided directly to the Assistant Administrator by the Inter-American Tropical Tuna Commission (IATTC) on behalf of the harvesting nation or if the IATTC certifies that the information provided by the nation is accurate.

(v) The Assistant Administrator will renew existing findings, or reject findings based on the following:

(A) A request for renewal of a finding for the subsequent year will be granted, if the harvesting nation has provided all information required by paragraphs (e)(5)(ii) and (e)(5)(iv) of this section and the Assistant Administrator has found that the nation's program is comparable to that of the United States and that porpoise mortality rates of the harvesting nation are comparable to the average rate of incidental taking of porpoise by U.S. vessels in the course of such tuna harvesting.

(B) The Assistant Administrator will consider the following factors in making this determination for each nation:

(1) Mortality of porpoise per ton of tuna;

(2) Mortality of porpoise per set on porpoise;

(3) The proportion of total porpoise mortality associated with high mortality (more than 15 animals killed) sets;

(4) The proportion of total sets resulting in zero mortality;

(5) The species composition of total mortality;

(6) The reliability of mortality estimates for the vessel(s) covered;

(7) Any actions taken or planned to be taken by the requesting nation to achieve reduction in rates of porpoise mortality by vessels of that nation; and

(8) The trends in vessel performance and the size of the nation's fleet.

(C) A negative finding will be likely *(1)* if a nation's vessels have porpoise mortality per set and per ton rates that are 50 percent higher than such rates for U.S. vessels in the same period and such high rates cannot be attributed to a high incidence of problem sets which are correctable and will be addressed in the next year; or *(2)* if the estimates of porpoise mortality submitted by the harvesting nation are considered to be unreliable; or *(3)* if changes made in the nation's program make it such that it is no longer comparable to the U.S. program.

(vi) The Assistant Administrator may require verification of statements made in connection with requests to allow importations. The Assistant Administrator may reconsider a finding upon a request from, and the submission of additional information from, the country of origin.

(vii)(A) Any finding in effect on the date that the final rule becomes effective will terminate on December 31, 1986, or ninety days after the final rule, whichever is later.

(B) Notwithstanding paragraphs (e)(5)(ii) and (iii), a harvesting nation desiring to export yellowfin tuna to the United States after the effective date described in paragraph (e)(5)(vii)(A), must submit information described in paragraph (e)(5)(ii) above no later than sixty (60) days after the final rule is published. The information to be submitted under paragraph (e)(5)(ii)(B) must cover 1985 and 1986. The information to be submitted under paragraph (e)(5)(ii)(C) must cover 1984 and 1985.

(C) Paragraph (e)(5)(vii) is effective only until September 1, 1987.

* * * * *

[FR Doc. 86-18184 Filed 8-12-86; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 51, No. 156
Wednesday, August 13, 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.

CIVIL RIGHTS COMMISSION

Connecticut 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 Connecticut Advisory Committee to the Commission will convene at 3:00 p.m. and adjourn at 5:00 p.m. on September 8, 1986, at Yale University, Phelps Hall, Room 402, College Street, New Haven, Connecticut. The purpose of the meeting is to discuss aspects of affirmative action in the construction industry as part of the Committee's current study.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson James Stewart or Jacob Schlitt, Director of the New England Regional Office at (617) 223–4671, (TDD 617/223–0344). 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, August 8, 1986.

Donald A. Deppe,

Program Specialist for Regional Programs.

[FR Doc. 86–18195 Filed 8–12–86; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

[Docket Numbers 2639–01, 2639–02, 2639–03]

Export Privileges in the Matters of Suin, S.A., et al.

Correction

In FR. Doc. 86–11559, beginning on page 18820, in the issue of Thursday, May 22, 1986, make the following corrections:

On page 18821, first column, second paragraph, the names and addresses of the Respondents are corrected to read as follows:

Suin, S.A.
with addresses at both
Calle Clot 194
Barcelona 27, Spain
and
Paseo and Manual Girona, 11 Bajos
Ctra. N–340 Km 243'400
Vilaseca (Tarragona), Spain

Carlos Mira Gallart,
a/k/a Carlos Mira,
with addresses at both
Barcelona and Tarragona, Spain
and
Hernandez Inglesias No. 4
Madrid 27, Spain
and

SIC, S.A.
Avda De Chile 40
2–0 1–A
Barcelona 28, Spain,

BILLING CODE 1505-01-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of Import Limit for Certain Cotton Textile Products Produced or Manufactured in Brazil

August 8, 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 August 14, 1986. For further information contact Janet Heinzen, International Trade Specialist (202) 377–4212.

Background

On March 19, 1986, a notice was published in the **Federal Register** (51 FR 9503) which established an import control limit for cotton textile products in Category 341, produced or manufactured in Brazil and exported during the ninety-day period which began on February 28, 1986 and extended through May 28, 1986. The notice also stated that, if no mutually satisfactory solution is reached on a level for this category during consultations, the United States Government, pursuant to the agreement, may establish a prorated specific limit for the period immediately following the ninety-day consultation period. Inasmuch as no solution was reached, the United States Government has decided to establish a prorated specific limit of 138,673 dozen for Category 341 for the period which began on May 29, 1986 and extends through March 31, 1987.

The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of Brazil, further notice will be published in the **Federal Register.**

In the event the limit established for the ninety-day period has been exceeded, such excess amount, if allowed to enter, will be charged to the level established for the designated prorated period.

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 SCHEDULE OF THE UNITED STATES ANNOTATED (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

August 8, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Agreement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement effected by exchange of notes dated August 7 and 29, 1985, between the Governments of the United States and Brazil; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 14, 1986, entry into the

United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 341, produced or manufactured in Brazil and exported during the period which began on May 29, 1986 and extends through March 31, 1987, in excess of 138,673 dozen.

Textile products in Category 341 exported during the ninety-day period which began on February 28, 1986 and which are in excess of the level established for the ninety-day period shall be charged to the prorated level beginning on May 29, 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 ANNOTATED (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The 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(a)(1).

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-18226 Filed 8-12-86; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Restraint Limits for Certain Cotton and Man-made Fiber Textile Products Produced or Manufactured in Brazil

August 7, 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 August 14, 1986. For further information contact Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4112.

Background

On March 21, 1986 a notice dated March 18, 1986 was published in the **Federal Register** (51 FR 9875) announcing import restraint limits for certain categories of cotton, wool and man-made fiber textile products, including Categories 300/301, 313, 350, 361 and 604, produced or manufactured in Brazil and exported during the twelve-month period which began on April 1, 1986 and extends through March 31, 1987, under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement on August 7 and 29, 1985 between the Governments of the United States and the Federative Republic of Brazil. In the letter which follows this notice, the Chairman of CITA directs the Commissioner of Customs to reduce the limits established for Categories 300/301, 313, and 350 to account for carryforward applied and used during the previous agreement year which began on April 1, 1985 and extended through March 31, 1986. The limit for cotton textile products in Category 361 is being increased by 7,306 dozen to account for carryforward in this amount previously charged but not used. In addition, charges amounting to 217,966 pounds are being applied to the restraint limit established for man-made fiber textiles in Category 604 as a result of an administrative arrangement effected under the terms of the bilateral agreement and described in the directive to the Commissioner of Customs, published in the **Federal Register** on February 19, 1986 (51 FR 6024).

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 ANNOTATED (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

August 7, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs
Department of the Treasury, Washington, D.C. 20229

This letter amends, but does not cancel, the directive of March 18, 1986, which directed you to prohibit entry of certain categories of cotton, wool and man-made fiber textile and textile products, produced or manufactured in Brazil and exported during the twelve-month period which began on April 1, 1986 and extends through March 31, 1987, in excess of designated restraint limits.

Effective on August 14, 1986, the directive of March 18, 1986 is hereby amended to adjust the restraint limits for the following categories, according to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 7 and 29, 1985 between the Governments of the United States and the Federative Republic of Brazil: [1]

Category	Adjusted 12-month limit [1]
300/301	8,383,217 pounds
313	30,201,269 square yards
350	60,000 dozen
361	457,306 numbers

[1] The limits have not been adjusted to account for any imports exported after March 31, 1986.

Also effective on August 14, 1986, you are directed to charge 217,966 pounds to the restraint limit established in the directive of March 18, 1986 for man-made fiber textile products in Category 604.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs except 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. 86-18227 Filed 8-12-86; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Textile Consultations With the Government of The Federative Republic of Brazil on Category 314/320 pt.

August 7, 1986.

On May 30, 1986, the Government of the United States requested consultations with the Government of the Federative Republic of Brazil with respect to cotton poplin and broadcloth in Category 314/320 pt. (only TSUS items 320.—, through 331.— with statistical suffixes 21, 22, 24, 26, 72, 74, and 76). This request was made on the basis of the agreement between the Governments of the United States and the Federative Republic of Brazil relating to trade in cotton, wool, and man-made fiber textile products, effected by exchange of notes dated August 7 and 29, 1985. The agreement provides for consultations when the orderly development of trade between the two countries may be impeded by imports due to market disruption, or the threat thereof.

The purpose of this notice is to advise the public that, pending agreement on a mutually satisfactory solution concerning this category, the Government of the United States has

[1] The agreement provides, in part, that: (1) Specific limits may be exceeded by designated percentages; (2) specific limits may be increased by carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

decided to control imports during the ninety-day consultation period which began on May 30, 1986 and extends through August 27, 1986, at a level of 718,308 square yards. If no solution is agreed upon in consultations between the two governments, CITA, pursuant to the bilateral agreement, may establish a prorated specific limit of 2,064,679 square yards for the entry and withdrawal from warehouse for consumption of cotton textile products in this category, produced or manufactured in Brazil and exported during the period which began on May 30, 1986 and extends through March 31, 1987.

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit imports of textile products in Category 314/320 pt., produced or manufactured in Brazil and exported during the aformentioned ninety-day period, in excess of the designated limit. In the event the limit established for the ninety-day period is exceeded, such excess amounts, if allowed to enter, may be charged to the level established during the subsequent restraint period.

A summary market statement concerning this category follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of this category under the agreement with Brazil, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in the category, is invited to submit such comments or information in ten copies to Mr. William H. Houston III, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice, will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

Brazil—Market Statement

Category 314/320 Pt.—Cotton Poplin and Broadcloth

May 1986.

Summary and Conclusions

United States imports of cotton poplin and broadcloth—Category 314/320 Pt.—from Brazil were 2.2 million yards for the year ending March 1986. This compares with 1.1 million yards for the same period one year earlier.

The market for cotton poplin and broadcloth fabric is being disrupted by imports and imports from Brazil contributed to the market disruption. Continuation of the growth of imports from Brazil would further the disruption.

Production and Market Share

U.S. production of cotton poplin and broadcloth continues to decline. Production in 1984 declined 10.3 percent from its 1983 level and experienced an additional 12.8 percent decline in 1985.

The U.S. producers' share of the market for domestically produced and imported fabric (Category 314) dropped from 63 percent in 1983 to 50 in 1984 percent. The domestic producers' market share in 1985 was 47 percent. When Category 320 Pt. poplin and broadcloth fabric is included, the domestic producers' market share falls to 27 percent in 1985. Category 320 pt. poplin and broadcloth import data are not available prior to 1985.

Imports and Import Penetration

Category 314 imports of cotton poplin and broadcloth fabric from all sources reached 73.5 million square yards in 1984, 49 percent above the 1983 level. Imports declined 3 percent, 2.2 million square yards, in 1985. However, Category 314 imports are up 55 percent, 9.6 million square yards, in the first quarter of 1986. Year ending March 1986 imports reached 80.8 million square yards. When category 320 part imports are included, cotton poplin and broadcloth fabric imports reached 178.4 million square yards in 1985 and 194.8 million square yards in the year ending March 1986.

The ratio of imports to domestic production increased from 60 percent in 1983 to 99 percent in 1984 to 111 percent in 1985. When Category 320 Pt. poplin and broadcloth imports are included, the ratio increased to 277 percent in 1985.

Import Values

Approximately 82 percent of Brazil's Category 314/320 Pt. imports are entered under TSUSA 322.3923. These are cotton colored poplin/broadcloth not over 5.9 oz. per square yard of 30 yarn count. These fabrics are being entered at duty-paid values well below the U.S. producer prices for comparable fabrics.

August 7, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated August 7 and 29, 1985 between the Government of the United States and Brazil; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 14, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 314/320 pt.,[1] produced or manufactured in Brazil and exported during the ninety-day period indicated below:

Category	Ninety-day level[2]	Period
314/320 pt.	718,308 square yards	May 30, 1986—Aug. 27, 1986.

[2] The limit has not been adjusted to account for any imports exported after May 29, 1986.

Textile products in Category 314/320 pt. which have been exported to the United States prior to May 30, 1986 shall not be subject to this directive.

Textile products in Category 314/320 pt. which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

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 ANNOTATED (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

[1] In Category 320, only TSUS items 320.—, through 331.—with statistical suffixes 21, 22, 24, 26, 72, 74, and 76.

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. (a)(1).

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-18230 Filed 8-12-86; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Restraint Limit for Certain Man-Made Fiber Apparel Products Produced or Manufactured in Malaysia

August 7, 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 August 14, 1986. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202)377-4212.

Background

On December 27, 1985, a notice was published in the **Federal Register** (50 FR 52990), which announced the import restraint limits for certain cotton, wool and man-made fiber textile products, including women's, girls' and infants' blouses and shirts of man-made fibers in Category 641, produced or manufactured in Malaysia and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986. In the letter which follows this notice the Chairman of CITA directs the Commissioner of Customs to reduce the 1986 base limit for Category 641 from 604,200 dozen to 486,656 dozen to account for overshipments from the previous agreement year which began on January 1, 1985 and extended through December 31, 1985 amounting to 117,544 dozen.

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 Annotated (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textiles Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 23, 1985 which directed you to prohibit entry of certain cotton, wool and man-made fiber textile products, produced or manufactured in Malaysia and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986.

Effective on August 14, 1986, the directive of December 23, 1985 is hereby amended to reduce the limit established for man-made fiber textile products in Category 641 to 486,656 dozen.[1]

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.

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-18228 Filed 8-12-86; 8:45 am]

BILLING CODE 3510-DR-M

Controlling Imports of Certain Wool Apparel Products Produced or Manufactured in Uruguay

August 7, 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 August 14, 1986. For further information contact Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

The Bilateral Wool Textile Agreement, effected by exchange of notes dated January 23, 1984, as amended, between the Governments of the United States and Uruguay establishes specific restraint limits of 20,064 dozen for men's and boys' wool coats in Category 434, 40,906 dozen for wool coats in Category 435, and 27,270 dozen for wool skirts in Category 442, produced or manufactured in Uruguay and exported during the agreement year beginning on July 1, 1986 and extending through June 30, 1987. The letter which follows this notice directs the Commissioner of Customs to prohibit entry for consumption and withdrawal from warehouse for consumption of wool textile products in Categories 434, 435 and 442, produced or manufactured in Uruguay and exported during the year beginning on July 1, 1986, in excess of the designated restraint limits.

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 Annotated (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

August 7, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Agreement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Wool Textile Agreement of January 23, 1984, as amended and extended, between the Governments of the United States and Uruguay; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 14, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in categories 434, 435 and 442, produced or manufactured in Uruguay and exported during the twelve-month period which began on July 1, 1986 and extends through June 30, 1987, in excess of the following restraint limits:

Category	12-mo. Restraint limit [1]
434	20,064 dozen.
435	40,906 dozen.
442	27,270 dozen.

[1] The limits have not been adjusted to account for any imports exported after June 30, 1986.

In carrying out this directive entries of wool textile products in Categories 434 and 435, produced or manufactured in Uruguay, which has been exported on and after July 1, 1985 and extending through June 30, 1986 shall, to extent of any unfilled balances, be charged to the limits established for such

[1] The limit has not been adjusted to account for any imports exported after December 31, 1985.

goods during that twelve-month period. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the limits set forth in this directive. Wool textile products in Category 442 which have not been exported before July 1, 1986 shall not be subject to this directive.

Textile products in the foregoing categories which have been released from the custody of the U.S. customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

These limits are subject to adjustment in the future according to the provisions of the bilateral agreement, as amended, which provide, in part, that: (1) The specific limits may be adjusted for carryover and carryforward and (2) administrative arrangements or adjustments may be made to resolve minor problems arising from the implementation of the agreement.

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 Annotated (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for the consumption into the Commonwealth of Puerto Rico.

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. 86-18229 Filed 8-12-86; 8:45 am]

BILLING CODE 3510-DR-M

COPYRIGHT ROYALTY TRIBUNAL

[Docket No. CRT 85-3-85CA]

Cable Royalty Fees; Termination of Proceeding

AGENCY: Copyright Royalty Tribunal.

ACTION: Notice.

SUMMARY: Turner Broadcasting Systems, Inc. (TBS) petitioned the Copyright Royalty Tribunal to initiate a cable rate adjustment proceeding. The proceeding commenced on July 15, 1986. Now, in response to a Motion of Discontinuance filed by TBS, the Tribunal has determined to terminate the proceeding.

EFFECTIVE DATE: August 8, 1986.

FOR FURTHER INFORMATION CONTACT: Edward W. Ray, Chairman, Copyright Royalty Tribunal, 1111 20th Street NW., Suite 450, Washington, DC 20036. 202-653-5175.

SUPPLEMENTARY INFORMATION: In response to a petition filed by Turner Broadcasting Systems, Inc. (TBS), the Copyright Royalty Tribunal commenced a cable copyright rate adjustment proceeding relating solely to the specific issue raised by TBS. 51 FR 25590 (July 15, 1986). On August 6, 1986, TBS filed a Motion for Discontinuance of the proceeding. We will accept TBS's motion. Effective immediately, the 1985 cable rate adjustment proceeding is terminated.

Dated: August 7, 1986.

Edward W. Ray,

Chairman.

[FR Doc. 86-18155 Filed 8-12-86; 8:45 am]

BILLING CODE 1410-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (EIS) for a Proposed Flood Control Project at Devils Lake, ND.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft EIS.

SUMMARY: The St. Paul District, Corps of Engineers, is investigating various measures to reduce damages caused by rising lake levels in the Devils Lake basin of North Dakota. An EIS will be prepared for this feasibility study because some of the damage-reduction measures would have significant environmental impacts and would require mitigation for losses to fish and wildlife resources.

Various flood damage reduction measures have been identified: no action, outlets to the Sheyenne River, increasing water storage in nearby lakes and wetlands, levees, evacuation, and combinations of these measures.

An extensive public involvement process began in 1983 prior to the publication of a reconnaissance report in November 1984. Numerous public and agency meetings have been held since that time to help identify problems, needs, and significant issues. The scoping process has been initiated through these meetings. Significant issues identified to date for discussion in the draft EIS are as follows:

1. Reduction of flood damages caused by the rising lake levels.

2. Fish and wildlife resource preservation, including the fishery, waterfowl, and terrestrial vegetation.

3. Maintenance of the water quality of surface waters.

4. Control of wetland drainage.

5. Cultural resource preservation.

6. Scenic and recreational qualities.

7. Social resources.

Additional issues of significance will be identified through meetings with representatives of Federal, State, and local agencies; interested citizens groups; and individual citizens. Anyone interested in participating in this scoping process and the development of the draft EIS is invited to contact the St. Paul District, Corps of Engineers, as soon as possible.

The environmental review of the project will be conducted according to the requirements of the National Environmental Policy Act of 1969, Council on Environmental Quality regulations, and applicable Corps of Engineers regulations and guidance.

The draft EIS will probably be available to the public during the second quarter of fiscal year 1987 (January 1987-March 1987).

Questions about the proposed action and the draft EIS should be directed to Colonel Joseph Briggs, District Engineer, U.S. Army Corps of Engineers, 1135 U.S. Post Office and Custom House, St. Paul, Minnesota 55101-1479.

Dated: August 4, 1986.

Brenda K. Hagstrom,

Department of the Army, Alternate Liaison Officer for the Federal Register.

[FR Doc. 86-18157 Filed 8-12-86; 8:45 am]

BILLING CODE 3710-CY-M

DEPARTMENT OF ENERGY

Restriction of Eligibility for Grant Award

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of restriction of eligibility for grant award.

SUMMARY: DOE announces that pursuant to 10 CFR 600.7 (b), it intends to award on restricted basis a continuation grant to Garfield County, Colorado, Department of Development in support of the Technology Transfer of a Comprehensive Process for Evaluating and permitting Large Scale Energy Development Projects.

The DOE support under this grant will be $51,000 over a fifteen month period.

Procurement Request No: 01-86FE60562.001

Project Scope

The objective of this grant is to provide a broader awareness and working knowledge of the analytical products formulating comprehensive process for evaluating and permitting large-scale energy development project, developed by Garfield County, provide technical assistance to certain local governments to implement and test the transferability of certain analytical and review techniques and to allow for further refinement of the project.

In support of this effort, Technology Transfer Conferences will be held (one in the West, another in the East) to transfer to interested public and private entities the products that have been developed. Also, a Technology Transfer Conference will be held to transfer lessons learned and technology developed to Western Colorado Counties.

Garfield County Department of Development has developed the analytical techniques that will assist government entities in expeditiously and efficiently evaluating and permitting energy resource development projects in a technically, environmentally, socially and economically acceptable manner. As DOE is vitally interested in the transfer of Garfield County's developed analytical techniques to other governmental entities, it has been determined that the grant award on a restricted eligibility basis is appropriate.

FOR FURTHER INFORMATION CONTACT: James P. Beiriger, MA–452.1, U.S. Department of Energy, Office of Procurement Operations, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone (202) 252–1024.

Issued in Washington, DC, on August 7, 1986.

Robert J. Walsh,

Acting Director, Contract Operations, Division "A", Office of Procurement Operations.

[FR Doc. 86–18066 Filed 8–12–86; 8:45 am]

BILLING CODE 6450–0–M

Energy Information Administration

Solicitation of Comments

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Solicitation of comments on CE–63A (Solar Thermal Collector Manufacturers Survey) and CE–63B (Photovoltaic Module Manufacturers Survey).

SUMMARY: The Department of Energy (DOE) is seeking comments on the proposed survey forms for its annual Solar Termal Collector Manufacturers Survey (CD–63A) and Photovoltaic Module Manufacturers Survey (CE–63B). These forms will be used to continue the DOE survey program which began in 1975 and was last conducted for 1984. These are general purpose statistical surveys conducted for nonregulatory purposes. They are being designed to meet the needs of public and private data users in addition to meeting legislative requirements as specified in section 13(b) of the Federal Energy Administrative Act of 1974 (Pub. L. 93–275) which states . . .

All persons owning or operating facilities on business premises who are engaged in any phase of energy supply or major energy consumption shall make available to the Secretary such information and periodic reports, records, documents, and other data relating to the purposes of this Act, including full identification of all data and projections as to source, time, and methodology of development as the Secretary may prescribe by regulation or order as necessary or appropriate for the proper exercise of functions under this Act.

DATE: Written responses on the proposed forms should be submitted on or before September 12, 1986.

ADDRESS: Send comments to the address listed below.

For Further Information or Copies of the Proposed Forms Contact: John Carlin, Energy Information Administration, U.S. Department of Energy, Mail Stop BG–094, 1000 Independence Ave., SW, Washington, DC 20585, Telephone: (202) 252–9775.

SUPPLEMENTARY INFORMATION:

I. Background
II. Written Comments

I. *Background.* Forms CE–63A and CE–63B supersede the Form EIA–63, titled *Solar Collector Manufacturing Activity,* which was previously used for this survey program.

The following three modifications have been made: 1. The forms have been divided into two parts (EIA–63 changed to CE–63A and CE–63B). The Energy Information Administration (EIA) designation has been changed to CE because the current project is being sponsored by the Department of Energy's Office of Conservation and Renewable Energy (CE). The EIA is managing the survey and report preparation effort. The CE–63A form requests information on solar thermal collectors and the CE–63B form requests information on the photovoltaic modules. This revision will allow the EIA to send the appropriate form to each company. In the past, some firms were confused by a request for data that was not relevant to them. Also, this will decrease the amount of paperwork sent to each company.

2. Several of the questions have been eliminated and several of the categories have been combined or changed to reflect the current market. Data are only being collected for items that provided useful information in the past. This should lessen the burden on the industry.

3. In the past, data for solar thermal collectors were published according to the State in which a company's headquarters was located. This approach did not provide useful State level data because there is no reason to assume that there is a strong relationship between the State in which a company's headquarters is located and the primary State or States of business operations.

For these reasons, the solar thermal collector form asks where the collectors are manufactured and shipped. This will provide useful insight as to which states have the greatest penetration of solar collectors.

II. *Written Comments.* The following general guidelines are provided to assist in the preparation of comments. When providing comments, please indicate to which form the comment applies, CE–63A or CE–63B.

As a potential data user:

A. Can you use data at the levels of detail indicated on the form?

B. For what purpose would you use these data? Please be specific.

C. How could the forms be improved to better meet your specific data needs?

D. Are there any alternative sources of these data? What are they? Do you use them? What are their deficiencies?

As a potential respondent:

A. Are the instructions clear and sufficient?

B. How can the forms be improved?

C. Can the data be submitted using the definitions included in the instructions?

D. What is the estimated cost of completing the forms, including the direct and indirect costs associated with the data collection? Direct costs should include all costs directly attributable to providing the information (such as administrative costs).

E. Do you know of other Federal, State, or local agencies that collect similar data? If so, specify the agency and the means of collection.

The EIA is also interested in receiving comments from other persons regarding their views on the need for this information.

Comments or summaries of comments submitted in response to this notice will be included in the request for Office of

Management and Budget approval of this data collection and will become a matter of public record.

Issued in Washington, DC, on August 7, 1986.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 86-18206 Filed 8-12-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER86-623-000; et al.]

Electric Rate and Corporate Regulation Filings; Green Mountain Power Corp. et al.

August 7, 1986.

Take notice that the following filings have been made with the Commission:

1. Green Mountain Power Corporation

[Docket No. ER86-623-000]

Take notice that on July 31, 1986, Green Mountain Power Corporation (GMP) tendered for filing as a rate schedule to be effective October 1, 1986, an executed agreement dated as of March 28, 1986, between GMP and UNITIL Power Corp. ("UNITILPower"). The proposed rate schedule provides for the sale of capacity and energy by GMP to UNITIL Power.

Copies of the filing were served on UNITIL Power, the Vermont Public Service Board and the Vermont Department of Public Service.

Comment date: August 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Illinois Power Company

[Docket No. ER86-540-000]

Take notice on July 30, 1986, Illinois Power Company ("the Company"), tendered for filing a Revised Statement BM for Period II in support of the Power Coordination Agreement between Illinois Power Company and Illinois Municipal Electric Agency, dated June 2, 1986 ("Power Coordination Agreement"), which was previously filed with the Commission on June 13, 1986.

The Company states that the Power Coordination Agreement provides for a hybrid of services, consisting of partial requirements services, interchange services, and wheeling services. The Power Coordination Agreement will supersede and replace agreements for purchase of power currently in effect between the Company and nine partial requirements customers and two full requirements customers.

The Company with the concurrence of the Illinois Municipal Electric Agency requests that the Commission grant a waiver of its notice requirement pursuant to § 35.11 of the Commission's regulations and allow the filing to become effective on July 1, 1986, without suspension to achieve the effective date provided in the Power Coordination Agreement.

Copies of this filing were served upon the Illinois Municipal Electric Agency and the Illinois Commerce Commission.

Comment date: August 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Illinois Power Company

[Docket No. ER86-549-000]

Take notice that on July 30, 1986, Illinois Power Company ("the Company") tendered for filing a Revised Statement BM for Period II in support of an Agreement for Purchase of Power (Full Requirement Wholesale Electric Service for Resale) by Mt. Carmel Public Utility Co. from Illinois Power Company dated June 5, 1986 ("Agreement for Purchase of Power"). This Agreement under FERC Electric Tariff, Original Volume No. 1 applicable to Mt. Carmel Public Utility Co. was previously filed with the Commission on June 20, 1986.

The proposed changes would initially increase revenue from jurisdictional sales and service by approximately $571,532 based on the twelve month period ending June 30, 1987. Thereafter, for a five year term, rates would be adjusted quarterly based on changes in an index of the rates of 24 electric utilities in Illinois and seven other midwestern states. However, the rates may not exceed seasonal limiters established in the Agreement for Purchase of Power.

The Company states that with the present rates it would earn an inadequate rate of return on electric sales to these customers during the twelve months ending June 30, 1987. The Company states that the electric rate changes made by this filing are necessary to more fully provide compensation for increases in costs. The Company proposes that the increased rates become effective on July 1, 1986 as agreed to by the Company and Mt. Carmel Public Utility Co. and requests that the Commission grant a waiver of its notice requirements pursuant of Section 35.11 of the Commission's regulations.

Copies of this filing were served upon the Illinois Municipal Electric Agency and the Illinois Commerce Commission.

Comment date: August 21, 1986, in accordance with Standard Paragraph E at the end of this document.

4. Iowa Power and Light Company

[Docket No. ER86-608-000]

Take notice that on July 24, 1986, Iowa Power and Light Company tendered for filing a Rate Schedule ("Schedule"), between Iowa Power and Union Electric Company ("Union Electric"), dated June 25, 1986.

The schedule provides for the sale of firm power and energy from Iowa Power to Union Electric between June 29, 1986 and August 30, 1986.

Iowa Power requests that the Commission waive its prior notice requirements and accept the Schedule for filing with an effective date of June 29, 1986.

Copies of this filing were served upon Union Electric and the Iowa State Commerce Commission.

Comment date: August 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

5. Niagara Mohawk Power Corporation

[Docket No. EC86-24-000]

Take notice that on July 25, 1986, Niagara Mohawk Power Corporation filed it application seeking (1) a declaratory order pursuant to Rule 207(a)(2) of the FERC regulations that the owner/lessors of the Volney-Marcy transmission line (the Line) will not, as a result of their ownership of the Line, become "public utilities" as that term is defined in the Federal Power Act, and (2) approval, pursuant to section 203(a) of the Federal Power Act, of Niagara Mohawk's proposed sale.

Comment date: August 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

6. Pacific Gas and Electric Company

[Docket No. ER85-738-005]

Take notice that on July 29, 1986, Pacific Gas and Electric Company (PG and (E) tendered for filing a compliance report in reference to the order to refund with interest any amounts collected in excess of the settlement rate levels.

The report shows monthly billing determinants, dates of payment, revenues under the prior rates and under the settlement rates, the monthy amount of the refund and the monthly interest for the entire refund report.

Copies of the compliance report were supplied to California Public Utilities Commission and the City of Oakland.

Comment date: August 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

7. Philadelphia Electric Company

[Docket No. ER86-622-000]

Take notice that on July 31, 1986, Philadelphia Electric Company tendered for filing a proposal concerning increased rates for service to Conowingo Power Company (Conowingo). The proposed changes would increase revenues from jurisdictional sales and service by $12,000,000, or 44.3 percent, based on the 12-month period ending December 31, 1986.

The company states that this proposed increase in rates is highly conservative, and as such, rates requested by this filing should be made effective after the minimum one day suspension period.

Copies of this filing were supplied to the Conowingo Power Company, Public Service Commission of Maryland, Pennsylvania Public Utility Commission and the People's Counsel.

Comment date: August 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

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 inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18253 filed 8-12-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-3766-000 et al.]

Amoco Production Co. et al.; Applications for Certificates, Abandonments of Service and Petitions to Amend Certificates [1]

August 8, 1986.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before August 26, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, petitions to intervene or protests 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. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-3766-000, D, July 28, 1986	Amoco Production Company, P.O. Box 3092, Houston, Texas 77253.	Tennessee Gas Pipeline Company, Columbus Field, Colorado County, Texas.	(1)	
G-5664-000, D, July 28, 1986	....do	Tennessee Gas Pipline Company, Lucky Field, Matagorda County, Texas.	(2)	
G-7522-000, D, July 28, 1986	....do	Tennessee Gas Pipeline Company, Chesterville Field, Colorado County, Texas.	(3)	
CI72-118-000, D, July 28, 1986	....do	Tennessee Gas Pipeline Company, East Placedo Field, Victoria County, Texas.	(4)	
CI67-557-002, D, July 28, 1986	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Trunkline Gas Company, East Lake Arthur Field, Jefferson Davis Parish, Louisiana.	(5)	
CI73-188-001, D, July 28, 1986	Phillips Petroleum Company, 336 HS&L Bldg., Bartlesville, Okla. 74004.	Columbia Gas Transmission Corporation, West German Block 146, Offshore, Louisiana.	(6)	
CI86-600-000, D, July 24, 1986	Conoco Inc., P.O. Box 2197, Houston, Texas 77252	Tennessee Gas Pipeline Company, Portion of Ship Shoal Block 196, Offshore Louisiana.	(7)	
CI86-601-000, (CI63-1335), B, July 25, 1986.	Sun Exploration & Petroleum Co., P.O. Box 2880, Dallas, Texas 75221-2880.	Northwest Central Pipe Line Corporation, Northwest Lovedale Field, Harper County, Oklahoma.	(8)	
CI86-603-000 (CI60-128) B, July 28, 1986.	BHP Petroleum (Americas) Inc., P.O. Box 1201, Wichita, Kansas 67201.	Southern Natural Gas Company, Hub Field, Marion County, Mississippi.	(9)	
CI86-606-000, (G-10133-001), B, July 28, 1986.	CNG Producing Company, P.O. Box 2115, Tulsa, Okla. 74101.	ANR Pipeline Company, Certain acreage in Woodward County, Oklahoma.	(10)	
CI86-616-000, (CI78-214), D, July 25, 1986.	Sun Exploration & Production Co.	Williston Basin Interstate Pipeline Company, Bronson Field, Richland County, Montana.	(11)	
CI86-617-000, (CI67-928), B, July 28, 1986.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company.	El Paso Natural Gas Company, Sonora Field, Sutton County, Texas.	(12)	
CI86-618-000, (G-16104), B, July 28, 1986.	Sun Exploration & Production Co.	Northern Natural Gas Company, Guyman-Hugton Field, Texas County, Oklahoma.	(13)	
CI86-619-000, (G-4903), July 28, 1986.	Amoco Production Company, P.O. Box 3092, Houston, Texas 7723.	Tennessee Gas Pipeline Company, East Bay City Field, Matagroda County, Texas.	(14)	
CI86-32-002, C, July 31, 1986	Texaco Inc., P.O. Box 52332, Houston, Texas 77052.	Bridgeline Gas Distribution Company, Portions of Eugene Island Block 26, Offshore Louisiana.	(15)	
CI86-623-000, (CI83-45-000), B, July 30, 1986.	Mesa Operating Limited Partnership, P.O. Box 2009, Amarillo, Texas 79189-2009.	Transcontinental Gas Pipe Line Corp., High Island Block 22-L State Tract, Offshore Texas.	(16)	

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI86-624-000, B, July 31, 1986	Conoco Inc., P.O. Box 2197, Houston, Texas 77252.	Westar Transmissoin Company, Buckles-Colby No. 2 gas well, Kermit Keystone Field, Winkler County, Texas.	(17)	
CI86-625-000, F, Aug. 1, 1986	Mobil Oil Corporation (Succ. in Interest to Apexco Inc.), Nine Greenway Plaza—Suite 2700, Houston, Texas 77046.	Natural Gas Pipeline Company of America, Certain acreage in Custer County, Oklahoma.	(18)	
CI61-886p000, D, Aug. 4, 1986	Texaco Inc., P.O. Box 52332, Houston, Texas 77052.	Panhandle Eastern Pipeline Company, Nye South Field, Beaver County, Oklahoma.	(19)	

[1] Leona K. Moebes Lease sold effective 10-1-85 to McPhaul Energy.
[2] The last producing well on the Insall Gas Unit was plugged and abandoned in September 1983.
[3] By assignment, Amoco sold its interest in the Stephens Gas Unit to Clark Sherwood. Phillips Petroleum Co. plugged its Poole Unit Well No. 1 in December 1979, thereby terminating its Poole Unit in which Amoco held a 5% W.I.
[4] By assignment dated 12-5-57 and amended by supplemental assignment dated 9-26-58, Amoco sold its rights in the Vandenberge and Hill Lease to Westland Oil Development Corporation.
[5] Deletion by acreage. ARCO no longer owns an interest in acreage to be deleted.
[6] Applicant is filing under Gas Purchase and Sales Agreement dated 7-3-86.
[7] Applicant is filing under Gas Purchase Agreement dated 5-1-70, amended by Amendment dated 7-18-86.
[8] Property sold to Ward Petroleum Corporation.
[9] BHP Petroleum (Americas) Inc. has assigned all of its rights, title and interest in all acreage covered under Rate Schedule No. 70 to GKM, Inc., effective 7-1-84 pursuant to Assignment and Conveyance.
[10] By assignment of oil and gas lease or leases effective 6-1-86, CNG Producing Company assigned all of its right, title and interest in and to that certain producing acreage as covered by CNG's GRS #77.
[11] Property sold to Farmers Union Central Exchange, Inc.
[12] Effective 8-1-83, ARCO assigned all of its remaining interest subject to this Certificate and Rate Schedule No. 589 to Dicon Enterprise, Inc.
[13] Property sold to Kenneth W. Cory.
[14] The Hardy Gas Unit was released by Amoco in 1979. The last producing well on the Millican Gas Unit was plugged and abandoned on 3-31-83. The last producing well on the Barth Gas Unit was plugged and abandoned on 3-2-81. Effective 10-1-85, Amoco sold all of its interest in the remaining acreage covered by the related Rate Schedule No. 83 to W. C. Martin, Inc., Riseden LTD., Inc., and Natural Gas Management Co.
[15] Applicant is filing under a Gas Sales and Purchase Contract dated 10-17-85, amended by Amendment dated 7-17-86.
[16] Production ceased and depletion of reserves.
[17] By Assignment effective 9-1-71, Conoco's interest in the Buckles-Colby No. 2 well was conveyed to J. W. Thrasher.
[18] By an assignment dated 2-23-77, Apexco Inc. conveyed to Mobil a certain part of its interest in five leases.
[19] The 8-3-81 contract expired by its own terms on 5-11-86. The State Sands Unit well, located on the "A" Whitaker Lease has been plugged and abandoned.
Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 86-18254 Filed 8-12-86; 8:45 am]
BILLING CODE 6717-01-M

Natural Gas Policy Act; Well Category Determination, etc.; Protest To Determinations by a Jurisdictional Agency, Motion To Intervene, and Motion To Consolidate

August 8, 1986.

In the matter of Colorado Oil & Gas Conservation Commission, Section 107(c)(5) NGPA Determinations John P. Lockridge Operator Inc. Lippert #21-30 Well JD86-23514, Docket No. GP86-43-000 and Colorado Oil and Gas Conservation Commission, Section 107(c)(5) NGPA Determinations John P. Lockridge Operator Inc. Helling #32-35 Well JD86-27160, Docket No. GP86-47-000.

On June 16, 1986, and July 11, 1986, Northwest Central Pipeline Company (Northwest Central) filed to protest the above-referenced tight formation well category determinations under the Natural Gas Policy Act of 1978 (NGPA) [1] made by the Colorado Oil and Gas Conservation Commission (Colorado). Northwest Central also moved to intervene in these proceedings pursuant to the Commission's Rule 214.[2] Additionally, Northwest Central moved under Rule 212 [3] to consolidate the referenced protests and their previously filed related protest in Docket No. GP86-35-000.[4] Northwest Central asks that the Commission reverse or remand the subject determinations.

Northwest Central states that Colorado has made an NGPA section 107(c)(5) determination for each of the wells at issue. These determinations became final by operation of NGPA section 503(b) 45 days after the Commission received notice. Each determination was based on the fact that each well qualifies as an NGPA section 103 category well and is located in a designated tight formation.[5] Under the Commission's regulations, one of the definitional prerequisites for qualification as new onshore tight formation gas is that the gas is new natural gas as defined in NGPA section 102(c) or is gas produced through a new onshore production well as defined in NGPA section 103(c). [6]

Northwest Central states that while each of the subject wells qualifies for both the section 103(c) and section 102(c) categories, only the facts to support a section 103(c) qualification were included in the applications for section 107(c)(5) determinations. Northwest Central states further that pursuant to section 121 of the NGPA, as implemented by the Commission in Order No. 406,[7] section 102(c) gas and section 103(c) gas produced from completion locations deeper than 5,000 feet are deregulated effective January 1, 1985.

Northwest Central avers that all of the gas produced from the wells which are the subject of its protest could qualify as for decontrol under section 102(c), but not under section 103(c) since the well completion depths are less than 5,000 feet. Northwest Central has itself attempted to obtain the section 102(c) determinations from Colorado has denied Northwest Central standing to file such applications. Under Colorado's rules, only working interest owners are permitted to seek such determinations. Northwest Central protests what it terms Colorado's refusal to confirm the deregulated status of the subject gas. Northwest Central specifically requests that it be permitted to intervene and that the Commission find that the subject NGPA section 107(c)(5) determinations are not supported by substantial evidence and should be reversed or remanded by the Commission.

Any person desiring to be heard or to protest Northwest Central's filings should file, within 10 days after this notice is published in the **Federal Register**, a motion to intervene or a protest under Rules 214 or 211 of the Commission's Rules of Practice and Procedure.[8] Filings should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. All protests filed will be considered but will not

[1] 15 U.S.C. 3301-3432 (1982).
[2] 18 CFR 385.214 (1986).
[3] 18 CFR 385.212 (1986).
[4] 51 FR 23578 (June 23, 1986).
[5] The Niobrara Formation in Colorado, Docket No. RM79-76 (Colorado-3). *See* 18 CFR 271.703(d)(20) (1986).
[6] 18 CFR 271.703(b)(2) (1986).
[7] Deregulation and other pricing changes on January 1, 1986, under the Natural Gas Policy Act, 49 FR 46874 (Nov. 29, 1984), reh'g denied, 49 FR 50637 (Dec. 31, 1984).
[8] 18 CFR 385.214 or 385.211 (1986).

make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18255 Filed 8-12-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP86-39-000]

ANR Pipeline Co. v. The Northwestern Mutual Life Insurance Co.; Complaint

August 8, 1986.

On June 2, 1986, ANR Pipeline Company (ANR) filed a complaint against the Northwestern Mutual Life Insurance Company (Northwestern Mutual). ANR requests that the Commission issue an order finding that Northwestern Mutual's demand for take or pay prepayments under the gas purchase agreements at issue constitutes a demand for payment of a price in excess of the maximum lawful price ceilings established under Title I of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3311-3320 (1982). [1]

ANR states it has been unable to take certain quantities of gas under several gas purchase contracts with Northwestern Mutual that contain take or pay clauses. Northwestern Mutual asserted that ANR has incurred prepayment obligations under the take or pay clauses, while ANR asserts that supervening events amount to *force majeure* under the contract that suspend ANR's obligations.[2] Although the contracts with Northwestern Mutual provide an opportunity for ANR to accept delivery of the gas prepurchased under take or pay provisions, ANR states that force *majeure* conditions and reservoir depletion caused by other producers may preclude it from taking advantage of that opportunity.

If ANR is unable to take the gas for which it has paid through take or pay prepayments, ANR asserts that Northwestern Mutual will have received payments for gas never delivered According to ANR, this would consititute a violation of NGPA section 504(a)(1), 15 U.S.C. 3414(a)(1) (1982), because Northwestern Mutual has already received the maximum lawful price for all gas actually sold and delivered under the relevant contracts. ANR assets that receipt of additional value in the form of take or pay payments which cannot be recouped increases the price of natural gas actually delivered by Northwestern Mutual above the maximum lawful price permitted under Title I of the NGPA

Any person desires to be heard or to make protest to the complaint should file, on or before September 8, 1986, with the Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214 (1986)). All protests filed will be considered, but will not make the protestants parties to the proceeding. Answers to the complaint should be made under Rules 206 and 213 (18 CFR 385.206 and 385.213 (1986)) on or before September 8, 1986.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-18256 Filed 8-12-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-148-000]

Pacific Gas Transmission Co.; Tariff Filing

August 8, 1986.

Take notice that on August 4, 1986, Pacific Gas Transmission Company (PGT) tendered for filing Original Sheet No. 99 to its FERC Gas Tariff, First Revised Volume No. 1.

PGT states that this tariff sheet reflects establishment of PGT's new Rate Schedule IT-1 for the continuation of interruptible service to Pacific Interstate Transmission Company (PITCO), which service has been authorized since August 30, 1981. PGT has submitted this filing to conform with the requirements of §§ 284.7(b)(2) and 284.105 of the Commission's Regulations. The PGT/PITCO transportation arrangement is grandfathered in as much as the August 30, 1981, contract with PITCO has been in effect continuously and service thereunder has been performed by PGT. PGT has not performed such transportation subsequent to July 1, 1986, when the § 284.7 rate format became obligatory. This filing is intended to satisfy that requirement.

PGT requests that the Commission grant any waivers necessary so that this tariff sheet become effective August 15, 1986. Copies of this filing have been sent to the affected customer, jurisdictional customers and applicable state regulatory commissions.

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 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1985)). All such motions or protests should be filed on or before August 15, 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. 86-18257 Filed 8-12-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP86-281-002]

Southern Natural Gas Co.; Compliance Filing

August 8, 1986.

Take notice that on July 28, 1986, Southern Natural Gas Company (Southern) tendered for filing Seventh Revised Sheet No. 30D to its FERC Gas Tariff, Sixth Revised Volume No. 1.

Southern states that Seventh Revised Sheet No. 30D if filed pursuant to Ordering Paragraph (D) of the Commission's order which issued June 3, 1986, in Docket No. CP86-281-000. Southern's proposed tariff sheet set forth the rates to be effective under its Flexible Discount Rate Schedule during August of 1986.

Southern requests an effective date of August 1, 1986. Copies of this filing were mailed to Southern's jurisdictional purchasers and interested state commissions.

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 (1985)). All such motions or protests should be filed on or before August 15, 1986. Protests will be considered by the Commission in determing the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

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[1] ANR purchases natural gas from Northwestern Mutual under several natural gas purchase contracts. The three contracts at issue cover Block A-341 (February 11, 1980), Blocks A-382, A-572, A-573 (August 4, 1978), and Blocks A-334 and A-335 (April 27, 1978), High Island Area, Offshore Texas.

[2] Northwestern Mutual is seeking to have ANR's *force majeure* defense delcared invalid. The Northwestern Mutual Life Insurance Company v. ANR Pipeline Co., in the District Court of Harris County, Texas, 164th Judicial District (No. 86-20020), filed May 2, 1986.

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. 86-18258 Filed 8-12-86; 8:45 am]

BILLING CODE 6717-01-M

[PF-462; FRL-3061-7]

Pesticide Tolerance Petitions; Borderland Products Inc., et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the amendment to, and withdrawal of, pesticide tolerance petitions for residues of certain pesticide chemicals in or on certain agricultural commodities.

ADDRESS: By mail, submit comments identified by the document control number [PF-462] and the petition number, attention Product Manager (PM) named in each petition, 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, DC 20460.

In person, bring comments to: Information Services Section (TS-757C), Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

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:

Registration Division (TS-767C), Attn: (Product Manager (PM) named in the petition), Environmental Protection Agency, Office of Pesticide Programs, 401 M St. SW., Washington, DC 20460.

In person, contact the PM named in each petition at the following office location/telephone number:

Product manager	Office location/telephone number	Address
William Miller, PM-16	Rm. 211, CM #2, 703-557-2600	EPA, 1921 Jefferson Davis Hwy, Arlington, VA 22202
Henry M. Jacoby, PM-21	Rm. 227, CM #2, 703-557-1900	Do.

SUPPLEMENTARY INFORMATION: EPA has received requests to amend and/or withdraw pesticide (PP) and food additive (FAP) tolerance petitions. The petitions, published in the **Federal Register** as follows, proposed the establishment of tolerances for residues of certain pesticide chemicals in or on certain agricultural commodities.

1. *PP 6F3328.* 51 FR 12925, April 16, 1986. Borderland Products, Inc., P.O. Box 1005, Buffalo, NY 14240. Proposed amending 40 CFR 180.320 by establishing tolerances for the combined residues of the insecticide and bird repellent 3,5-dimethyl-4-(methylthio)phenyl methylcarbamate and its cholinesterase-inhibiting metabolites in or on rice grain and straw at 0.04 part per million (ppm).

Borderland Products, Inc. has amended the petition by increasing the tolerance limitations on rice grain to 0.05 ppm and rice straw to 0.20 ppm.

The proposed analytical method for determining residues is gas chromatographic procedure using a flame photometric detector. (PM-16).

2. *FAP 5H5447.* 49 FR 48374, December 12, 1984. E.I. du Pont de Nemours & Company, Walker's Mill, Barley Mill Plaza, Wilmington, DE 19898. Proposed amending 21 CFR Part 193 by establishing a regulation permitting residues of the fungicide bis(4-fluorophenyl)methyl(1*H*-1,2,4-triazol-1-y1-methyl)silane in peanut oil at 1.5 ppm.

E.I. du Pont de Nemours & Company has withdrawn the petition without prejudice to future filing as provided in 40 CFR 180.8. (PM-21).

Authority: 21 U.S.C. 346a.

Dated: July 31, 1986.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86-17887 Filed 8-8-86; 8:45 am]

BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30270; FRL-3064-1]

Mobay Chemical Corp.; Application to Register a Pesticide Product

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to conditionally register a pesticide product involving a changed use pattern pursuant to the provision of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by September 12, 1986.

ADDRESS: By mail submit comments identified by the document control number [OPP-30270] and the file symbol (3125-GTU) to:

Information Services Section (TS-757C), Program Management and Support Division, Attn: Product Manager (PM) 16, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm. 236, CM#2, Attn: PM 16, Registration Division (TS-767C), Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any 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 to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4

p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: William Miller, PM 16, (703–557–2600).

SUPPLEMENTARY INFORMATION: Mobay Chemical Corp., PO Box 4913, Kansas City, MO 64120, has submitted an application to EPA to conditionally register the pesticide product Monitor® 7.5% Insecticide, EPA File Symbol 3125–GTU, containing the active ingredient *O,S*-dimethyl phosphoramidothioate at 7.5 percent, the product involves a changed use pattern pursuant to the provision of section 3(c)(4) of FIFRA. The application proposes that the product be classified for general use, to include in its presently registered agricultural use, a new homeowners use to control insects on ornamental plants and garden vegetables. Notice of receipt of this application does not imply a decision by the Agency on the application.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Program Management and Support Division (PMSD) office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the PMSD office (703–557–3262), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

Dated: July 31, 1986.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86–18124 Filed 8–12–86; 8:45 am]

BILLING CODE 6560–50–M

[OPP–36117A; FRL–3063–9]

Pesticide Registration Standards; Availability for Comment; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of extension of comment period.

SUMMARY: EPA is extending the period for submittal of comments concerning the proposed pesticide Registration Standard for paraquat. Notice of the availability of this Registration Standard was published in the **Federal Register** of June 4, 1986 (51 FR 20343).

DATE: The comment period will now close on September 4, 1986.

ADDRESSES: Send three copies of written comments, identified with the docket number 1910–42–5, by mail to:

Information Services Section, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: To request a copy of the Registration Standard, to request information concerning the public docket, or to request an index to the public docket, contact Frances Mann of the Information Services Section in Rm. 236, at the address given above (703–557–3262).

For technical questions related to the paraquat Registration Standard, contact Robert Taylor, Product Manager 25 (703–557–1900).

Copies of the paraquat Registration Standard are also available for inspection and copying in the EPA Regional Offices listed in the **Federal Register** notice (51 FR 20344).

SUPPLEMENTARY INFORMATION: EPA issued a notice informing the public of the availability for comment of Registration Standards for three chemicals. The notice was published in the **Federal Register** of June 4, 1986 (51 FR 20343). EPA has received a request for an extension of the comment period on the paraquat Registration Standard from the Chevron Chemical Company. Chevron explained that there had been a delay in their receipt of some of the documents in the Registration Standard and therefore they would need more time to study and comment on the Standard.

The Agency agrees that the additional time would be beneficial to ensure the submission of complete responses to the notice. Therefore, all interested persons will have until September 4, 1986 to submit comments. Comments received on or before that date will be considered. Comments received after September 4, 1986, will be considered to the extent possible.

All written comments filed will be available for public inspection in the office of the Document Control Officer at the address given above from 8 to 4 p.m. Monday through Friday, excluding legal holidays. See the June 4, 1986 notice for additional guidance on submitting comments, including instructions on submitting confidential business information.

Dated: August 4, 1986.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 86–18123 Filed 8–12–86; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Agency Information Collection Activities Under OMB Review

August 5, 1986.

The following information collection requirements have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). For further information contact FCC, Doris Benz (202) 632–7513.

OMB No.: 3060–0366.

Title: Amendment of Part 67 of the Commission's Rules and Establishment of a Federal-State Joint Board to Conform the Separations Manual to the Revised Uniform System of Accounts—CC Docket No. 86–297.

Expiration Date: October 31, 1986.

OMB No.: 3060–0367.

Title: MTS and WATS Market Structure: Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board—CC Docket No. 78–72 and CC Docket No. 80–286.

Expiration Date: October 31, 1986.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86–18190 Filed 8–12–86; 8:45 am]

BILLING CODE 6712–01–M

Applications for Consolidated Hearing; Family Stations, Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Family Stations, Inc	Muskegon, MI.	BPED–830225AL	86–318
B. Echo Broadcasting, Inc	Zeeland, MI.	BPED–830603AN	.....

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues

whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicant(s)
1. Air Hazard	A
2. Financial	B
3. 307(b)—Noncommercial Educational	A, B
4. Contingent Comparative—Noncommercial Educational.	A, B
5. Ultimate	A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding 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 may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202)857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 86–18191 Filed 8–12–86; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-496]

Shelton Savings and Loan Association, Shelton, CT; Final Action; Approval of Conversion Application

Dated: August 7, 1986.

Notice is hereby given that on July 25, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Shelton Savings and Loan Association, Shelton, Connecticut for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Boston, One Financial Center, 20th Floor, Boston, Massachusetts 02110.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 86–18192 Filed 8–12–86; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime 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.: 224–010730–001.

Title: Los Angeles Terminal Agreement.

Parties: The City of Los Angeles (City); L.A. Cruise Ship Terminals (L.A. Cruise).

Synopsis: The proposed amendment would permit the City to provide L.A. Cruise an area adjacent to Berth 93A in the Port of Los Angeles for use as a temporary passenger handling facility until construction of a permanent facility can be completed. The parties have requested a shortened review period.

Agreement No.: 202–010982.

Title: Bahamas Shipowners Association Agreement.

Parties: Tropical Shipping and Construction Co., Ltd.; Universal Alco Ltd.

Synopsis: The proposed agreement would permit the parties to discuss and agree, on a voluntary basis, on rates, charges, rules classifications, and practices governing the transportation of cargo, whether moving in all water or in through transportation service under bill of lading between ports of the United States located between Jacksonville and Key West, Florida, on the one hand, and ports in the Bahamas and Turks, Caicos and Providenciales Islands, on the other hand, including points within the Continental United States (excluding Hawaii and Alaska) and points in nations of the Bahamas and Turks, Caicos and Providenciales Islands via such ports.

By Order of the Federal Maritime Commission.

Dated: August 8, 1986.

Joseph C. Polking,

Secretary.

[FR Doc. 86–18202 Filed 8–12–86; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License Applicants; AAA Forwarding Co.

Notice is hereby given that the following persons have filed applications for licenses as ocean freight forwarders with the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and 46 CFR Part 510.

Persons knowing of any reason why any of the following persons should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

AAA Forwarding Company, 419 Laura Ann, Collierville, TN 38017. Officers: B.B. Derrick, Partner Edward E. LaRue, Partner John C. LaRue, Partner

Nationwide International Forwarders and Brokers, Inc., d.b.a. Nationwide International, 4795 N.W. 72nd Avenue, Miami, FL 33166. Officer: Sharon Lopez Garcia, President

Nik & Associates, 5758 W. Century Blvd., S–213, Baldwin Park, CA 91706. Officer: Miodrag Nikolic, President

Honeybee International Forwarding, 5167 Azusa Canyon Road, Baldwin Park, CA 91706. Officer: Samih Abushoushed, President

Generoso R. Calderon d.b.a. E.R.C. International Freight Forwarders, 2330 W. Temple Street, Suite C, Los Angeles, CA 90026

Jang Kyun Park d.b.a. J.K. International, 3020 16th Street, San Francisco, CA 94103

Adept International Forwarders, Inc., 43–60 168th Street, Flushing, NY 11358. Officer: Joseph D. Boscarino, President/Director.

Dated: August 8, 1986.

Joseph C. Polking,

Secretary.

[FR Doc. 86–18200 Filed 8–12–86; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License Revocations; Lyon Worldwide Shipping, Inc., et al.

Notice is hereby given that the following ocean freight forwarder

licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License Number: 2820.
Name: Lyon Worldwide Shipping, Inc.
Address: 3633 136th Place, SE., Bellevue, WA 98006.
Date Revoked: June 30, 1986.
Reason: Surrendered license voluntarily.

License Number: 43.
Name: Allworld Forwarding Co., Inc.
Address: 214–16 41st Ave., Bayside, NY 11361.
Date Revoked: July 25, 1986.
Reason: Failed to maintain a valid surety bond.

License Number: 2941.
Name: Buschmann International, Inc.
Address: 8152 Loch Raven Blvd., Baltimore, MD 21204.
Date Revoked: July 23, 1986.
Reason: Surrendered license voluntarily.

License Number: 237.
Name: Atlas Agencies, Inc.
Address: 2080 Talleyrand Ave., Jacksonville, FL 32206.
Date Revoked: July 30, 1986.
Reason: Surrendered license voluntarily.

License Number: 1841.
Name: Donnell Customs Services, Inc.
Address: 2780 Des Plaines Ave., Des Plaines, IL 60018.
Date Revoked: August 1, 1986.
Reason: Surrendered license voluntarily.

Robert G. Drew,
Director, Bureau of Tariffs.
[FR Doc. 86–18201 Filed 8–12–86; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Formation of, Acquisition by, or Merger of Bank Holding Companies; The Citizens and Southern Corporation

The company listed in this notice has 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 225.24) 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)).

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 to the Reserve Bank indicated for that application 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.

Comments regarding this application must be received not later than September 4, 1986.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *The Citizens and Southern Corporation*, Atlanta, Georgia, and Citizens and Southern Florida Corporation, Fort Lauderdale, Florida; to acquire 100 percent of the voting shares of First National Bank, Winter Park, Winter Park, Florida; Bank of the Islands, Sanibel, Florida; Community National Bank, Kissimmee, Florida; and First National Bank, Seminole County, Longwood, Florida.

Board of Governors of the Federal Reserve System, August 7, 1986.
James McAfee,
Associate Secretary of the Board.
[FR Doc. 86–18182 Filed 8–12–86; 8:45 am]
BILLING CODE 6210-01-M

Applications to Engage de Novo in Permissible Nonbanking Activities; Howells Investment Co. et al.

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 section 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 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 the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 4, 1986.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Howells Investment Company*, Howells, Nebraska; to engage directly in the sale and servicing of credit life, accident, and health insurance pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y. These activities will be conducted in the area served by a subsidiary bank, approximately 15 miles north, 15 miles south, 6 miles west, and 6 miles east of the town of Howells, Nebraska.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Longview Financial Corporation*, Longview, Texas; to engage *de novo* through its subsidiary Longview Financial Services Company, Longview, Texas, in providing discount securities brokerage activities including certain securities credit and incidental activities pursuant to § 225.25(b)(15) of the Board's Regulation Y.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Security Pacific Corporation*, Los Angeles, California; to acquire 50 percent of the stock of Sumitrust Security Pacific Investment Managers, Inc., Los Angeles, California, a Delaware corporation, and thereby engage through a joint venture in acting as investment or financial advisor to the extent of: (i) Serving as the advisory company for a mortgage or real estate investment trust, (ii) serving as investment advisor (as

defined in section 2(a)(20) of the Investment company Act of 1940, 15 U.S.C. 80a-2(a)(20) to an investment company registered under that act, including sponsoring, organizing, and managing a closed-end investment company; (iii) providing portfolio investment advice to any other person; (iv) furnishing general economic information and advice, general economic statistical forecasting services and industry studies; and (v) providing financial advice to state and local governments, such as with respect to the issuance of their securities; all to the extent authorized by § 225.25(b)(4) of the Board's Regulation Y. The activities will be conducted from an office of Sumitrust Security Pacific Investment Managers, Inc., located in Los Angeles, California, serving the United States and the District of Columbia.

Board of Governors of the Federal Reserve System, August 7, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-18183 Filed 8-12-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Grants Administration; Reimbursement of Indirect Costs

AGENCY: Department of Health and Human Services (HHS).

ACTION: Notice of proposed change in departmental policy, rquests for comments.

SUMMARY: The Department of Health and Human Services offers interested parties an opportunity to comment on proposed changes to its departmental policy concerning the reimbursement of indirect costs under those project grants and cooperative agreements where the Department currently reimburses full indirect costs. This policy is published in Chapter 6-150 of the HHS Grants Administration Manual.

Three major changes to Departmental policy are proposed. First, all grant applications reviewed by grant review panels would be required to show both the direct and indirect costs requested by the applicant. Second, the Department would, except in several specifically identified circumstances, no longer issue supplemental awards to cover indirect cost increases beyond the amounts originally awarded. Finally, the amount of indirect costs awarded would be treated as a ceiling: If actual indirect costs exceed that amount, the excess may not be charged to the grant without prior approval from the granting agency. A companion notice of proposed rulemaking, adding this prior approval requirement to the Department's grants administration regulations in 45 CFR Part 74, is published elsewhere in today's **Federal Register.**

We propose these changes in response to a recommendation by the Office of Science and Technology Policy that HHS adopt certain of the indirect cost reimbursement practices of the National Science Foundation and other Federal Departments.

DATE: Comments must be received by October 14, 1986.

ADDRESS: Comments on the proposed changes should be submitted in writing to Joel B. Feinglass, Director, Office of Assistance and Cost Policy, Department of Health and Human Services, Room 513D, 200 Independence Avenue, SW., Washington, DC 20201. All written comments pursuant to this notice will be available for public inspection during normal working hours at the above address.

FOR FURTHER INFORMATION CONTACT: John Strauch (202) 245-7565.

SUPPLEMENTARY INFORMATION:

Background

Rising indirect cost rates have been the focus of increasing concern by a wide spectrum of parties including Congress and Federal officials. Studies by the Congress, HHS, the Office of Science and Technology Policy, GAO and the HHS Inspector General have all addressed the subject in recent years. The Office of Science and Technology Policy (OSTP) recently reported that, starting from the old statutory ceiling of 20% (which was abolished in 1966), university indirect cost rates had grown by 1981 to a national composite of 30% at NIH and 25% at NSF, and by 1984 to 31.2% of total research costs at NIH. OSTP recommended that the Department adopt NSF practices of including the indirect cost portion of a research project budget in the application. This would mean that peer review groups would see the total funds being requested, and not merely the direct costs. OSTP indicated that under such a system the total amount of an award, both direct and indirect, should be fixed over the grant period. We propose to implement OSTP's recommendation by revising Grants Administration Manual Chapter 6-150 as indicated in the following sections.

Peer Review

At present, Departmental policy is silent on this subject. As a result practices of our awarding agencies vary. In the Public Health Service, peer review groups for research grant applications review the direct costs requested by research grant applicants but do not see the amount being requested for indirect costs. Other awarding agencies generally include both direct and indirect costs in the applications reviewed by such panels. Paragraph 6-150-201 of the proposed revision would require all applications reviewed by any grant application review panel to show both direct and indirect costs requested. This would enable reviewers to reach more informed judgments about the overall cost of proposed projects, because they would see the total estimated costs, and not merely the direct costs. However, the proposed vision states explicitly that the review panels would have no authority to change the indirect cost rates or restrict their application. Negotiating indirect cost rates would continue as the responsibility of the various negotiation offices of the cognizant Federal agency—in HHS, our Regional Divisions of Cost Allocation. Making sure that the rates are properly used would continue as the responsibility of grants management officials, financial management officials, or both, in our awarding agencies.

Amount of Indirect Costs Awarded

Under current policy, HHS granting agencies make supplemental awards, subject to the availability of appropriations, whenever the grantee's actual indirect costs allocable to grants exceed the amounts which have been awarded. These supplemental awards total about $40 million annually. Paragraph 6-150-20 D of the proposed revision would eliminate this practice of providing additional funds, except in the following circumstances:

(a) An error made by the granting agency in computing the award;

(b) The restoration of funds previously recaptured by the Department as part of a grantee's unobligated balance;

(c) New or delinquent grantees for whom valid rates are subsequently established; and

(d) Expansion or extension of projects (limited to the indirect costs attributable to any additional direct costs awarded).

In addition, paragraph 6-150-20 D would provide that the amount of indirect costs awarded (or as subsequently amended) is a ceiling amount beyond which the grantee may not charge the grant except with the prior approval of the awarding agency. In other words, grantees would be required to obtain prior approval for any

rebudgeting of grant funds from direct costs to indirect costs. Finally, paragraph 6–150–50 A.1.b. would be revised to eliminate the existing restrictions on an awarding agency's authority to reduce an award to reflect a lower indirect cost rate subsequently established (and thus reduce the indirect cost ceiling). As mentioned earlier, a companion proposal to add this prior approval requirement to the Department's grants administration regulations at 45 CFR Part 74 is published in today's Federal Register.

Scope of Proposed Changes

The Office of Science and Technology Policy's recommendation mentions only research grants. However, we believe that too many difficulties would be encountered in having a separate set of policies for non-research project grants. This would not be in the best interests of either the Department or its grantees. In addition, we believe that the issues are essentially the same in non-research programs. Consequently, we propose to apply the new policies to all affected project grants and cooperative agreements.

Other Proposed Revisions

In addition to the conforming changes needed throughout the chapter to reflect the policy changes discussed above, we are taking this opportunity to make a number of editorial improvements as well as changes to reflect current terminology and Departmental organization. Also, we are clarifying the limited extent to which formula grants are affected by the chapter and the fact that policy concerning Public Assistance Programs is contained in a different chapter. Finally, we are proposing to reduce the time period for submission of summary expenditure report adjustment sheets from 1 year to 6 months and to recognize existing Departmental practice of not reimbursing indirect costs under grants to Federal organizations or in support of conferences.

Effects of Proposal

We cannot quantify with any assurance the effects of these proposed changes since we cannot predict either the extent to which rebudgeting will be approved by the awarding offices or the actions which may be taken by grantees to minimize the impact of these changes. We estimate as a maximum, that $40 million, out of total annual indirect costs awarded of about $1 billion, could be saved. In addition, some small savings for awarding agencies and grantees will result from eliminating many of the grant amendments and financial report submissions now needed.

Accordingly, HHS proposes to amend its Grants Administration Manual as discussed above. Interested parties may obtain a copy of the proposed revised chapter 6–150 by contacting the Office of Assistance and Cost Policy at (202) 245–7565 or at the address provided in this notice for the submission of comments.

Dated: July 9, 1986.

Otis R. Bowen,

Secretary of Health and Human Services.

[FR Doc. 86–17586 Filed 8–12–86; 8:45 am]

BILLING CODE 4150–04–M

National Institutes of Health

Committee Reestablishments; Biophysical Chemistry Study Section et al.

Pursuant to the Federal Advisory Committee Act of October 6, 1972 [Pub. L. 92–463, 86 Stat. 770–776] and the Health Research Extension Act of 1985, November 20, 1985 [Pub. L. 99–158, Section 402(b)(6)], the Director, National Institutes of Health, announces the reestablishment, effective September 1, 1986, of the following committees:

Biophysical Chemistry Study Section
Human Development and Aging Study Section
Immunobiology Study Section
Molecular and Cellular Biophysics Study Section
Neurology A Study Section
Orthopedics and Musculoskeletal Study Section
Physiological Chemistry Study Section
Respiratory and Applied Physiology Study Section

The duration of these committees is continuing unless formally determined by the Director, NIH, that termination would be in the best public interest.

Dated: August 8, 1986.

James B. Wyngaarden, M.D.

Director, National Institutes of Health.

[FR Doc. 86–18247 Filed 8–12–86; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of the following study sections for September 1986, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Grants Inquiries Office, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone 301–496–7441 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each study section. Since it is necessary to schedule study section meetings months in advance, it is suggested that anyone planning to attend a meeting contact the executive secretary to confirm the exact date, time and location. All times are A.M. unless otherwise specified.

Study section	September 1986 meetings	Time	Location
Behavioral and Neurosciences-1, Ms. Janet Cuca, Rm. A13, Tel. 301-496-5352.	Sept. 25-26	8:00	Wellington Hotel, Washington, DC.
Behavioral and Neurosciences-2, Ms. Janet Cuca, Rm. A13, Tel. 301-496-5352.	Sept. 19	8:30	Room 8, Bldg 31C, Bethesda MD.
Biomedical Sciences—2, Dr. Danial Eskinazi, Rm. A10, Tel 301-496-1067.	Sept. 18-19	8:30	Crowne Plaza, Rockville, MD.
Biomedical Sciences—3, Dr. Charles Baker, Rm. A10, Tel. 301-496-7150.	Sept. 16-17	8:30	Holiday Inn, Georgetown, DC.
Biomedical Sciences—4, Dr. Charles Baker, Rm. A10, Tel. 301-496-7150.	Sept. 24-25	8:30	Holiday Inn, Georgetown, DC.
Biomedical Sciences—5, Dr. Bert Wilson, Rm. A25, Tel. 301-496-7600.	Sept. 22-23	8:30	Room 4, Bldg. 31A, Bethesda, MD.
Biomedical Sciences—6, Dr. Zain-Ul-Abedin, Rm. A10, Tel. 301-496-3117.	Sept. 18-19	8:30	Room 9, Bldg. 31A, Bethesda, MD.
Clinical Sciences—1, Dr. Lynwood Jones, Jr., Rm. A19, Tel. 301-496-7510.	Sept. 18-19	8:30	Holiday Inn, Bethesda, MD.

Study section	September 1986 meetings	Time	Location
Clinical Sciences—2, Dr. Bernice Lipkin, Rm. A19, Tel. 301-496-7477.	Sept. 22	9:00	Room 8, Bldg. 31C, Bethesda, MD.
Clinical Sciences—3, Dr. Lynwood Jones, Jr., Rm. A19, Tel. 301-496-7510.	Sept. 12	8:30	Holiday Inn, Bethesda MD.
Clinical Sciences—4, Dr. Bernice Lipkin, Rm. A19, Tel. 301-496-7477.	Sept. 19	9:00	Room 8, Bldg. 31C, Bethesda, MD.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, 13.333, 13.337, 13.393–13.396, 13.837–13.844, 13.846–13.878, 13.892, 13.893, National Institutes of Health, HHS)

Dated: August 4, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–18252 Filed 8–12–86; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meetings of the National Heart, Lung, and Blood Advisory Council and Its Research Subcommittee and Manpower Subcommittee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, National Heart, Lung, and Blood Institute, October 16–17, 1986, National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, Maryland 20892. In addition, the Research Subcommittee and the Manpower Subcommittee of the above Council will meet on October 15, 1986, at 1:00 p.m. and 8:00 p.m. respectively, in Building 31, Conference Rooms 9 and 10.

The Council meeting will be open to the public on October 16 from 9:00 a.m. to approximately 3:30 p.m. for discussion of program policies and issues. Attendance by the public is limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92–463, the Council meeting will be closed to the public from approximately 3:30 p.m. on October 16 to adjournment on October 17 for the review, discussion, and evaluation of individual grant applications. The meetings of the Research Subcommittee and the Manpower Subcommittee of the above Council on October 15, will be closed from 1:00 p.m. and 8:00 p.m., respectively, to adjournment for the review, discussion, and evaluation of individual grant applications.

These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Public Inquiries Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496–4236, will provide a summary of the meeting and a roster of the Council members.

Dr. Henry G. Roscoe, Acting Executive Secretary of the Council, Westwood Building, Room 7A–17, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496–7225, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated August 4, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86–18248 Filed 8–12–86; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Child Health and Human Development; Meeting of the National Advisory Child Health and Human Development Council

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Child Health and Human Development Council, September 22–23, 1986, in Building 31, Conference Room 6, National Institutes of Health, Bethesda, Maryland, and the meeting of the Subcommittee on Planning on September 22 from 8:30 a.m. to 9:30 a.m. in Building 31, Room 2A03.

The Council meeting will be open to the public on September 22 from 9:30 a.m. until 5:00 p.m. The agenda includes a report by the Director, NICHD, and a presentation by the Contraceptive Development and Contraceptive Evaluation Branches of the Center for Population Research. The meeting will be open on September 23 immediately following the review of applications if any policy issues are raised which need further discussion. The Subcommittee meeting will be open on September 22 from 8:30 a.m. to 9:30 a.m. to discuss program plans and the agenda for the next Council meeting. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, the meeting will be closed to the public on September 23 from 8:30 a.m. to completion of the review, discussion, and evaluation of individual grant applications. The applications and the discussions could reveal trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Council Secretary, NICHD, Landow Building, Room 6C08, National Institutes of Health, Bethesda, Maryland 20892 Area Code 301, 496–1485, will provide a summary of the meeting and a roster of Council members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program Nos.13.864, Population Research, and 13.865, Research for Mothers and Children, National Institutes of Health.)

Dated: August 4, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–18249 Filed 8–12–86; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Dental Research; Meeting of the National Advisory Dental Research Council

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Dental Research Council, National Institute of Dental Research, in September 24, 1986, Conference Room 6, Building 31C, and September 25, 1986, Conference Room 9, Building 31C, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 9:00 a.m. to recess on September 24 for general discussion and program presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting of the Council will be closed to the public on September 25 from 9:00 a.m. to adjournment for the review, discussion and evaluation of individual grant applications and individual programs and projects conducted by the NIDR Intramural Program. These discussions could reveal confidential trade secrets or commercial property such as

patentable material, and personal information concerning individuals associated with the applications and the Program, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Marie U. Nylen, Executive Secretary, National Advisory Dental Research Concil, and Director, Extramural Programs, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 503, Bethesda, Maryland 20892, (telephone 301 496–7723) will furnish roster of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program Nos. 13.121—Diseases of the Teeth and Support Tissues; Caries and Restorative Materials; Periodontal and Soft Tissue Diseases; 13.121—Disorders of Structure, Function, and Behavior: Craniofacial Anomalies, Pain Control, and Behavioral Studies; 13.845—Dental Research Institutes; National Institutes of Health.)

Dated: August 4, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–18250 Filed 8–12–86; 8:45 am]

BILLING CODE 4140–01–M

National Library of Medicine; Meetings of the Biomedical Library Review Committee and the Subcommittee for the Review of Medical Library Resource Improvement Grant Applications

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Biomedical Library Review Committee on October 23–24, 1986, convening each day at 8:30 a.m. in Classroom B1N30 of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland, to adjournment on October 24, and the meeting of the Subcommittee for the Review of Medical Library Resource Improvement Grant Applications on October 22 from 3:00 p.m. to 4:00 p.m. in the 5th-Floor Conference Room of the Lister Hill Center Building.

The meeting on October 23 will be open to the public from 8:30 to 11:00 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92–463, the regular meeting and the subcommittee meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications as follows: The regular meeting on October 23 from 11:00 a.m. to 5:00 p.m., and on October 24, from 8:30 a.m. to adjournment; and the subcommittee meeting on October 22 from 3:00 p.m. to 4:00 p.m. These applications and the discussion could reveal confidential trade secrets or commercial propety, such as patentable material, and personal information concerning individuals associated with applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Roger W. Dahlen, Executive Secretary of the Committee, and Chief, Biomedical Information Support Branch, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone number: 301–496–4221, will provide summaries of the meeting, rosters of the committee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—Medical Library Assistance, National Institutes of Health.)

Dated: August 4, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86–18251 Filed 8–12–86; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Office of the Assistant Secretary for Health; Statement of Organization, Functions and Delegations of Authority

Part H, Public Health Service (PHS), Chapter HA (Office of the Assistant Secretary for Health) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (DHHS) (42 FR 61318, December 2, 1977, as amended most recently at 51 FR 8034, March 7, 1986) is amended to reflect a realignment of several functions in the Administrative Services Center, Office of Management, Office of the Assistant Secretary for Health (ASC/OM/OASH).

Office of the Assistant Secretary for Health

Under Chapter HA, Office of the Assistant Secretary for Health, Section HA–20, Functions, Office of Management (HAU), delete *Administrative Services Center (HAU1),* in its entirety and substitute the following:

Administrative Services Center (HAU1)

The Director of the Administrative Services Center plans, coordinates and provides a combination of administrative and technical services designed to serve Public Health Service (PHS) activities nationwide and those agencies and Office of the Assistant Secretary for Health staff components located at PHS headquarters throughout the Washington, DC metropolitan area.

Provides administrative operations, such as, building management, lease management, and procurement for employees and organizations located at headquarters.

Develops Public Health Service policy and procedures for printing, duplicating, and property management. Provides Public Health Service claims, distribution, and library services. Serves as liaison with other components of the Department, GAS, and GPO.

Division of Administrative Operations (HAU15)

The Director of the Division of Administrative Operations plans, coordinates and provides a variety of administrative support services for the Office of the Assistant Secretary for Health and the health agencies. These services include planning, organizing, directing, coordinating and evaluating the conduct of all administrative management affairs for ASC; providing a total PHS claims program (i.e. investigation, evaluation and recommendation for disposition of a wide variety of claims, etc.); and providing mission-related library services to personnel of the Public Health Service and other agencies within the Department, appropriate libraries, educational institutions, research agencies, organizations, and individuals.

Division of Acquisitions Management (HAU16)

The Director of the Division of Acquisitions Management provides centralized program and administrative contracting and related services including analysis, evaluation, and recommendation of policies and procedures for all Office of the Assistant Secretary for Health activities. Provides centralized administrative contracting, including ADP, for PHS agencies at headquarters. Directs and coordinates a centralized acquisition program for the purchase of all supplies, equipment, and services from mandatory sources (Federal Supply Schedules and other Government agencies), open market, or by contract, either sealed bid or negotiated. Provides contract audit and fiancial review services and control of fraud, waste and abuse. Develops procedures for administration of the acquisition program and works with the

many Federal organizations to insure all laws and regulations are properly interpreted and implemented.

Division of Property Management (HAU17)

The Director of the Division of Property Management develops and promulgates logistical policies, procedures and systems for PHS-wide application. Plans, coordinates, and provides a variety of real and personal property management activities for the Office of the Assistant Secretary for Health and the health agencies. Provides the following related services: building security and safety program, including facility emergency plan; lease management; building management and operations; building alteration, repair and maintenance program; parking management, information/locator services; photo identification (ID); travel management; supply management and inventory management. Provides a shipping, receiving and laboring service and operates a property management and surplus property utilization and disposal system.

Division of Technical Support (HAU18)

The Division plans, coordinates, and provides a variety of support services for the Office of the Assistant Secretary for Health and the PHS agencies at headquarters. These services are: printing and reproduction management, including operation of copy centers; telecommunications management; mail and messenger services; motor pool management; support services for conference room and training facilities; visual aids and graphics art services; photography services; and internal data processing support. Provides nationwide PHS Printing Management Policy and procedural guidance.

Effective date: August 5, 1986.

Wilford J. Forbush,

Director, Office of Management.

[FR Doc. 86-18203 Filed 8-12-86; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO-220-4322-02]

Livestock Grazing Environmental Impact Statements—Fiscal Year 1987

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: As required by the Court Order in *Natural Resource Defense Council, Inc., et al.*, v. *Morton, et al.*, Civil Action No. 1983-73, this notice identifies seven Resource Management Plans (RMP) and associated environmental impact statements (EIS) covering the effects of livestock grazing scheduled for completion by the Bureau of Land Management during Fiscal Year 1987.

FOR FURTHER INFORMATION CONTACT: Billy Templeton, Chief, Division of Rangeland Resources, Bureau of Land Management (220), 18th & C Streets, NW., Washington, DC 20240 (202/653-9193).

SUPPLEMENTARY INFORMATION: In accordance with the Court Order in *Natural Resource Defense Council Inc., et al.*, v. *Morton et al.*, Civil Action No. 1983-73, the following described EIS's, involving 6,224,000 acres of public lands, are scheduled for completion during Fiscal Year 1987.

Resource Management Plans

[Public Land in Thousands of Acres]

EIS Name	Acres	Description
Cascade	514	An area in west central Idaho within the Boise District and Cascade Resource Area.
Pocatello (Caribou).	145	An area in southeastern Idaho within the Idaho Falls District and the Pocatello Resource Area.
Farmington	602	An area in northwestern New Mexico within the Albuquerque District and the Farmington Resource Area.
Taos	628	An area in northeastern New Mexico within the Albuquerque District and the Taos Resource Area.
San Juan	2,270	An area in southeastern Utah within the Moab District and the San Juan Resource Area.
Pinedale	924	An area in northwestern Wyoming within the Rock Springs District and the Pinedale Resource Area.
Washakie	1,141	An area in North Central Wyoming within the Worland District and Washakie Resource Area.

Dated: July 29, 1986.

Billy R. Templeton,

Acting Assistant Director, Lands and Renewable Resources.

[FR Doc. 86-18167 Filed 8-12-86; 8:45 am]

BILLING CODE 4310-84-M

[CO-950-06-4352-11]

Colorado State Office; Change of Location

The Bureau of Land Management (BLM), Colorado State Office, will move from downtown Denver to Lakewood, effective September 12, 1986. The new mailing address will be: 2850 Youngfield Street, Lakewood, Colorado 80215.

The Public Room, containing more than 350,000 official case files of lands and minerals transactions for the 8.5 million surface and 27.2 million subsurface acres of public lands in Colorado, will be closed from September 2-11. The office will reopen at 8:00 a.m., September 12, with a new telephone number (303) 236-2100.

During the Public Room closure no new filings or assessments for mining claims will be accepted; no copies of land status plats or map sales will be conducted; and there will be no phone service. The 90-day filing requirement for mining claims is extended to eight working days during the move.

Neil Morck,

State Director.

[FR Doc. 86-18158 Filed 8-12-86; 8:45 am]

BILLING CODE 4310-JB-M

[M-64872; MT-020-06-4212-13]

Montana; Realty Action

Correction

In FR Doc. 86-16788 beginning on page 26754 in the issue of Friday, July 25, 1986, make the following correction: On page 26754, in the third column, in the first line under "T. 8 N., R. 53 E.,", "S½E¼" should read "S½SE¼".

BILLING CODE 1505-01-M

Minerals Management Service

Royalty Management Advisory Committee, Production Accounting and Auditing System Onshore Conversion Working Panel; Meetings

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of Meetings.

SUMMARY: The Minerals Management Service (MMS), Royalty Management Program, hereby gives notice that the Production Accounting and Auditing System (PAAS) Onshore Conversion Working Panel, established by the Royalty Management Advisory Committee, will meet in Dallas, Texas, at the location and on the dates indicated below.

The PAAS Onshore Conversion Working Panel will submit recommendations to the Advisory Committee regarding the feasibility and practicality of converting onshore Federal and/or Indian leases to PAAS as well as recommendations regarding the report and findings of the Mineral Lease Information Study. (See Supplementary Information Section below.) The Panel will also advise if there are other alternatives that should be considered. The Panel held their last meeting on July 31 and August 1, 1986,

which was announced in the Federal Register on July 14, 1986.

DATES: The PAAS Onshore Conversion Review Working Panel will conduct two meetings during August and September 1986 at the Holiday Inn Crown Plaza Hotel, 4099 Valley View, Dallas, Texas. The meeting dates are August 13 and 14, 1986 and September 16 and 17, 1986.

The Panel will meet from 8 a.m. to 5 p.m. daily. The conference room will be available for an evening session on the first day of each meeting, should the panel elect to hold such a session.

The public is invited to attend these meetings and make oral or written comments. A time will be set aside by the Panel chairperson during which the public will be invited to make oral comments. Written comments should be submitted within 14 calendar days from the last day of the first session. Written comments for the second session are due to the Panel by 3 p.m. on September 17, 1986. Written comments shall be submitted to the address listed below.

FOR FURTHER INFORMATION CONTACT: Vernon B. Ingraham, Minerals Management Service, Royalty Management Program, Office of External Affairs, Denver Federal Center, Building 85, P.O. Box 25165, Mail Stop 660, Denver, Colorado 80225, telephone number (303) 231–3360, (FTS) 326–3360.

SUPPLEMENTARY INFORMATION: MMS implemented PAAS for all reporters of offshore lease production and for a select number of reporters of onshore lease production who were included in the pilot phase of the PAAS implementation. Although most of the royalties are generated by Federal oil and gas production from offshore leases, there are relatively few offshore Federal leases and wells compared to onshore Federal leases and wells. A Department of the Interior (DOI) project, the Mineral Lease Information Study, was begun in the fall of 1985 to evaluate the cost effectiveness of PAAS and to recommend whether additional onshore Federal and Indian leases should be converted to PAAS.

The PAAS Onshore Conversion Working Panel is one of six working panels established by the Royalty Management Advisory Committee. The panels are composed of both Advisory Committee members and non-Committee members, and were established to provide the Advisory Committee with analyses of specific issues and proposed recommendations. Panel recommendations will be reviewed by the Advisory Committee, which will then decide what advice and recommendations to give to the DOI and the MMS. Although the panels may meet with DOI or MMS staff members to obtain information they require in conducting their analyses, advice and recommendations of the panel will be made to the Advisory Committee and not to the DOI or the MMS.

Dated: August 6, 1986.

William D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 86–18154 Filed 8–12–86; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–242]

Certain Dynamic Random Access Memories, Components Thereof, and Products Containing Same; Commission Decision Denying Application for Interlocutory Review of Order No. 22

AGENCY: International Trade Commission.

ACTION: Denial of application for interlocutory review of presiding administrative law judge's order.

SUMMARY: The application of complainant Texas Instruments, Inc. (TI) for interlocutory review of the presiding administrative law judge's (ALJ) ruling (Order No. 22) granting the motion of respondents NEC Corporation and NEC Electronics Inc.'s (NEC) to strike portions of complaints TI's Supplement to Confidential Exhibit BC–1 (Motion No. 242–26) is denied.

FOR FURTHER INFORMATION CONTACT: Judith M. Czako, Esq., Office of General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington DC 20436, telephone 202–523–0359.

SUPPLEMENTARY INFORMATION: On May 21, 1986, NEC filed a motion to strike that portion of TI's Supplement to Confidential Exhibit BC–1 which alleged infringement of a patent which had not previously been asserted against respondent NEC, arguing that inclusion of this patent expanded the scope of the investigation, and that this could be done only by amendment of the notice and complaint. Motion No. 242–26. The ALJ granted NEC's motion. Order No. 22 (June 4, 1986). TI sought reconsideration of the ALJ's ruling, or in the alternative leave to appeal Order No. 22 to the Commission. The ALJ denied TI's motion for reconsideration, but granted leave to file an application for interlocutory review of Order No. 22. Order No. 36 (June 17, 1986).

On June 25, 1986, TI filed an application for interlocutory review of Order No. 22 pursuant to Commission rule 210.70(b). On July 2, 1986, NEC filed its opposition to TI's application for interloctory review. On July 7, 1986, the Commission investigative attorney filed a response to the application, recommending that the application be granted but taking no position concerning the substance of the appeal.

This action is taken pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 19 CFR 210.70(b).

Copies of the Commission's Action and Order and all other nonconfidential documents filed in connection with this investigation are availalbe 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 individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

By Order of the Commission.

Issued: August 5, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–18244 Filed 8–12–86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–171]

Certain Glass Tempering Systems; Dissolution of Limited Exclusion Order

AGENCY: International Trade Commission.

ACTION: Dissolution of limited exclusion order.

SUMMARY: Notice is hereby given that the Commission has determined to dissolve the limited exclusion order issued at the conclusion of the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0079.

SUPPLEMENTARY INFORMATION: The presiding administrative law judge issued an initial determination (ID) on August 15, 1984, in which she determined that there was a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the unauthorized importation or sale of certain glass tempering systems including frictionally driven oscillating roller hearth furnaces which infringe claim 1 of U.S. Letters Patent 3,994,711 (the '711 patent) owned by compaint Glasstech, Inc. On

September 17, 1984, the Commission issued a notice that it had determined not to review the ID (49 FR 37858), thereby finding a violation of section 337 in the unauthorized importation or sale of certain glass tempering systems including frictionally driven oscillating roller hearth furnaces which infringe claim 1 of the '711 patent, the effect or tendency of which was to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The Commission issued a limited exclusion order in the investigation on November 16, 1984. The order prohibited entry of glass tempering systems that infringe claim 1 of the '711 patent and are manufactured by or on behalf of respondent AB Kyro OY of Finland or related businesses, except under license of the patent owner.

On March 14, 1986, respondent AB Kyro OY filed a motion (Motion No. 171–31"C") seeking dissolution of the exclusion order in view of a U.S. District Court consent judgment entered between complainant and AB Kyro OY. Complainant Glasstech and the Commission investigative attorney filed responses to the motion. Complainant Glasstech does not object to the dissolution of the order in view of the consent judgment and the Commission investigative attorney supports dissolution.

On May 5, 1986, the Commission issued a **Federal Register** notice seeking further comment on the motion, after provisionally accepting the motion pursuant to section 211.57(b) of the Commission's Rules of Practice and Procedure (19 CFR 211.57(b)). No additional comments were received.

Copies of the Commission's action and order 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 individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

By order of the Commission.

Issued: August 1, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–18245 Filed 8–12–86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–237]

Certain Miniature Hacksaws; Commission Decision Not To Review Initial Determination Terminating Respondent on the Basis of Consent Order

AGENCY: International Trade Commission.

ACTION: Termination of respondent Oxwall Tool Co.,Inc. (Oxwell) on the basis of a consent order.

SUMMARY: The Commission has determined not to review an initial determination (ID) (Order No. 22) terminating Oxwall as a respondent in the above-captioned investigation on the basis of a consent order.

FOR FURTHER INFORMATION CONTACT: E. Clark Lutz, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–1641.

SUPPLEMENTARY INFORMATION: On June 24, 1986, complainant The Stanley Works (Stanley) entered into a consent order agreement, which incorporated a proposed consent order, with respondent Oxwall. On the basis of the consent order agreement, a joint motion to terminate the investigation (Motion No. 237–23) was filed on June 24, 1986, by Stanley, respondent Oxwall, and the Commission investigative attorney. On July 8, 1986, the presiding administrative law judge issued an ID terminating the investigation with respect to the respondent Oxwall on the basis of the proposed consent order. The Commission has received no petitions for review of the ID or comments from Government agencies or the public.

Termination of the investigation as to respondent Oxwall on the basis of the consent order furthers the public interest by conserving Commission resources and those of the parties involved.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), and 19 CFR 210.51, and 211.21.

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 TDD terminal on 202–724–0002.

By order of the Commission.

Issued: August 6, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–18246 Filed 8–12–86; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–265 (Sub-No. 2X)]

State of Vermont and Vermont Railway, Inc., Exemption for Discontinuance of Service in Bennington Co., VT

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, the discontinuance of service by the State of Vermont and Vermont Railway, Inc. over approximately 367 feet of rail line in Bennington County, VT, subject to standard labor protective conditions.

DATES: This exemption will be effective on September 12, 1986. Petitions to stay must be filed by August 25, 1986. Petitions for reconsideration must be filed by September 2, 1986.

ADDRESSES: Send pleadings referring to Docket No. AB–265 (Sub-No. 2X) to:

(1) Office of the Secretary Case Control Branch Interstate Commerce Commission Washington, DC 20423

(2) Petitioners' representatives: For the State of Vermont: John K. Dunleavy, 133 State Street, Montpelier, VT 05602

For the Vermont Railway, Inc.: John R. Pennington, One Railway Lane, Burlington, VT 05401

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to: T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: August 6, 1986.

By the Commission, Chairman Gradison,Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 86–18199 Filed 8–12–86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree; Brazos River Authority et al.

In accordance with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that on July 29, 1986, a proposed consent decree in *United States v. Brazos River Authority et al.*, Civil Action No. W–85CA–91, was lodged with the United States District Court for the Western District of Texas, Waco Division. This consent decree settles a lawsuit filed April 18, 1985, pursuant to section 309 of the Clean Water Act ("the Act"), 33 U.S.C. 1319, for injunctive relief and for assessment of a civil penalty against Brazos River Authority ("BRA"). The complaint alleged, among other things, that BRA violated its National Pollutant Discharge Elimination System ("NPDES") permits by failing to submit approvable pretreatment programs to the United States Environmental Protection Agency ("EPA") in accordance with the schedules for submission contained in the permits and by discharging pollutants from its sewage treatment facilities in excess of the limitations contained in its permits. The complaint alleged that BRA's violations of its NPDES permits constituted violations of section 301 of the Act, 33 U.S.C. 1311, and entitled the United States pursuant to section 309 of the Act, 33 U.S.C. 1319, to obtain a permanent or temporary injunction and recover a civil penalty of not more than $10,000 per day of violation.

The State of Texas was named as a defendant pursuant to section 309(e) of the Act, 33 U.S.C. 1319(e), which states that a State shall be liable for payment of a judgment, or any expenses incurred as a result of complying with any judgment, entered against a municipality to the extent that State laws prevent the municipality from raising revenues needed to comply with the judgment.

Under the terms of the proposed consent decree, BRA agrees to comply with all pretreatment implementation requirements contained in BRA's NPDES permits. Also, six months after the lodging of the consent decree and every three months thereafter, BRA will submit to EPA a "Pretreatment Implementation Status Report" for each of BRA's three now-approved pretreatment programs that will include, among other things: information concerning sampling of influent to BRA's treatment facilities; a list of industrial users ("IUs") subject to the pretreatment programs; lists of IU permits issued and IUs that have been inspected; and a report of BRA's actions to assure compliance with the pretreatment programs. The consent decree also contains a provision for the payment of stipulated penalties for any violation of the requirements of the compliance program set forth in the decree. Finally, the proposed decree calls for BRA to pay a civil penalty of $91,000 with respect to the claims asserted by the United States in its complaint.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530. All comments should refer to *United States v. Brazos River Authority et al.*, D.J. Ref. 90–5–1–1–2357.

The proposed consent decree may be examined at the following offices of the United States Attorney and the Environmental Protection Agency ("EPA"):

EPA Region VI

Contact: Bian Beverly, Office of Regional Counsel, U.S. Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, Texas 75270, (214) 767–9974

United States Attorney's Office

Contact: Raymond A. Nowak, Assistant United States Attorney, Western District of Texas, 655 E. Durango Boulevard, G–13, San Antonio, Texas 78206, (512) 229–6500

Copies of the proposed consent decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy of the decree, please enclose a check for copying costs in the amount of $1.20 payable to Treasurer of the United States.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86–18159 Filed 8–12–86; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Clean Air Act; Goldome FSB, et al.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States v. Goldome FSB, et al.*, Civil Action No. CIV–85–25E, has been lodged in the United States District Court for the Western District of New York.

The proposed consent decree concerns violations of the National Emission Standard for Hazardous Air Pollutants ("NESHAP") for asbestos codified at 40 CFR 61.20, *et seq.* (1983) and the Clean Air Act, 42 U.S.C. 7401, *et seq.* during the demolition of an office building in Buffalo, New York. The proposed decree requires the defendants to comply with the Clean Air Act and the asbestos NESHAP regulations. The proposed decree requires payment of a $50,000 civil penalty.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Goldome FSB, et al.*, D.J. Ref. No. 90–5–2–1–761.

The proposed consent decree may be examined at the Office of the United States Attorney, 502 U.S. Courthouse, Court and Franklin Streets, Buffalo, New York 14202, and at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278. Copies of the proposed consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530.

[FR Doc. 86–18160 Filed 8–12–86; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree

Pursuant to the Clean Air Act; North American Products Acquisition Corp.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States v. North American Products Acquisition Corp.*, Civil Action No. 85-2959, has been lodged in the United States District Court for the District of New Jersey.

The proposed consent decree concerns violations of the New Jersey State Implementation Plan ("New Jersey SIP") N.J.A.C. 7:27—16, and the Clean Air Act, 42 U.S.C. 7401, *et seq.* The violations occurred during the manufacture of various cook-out implements at the defendant's Raritan, New Jersey facility. The manufacturing process includes the application of coatings containing excessive amounts of volatile organic substances ("VOS"). The proposed decree requires the defendant to comply with the VOS emissions limitations set forth in N.J.A.C. 7:27-16.5 of the New Jersey SIP. The proposed decree also requires North American Products Acquisition Corp. to pay a $26,000 civil penalty for past violations.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. North American Products Acquisition Corp.*, D.J. Ref. No. 90-5-2-1-820.

The proposed consent decree may be examined at the Office of the United States Attorney, Federal Building, 970 Broad Street, Room 502, Newark, New Jersey 07102 and at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278. Copies of the proposed consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530.

[FR Doc. 86-18161 Filed 8-12-86; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to The Clean Water Act; Omark Caribbean, Inc.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States v. Omark Caribbean, Inc.*, Civil No. 85-0280(HL) has been lodged in the United States District Court for the District of Puerto Rico.

The proposed consent decree concerns violations of the Clean Water Act, 33 U.S.C. 1251 *et seq.*, and Omark Caribbean, Inc.'s National Pollutant Discharge Elimination System permits. These violations have occurred in connection with the operation of Omark's saw chain manufacturing facility in Bayamon, Puerto Rico. The proposed decree requires the defendant to eliminate all discharges of pollutants at the Bayamon facility by June 30, 1986. The proposed decree also requires Omark to pay a $550,000 civil penalty over 2 years for past violations.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Omark Caribbean, Inc.*, D.J. Ref. No. 90-5-1-1-2305.

The proposed consent decree may be examined at the Office of the United States Attorney, Room 101, Federal Office Building, Carlos E. Chardon Street, Hato Ray, Puerto Rico 00918, and at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278. Copies of the proposed consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $2.20 (10 cents per page reproduction cost) made payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530.

[FR Doc. 86-18162 Filed 8-12-86; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Gary B. Bryant, M.D.; Denial of Application

On May 16, 1986 the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued to Gary B. Bryant, M.D. of 306 West Main Street, Woodbury, Tennessee 37190, an Order to Show Cause proposing to deny his application, executed on February 4, 1985, for registration as a practitioner under 21 U.S.C. 823(f). The Order to Show Cause alleged that the registration of Dr. Bryant would be inconsistent with the public interest, as that term is used in 21 U.S.C. 823(f).

The Order to Show Cause was sent to Dr. Bryant by registered mail. DEA received the return receipt which indicated that the Order to Show Cause was received on May 31, 1986. More than thirty days have passed since the Order to Show Cause was served and the Drug Enforcement Administration has received no response thereto. Pursuant to 21 CFR 1301.54(a) and (d), Dr. Bryant is deemed to have waived his opportunity for a hearing. Accordingly, the Administrator now enters his final order in this matter without a hearing and based on the investigative file 21 CFR 1301.57.

The Administrator finds that beginning in January 1983, the Benton County Sheriff's Department conducted an investigation into the prescribing practices of Dr. Bryant. This investigation revealed that Dr. Bryant wrote prescriptions for Percodan, a Schedule II controlled substance, for certain "patients". These individuals had the prescriptions filled at a local pharmacy and brought the Percodan tablets to Dr. Bryant. In exchange for the Percodan tablets, Dr. Bryant then wrote prescriptions for other controlled substances for these individuals for no legitimate medical need. The investigation further revealed that Dr. Bryant and his wife both took Percodan orally and by injection.

During the course of the investigation and undercover agent of the Benton County Sheriff's Office went to Dr. Bryant's office on two separate occasions and received controlled substances or prescriptions for controlled substances, including Percodan, Valium, and Anexsia D, from Dr. Bryant. Anexsia D is a Schedule III controlled substance and Valium is a Schedule IV controlled substance. During both of these visits, the undercover agent advised Dr. Bryant that there was nothing physically wrong

with her but that the drugs made her feel good.

As a result of this investigation, on May 10, 1985, Dr. Bryant was convicted in the Circuit Court of Benton County, Tennessee of three counts of unlawful dispensing of controlled substances not in the course of legitimate medical practice in violation of Tennessee Code Annotated 53–11–401(a)(1). These are felony convictions relating to controlled substances.

Subsequent to Dr. Bryant's conviction, on January 7, 1986, the Tennessee Board of Medical Examiners suspended his license to practice medicine in the State of Tennessee for five years. Consequently, Dr. Bryant is not authorized to handle controlled substances in the State of Tennessee. The Drug Enforcement Administration cannot register a practitioner to handle controlled substances who is not duly authorized to handle controlled substances in the State in which he does business. 21 U.S.C 823(f). The Administrator and all of his predecessors have consistently held that they cannot register practitioners who lack state authorization to handle controlled substances. See, *Meyer Liebowitz, M.D.*, 51 FR 11654, (1986); *Rex A. Pittenger, M.D.*, Docket No. 85–52, 51 FR 5422 (1986); *Avner Kauffman, M.D.*, Docket No. 85–8, 50 FR 34208 (1985); *Sam S. Misasi D.O.*, 50 FR 11469 (1985).

The Administrator concludes that the registration of Dr. Bryant would be inconsistent with the public interest. Dr. Bryant has demonstrated that he cannot be trusted to responsibly handle controlled substances. Not only did Dr. Bryant use his previous DEA registration to prescribe controlled substances for individuals who had no legitimate medical need for the drugs, but he also used his controlled substances prescribing privileges to fraudulently obtain Percodan to maintain his own drug habit and that of his wife. Dr. Bryant's application for registration must be denied.

Having considered the record in this matter, the Administrator hereby denies Dr. Gary B. Bryant's application, executed on February 4, 1985, for registration as a practitioner under 21 U.S.C. 823(f), pursuants to the powers vested in the Attorney General in 21 U.S.C. 823 and delegated to the Administrator of the Drug Enforcement Administration in 21 U.S.C. 871 and 28 CFR 0.100, for reason that the registration of Gary B. Bryant, M.D. would be inconsistent with the public interest, said denial effective immediately.

Dated: August 6, 1986.

John C. Lawn,

Administrator.

[FR Doc. 86–18217 Filed 8–12–86; 8:45 am]

BILLING CODE 4410–09–M

NUCLEAR REGULATORY COMMISSION

Bi-Weekly Notice; Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (Pub. L.) 97–415, the Nuclear Regulatory Commission (the Commission) is publishing this regular bi-weekly notice. Pub. 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 Wednesday, July 30, 1986 (51 FR 27276) through August 4, 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, and should cite the publication date and page number of this **Federal Register** notice.

By September 12, 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 determination 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, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, 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 (*Project Director*): 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 Office of General Counsel, Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 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, DC, and at the local public document room for the particular facility involved.

Alabama Power Company, Docket No. 50–348, Joseph M. Farley Nuclear Plant, Unit No. 1. Houston County, Alabama

Date of amendment request: July 8, 1986.

Description of amendment request: The proposed amendment would delete the maximum total fuel rod uranium weight of 1,766 grams from Technical Specification 5.3.1. The specification relates to the design features of the reactor core fuel assemblies. One of the several descriptive features shown in 5.3.1 is the uranium maximum weight of 1,766 grams which has little safety significance.

Basis for proposed no significant hazards consideration determination: The licensee provided a significant hazards evaluation per 10 CFR 50.92 concluding that the change does not involve a significant hazards consideration. The licensee's basis is briefly restated as follows: (1) Accidents previously evaluated are unaffected since accidents are based on other fuel design constraints and not directly on fuel rod uranium weight; (2) new or different accidents would not be created since the fuel rod is similar to previous fuel; and (3) no reduction in margin would result since the margin of safety is maintained by adherence to other fuel related Technical Specifications.

We agree with the licensee's analysis. In addition, the Commission has previously issued a final determination along with License Amendment No. 56 on April 22, 1986, for Farley Unit 2. In that determination, we found the action to involve a no significant hazards consideration. Our basis for a proposed no significant hazards consideration for Unit 1 is as follows: (1) The action is an identical action found to be a no significant hazards consideration on Unit 2, and (2) Commission example "vi" (48 FR 14870) also fits the proposed change. Example "vi" states: "... a change which either may result 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 acceptable criteria with respect to the system or component specified in the Standard Review Plan: for example, a change resulting from the application of a small refinement of a previously used calculational model or design method." Therefore, the Commission proposes that the change is not a significant hazards consideration.

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

Attorney for licensee: Ernest L. Blake, Esquire, 1800 M Street NW., Washington, DC 20036.

NRC Project Director: Lester S. Rubenstein.

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: April 2, 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, in part, involves changes due to:

(1) CORPORATE REORGANIZATION—Due to a recent reorganization of the corporate management structure, the "Corporate Organization Chart" depicted in Figure

6.2–1 on page 6.2–3 of the TS must be modified to reflect the current management structure. Sections 6.5.2, 6.5.2.1, 6.5.2.2.C, and 6.5.3.4 will be updated to reflect the revised organization titles.

This change involves several areas within the corporate organization where managerial responsibilities have been realigned and departments restructured in order to provide better continuity in the areas of responsibilities within departments and sections and to better utilize the specific expertise of the individuals filling managerial positions. The change does not reflect any major change in management philosophy or corporate directives which might adversely affect the quality of the technical or managerial support of the plant.

(2) POSITION TITLE CHANGE—On Figure 6.2–2, page 6.2–4 of the TS, the position of "Principal Engineer Operations" will be retitled as "Operations Support Supervisor." This title more appropriately relates to the support functions of this group and is more consistent with the title of the other position of "Operating Supervisor" which reports to the "Manager Operations." This is a title change only and does not involve any change of qualifications or responsibilities associated with the position.

(3) FACILITY STAFF QUALIFICATIONS—TS 6.3.1 currently requires each member of the Plant and Control & Administrative staff to meet ANSI N18.1–1971 qualifications. Amendment No. 84 reflected the new organization for the Robinson Nuclear Project. The proposed TS extends this requirement to include other Robinson Nuclear Project positions appearing on the organizational chart in Figure 6.2–2 that perform functions comparable to those delineated in ANSI N18.1–1971.

(4) PLANT NUCLEAR SAFETY COMMITTEE (PNSC) MEMBERSHIP—This change will increase the PNSC membership by adding the Manager of Design Engineering and the Manager of Control and Administration. Specifically, this change affects the PNSC composition as specified in Section 6.5.1.6.2 of the TS.

(5) PLANT MODIFICATION APPROVAL AUTHORITY—Section 6.5.1.2.3, page 6.5–4 of the TS establishes authority for final approval modification packages. This change would further restrict the list of authorized positions by removing the "Manager—Technical Support" from that list. This is a more restrictive amendment since modification authorization must now come from either the "Manager, Robinson Nuclear Project," or "General Manager, Robinson Plant" or their designee.

Portions of the proposed amendment relating to placing organizational changes in effect prior to receipt of the approved amendment are not a part of this notice. Commission action is held in abeyance for additional basis from the licensee.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (51 FR 17751): Example (i) states, "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." Example (ii) states, "A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement."

Changes (1) and (2), as discussed above, are proposed to reflect the correct management structure in the Technical Specifications and clarify titles to make them consistent with the titles of other positions.

Organizational changes are contained in Section 6.0, Administrative Controls, of the TS. Revising personnel titles to match management structures correctly, and to clarify titles for more consistency, with other similar positions is administrative and therefore similar to example (i) above.

Changes (3), (4) and (5), although administrative in nature, add additional requirements for staff training (3), increases the PNSC membership by providing a more comprehensive review of safety issues (4), and restricts the list of authorized approval authority for modification packages by deleting one authorization (5). These changes add additional limitation, restrictions or controls not presently included in the Technical Specification. Therefore, the changes are clearly encompassed by example (ii) above.

Based on the above discussions, the NRC staff proposes to determine that this proposed amendment does not involve a significant hazards consideration.

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 Street NW., Washington, DC 20036.

NRC Project Director: Lester S. Rubenstein.

Commonwealth Edison Company Docket Nos. 50–373 and 50–374, La Salle County Station, Units 1 and 2, La Salle County, Illinois

Date of amendments request: June 27, 1986.

Description of amendments request: These proposed amendments, if approved, would revise the La Salle Unit 1 Operating License No. NPF–11 and La Salle Unit 2 Operating License No. NPF–18 by modifying Technical Specifications Section 3.4.5, Bases Section 3/4.4.5 and Administrative Controls Section 6.6.A.2. In accordance with Generic Letter 85–19, the Technical Specifications changes would amend the reporting requirements for iodine spiking to eliminate the short term reporting requirements of Sections 3.4.5.b and 3.4.5.c and add similar information to the Annual Report, Section 6.6.A.2. Additionally the amendments would eliminate the existing requirements to shut the plants down if coolant iodine activity limits are exceeded for 800 hours in a 12 month period.

These changes of reporting requirements for iodine spiking are being requested in conformance with the Generic Letter to delete unnecessary reporting requirements. The information to be included in the Annual Reports is similar to that previously required in the Licensee Event Reports but would be changed to designate more precisely the information required in specific activity analyses and relocate the requirement for reporting to the administrative section of the Technical Specifications.

The quality of nuclear fuel and fuel management has been greatly improved in recent years, such that normal coolant iodine activity is maintained well below the minimum limits. Appropriate actions would be initiated long before accumulating 800 hours above the iodine activity limit. In addition, 10 CFR 50.72(b)(1)(ii) requires that the NRC be notified immediately of serious principal safety barrier degradation occurring during operation; therefore, these Technical Specification limits are no longer necessary.

Basis for no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operation license for a facility involves no significant hazards consideration if operation of the facility in accordance with the 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 an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined, and the staff agrees, that the requested amendments per 10 CFR 50.92 do not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the change merely relaxes the reporting requirements for primary coolant iodine spiking and eliminates the 800 hour/year cumulative run time limit (Operation with high iodine activity). The change does not alter the Technical Specification limits for primary coolant activity, nor does it change the 48 hour shutdown requirement; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the iodine limit has no effect on accident initiation; or (3) involve a significant reduction in a margin of safety because the change to relax the reporting requirements has no effect on the margin of safety, and the change to eliminate the 800 hour/year limit for operation with high iodine activity is justified based on improvements in nuclear fuel which have made this requirement unnecessary.

Based on our review of the proposed modifications, the staff finds that there exists reasonable assurance that these proposed changes will have little or no impact on the public health and safety. Accordingly, the Commission proposes to determine that the requested change to the La Salle Units 1 and 2 Operating Licenses involve no significant hazards considerations.

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois 61348.

Attorney for the Licensee: Isham, Lincoln and Burke, Suite 840, 1120 Connecticut Avenue NW., Washington, DC 20036.

NRC Project Director: Elinor Adensam.

Detroit Edison Company, Docket No. 50–341, Fermi-2, Monroe County, Michigan

Dates of amendment request: September 27, 1985, as amended by letter dated July 15, 1986.

Description of amendment request: The proposed amendment to Operating License NPF–43 makes additions to the Fermi-2 Technical Specifications regarding the independent alternate shutdown system which will be used in the event of a fire in the Fermi-2 facility affecting safety-related systems.

The licensee first proposed this amendment in its letter dated September 27, 1985. This original request was noticed in the **Federal Register** (50 FR 46523) on November 8, 1985. As a part of its application, the licensee proposed certain surveillance frequencies for components of the system that the staff found unacceptable. On July 15, 1986, the licensee amended its application to propose more restrictive action statements regarding operability of the Combustion Turbine Generator (CTG), more frequent testing of the Standby Feedwater System, and revised the discussion in the bases regarding an acceptable alternative power source. The licensee further requested renumbering of the current Technical Specification Section 3.7.9 and associated bases section to be renumbered as Section 3.7.10. To effect this request will require renumbering Technical Specifications Section 3/4.7.9 to 3/4.7.10 as the surveillance requirements are an integral part of the Technical Specification 3.7.9.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (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 licensee's amendment application has been made in conjunction with the installation of the independent alternate shutdown system. Installation of this system was performed in compliance with Condition 2.C(9) of the Fermi-2 full power license, NPF–43.

While there are existing shutdown systems, they are dependent on equipment in the relay room and the control room. The shutdown system installed is independent of equipment in both the control and relay rooms. This independent, alternate shutdown system has been evaluated in Supplements 5 and 6 of the staff's Safety Evaluation Report (SER). The licensee's application of September 27, 1985, proposed Technical Specifications for this system. The changes proposed in the licensee's July 15, 1986, amendment to their application are more restrictive than those proposed earlier with regard to timing requirements for actions to be taken for an inoperable CTG and testing frequency for the Standby Feedwater System.

Based on the three criteria in 10 CFR 50.92 for defining a significant hazards consideration, operation of the Fermi-2 facility in accordance with the proposed amendment will not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated. Neither the probability nor the consequences of a fire will be changed since the proposed addition to the Fermi-2 Technical Specifications is being made in conjunction with the addition of design features to the facility which will further mitigate the consequences of certain postulated accidents (i.e., fires); (2) create the possibility of a new or different kind of accident from any accident previously evaluated. The capability of the Fermi-2 facility to be brought to a cold shutdown condition in the event of a fire using alternate shutdown systems has been previously evaluated in the staff's SER and in Supplements 1, 2, 3, and 4 to the SER. The additional design features being installed provide an independent, alternate means of cooling the reactor core in the event of a fire and do not involve a new or different kind of accident; and (3) involve a significant reduction in a margin of safety since the proposed change enhances the capability of the plant personnel to respond to postulated large fires.

The Commission has provided examples of amendments that are not likely to involve significant hazards considerations (51 FR 7744). One of these, example (i), a purely administrative change to technical specifications, is considered applicable to the licensee's proposed renumbering of current Technical Specification Section 3/4.7.9 to 3/4.7.10.

On the above mentioned bases, the staff proposes to determine that this amendment which makes additions to the Fermi-2 Technical Specifications, involves no significant hazards considerations.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Attorney for licensee: John Flynn, Esquire, 2000 Second Avenue, Detroit, Michigan 48826.

NRC Project Director: Elinor G. Adensam.

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: June 6, 1986.

Description of amendment request: The proposed amendment would revise Technical Specifications (TS) 4.4.4.3 and 4.4.4.4 to reflect the upgrade of the Reactor Coolant System power operated relief valves (PORVs) to safety grade for Catawba Unit 1 as described in the Catawba Final Safety Analysis Report (FSAR) and as approved by the NRC staff in Section 5.4.4 of Supplement 2 to the Catawba Safety Evaluation Report (SER). The upgrade will be accomplished during the first refueling outage currently scheduled for late August but no later than September 28, 1986.

Since the Unit 2 PORVs were upgraded prior to fuel loading, the combined TS document for both Units contained separate TS for Units 1 and 2. The proposed change would eliminate the existing TS 4.4.4.3 which was applicable to Unit 1 only and modify the existing TS 4.4.4.4 so that it would be applicable to both Units 1 and 2. Thus, the modified TS 4.4.4.4 becomes TS 4.4.4.3.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (51 FR 7744) 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 would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the upgrade of the PORVs to safety grade would provide additional assurance that the PORVs will function as intended if called upon. Also, it would not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the upgrade of the PORVs will not change the manner in which the facility is operated. Finally, it would not (3) involve a significant reduction in a margin of safety because the upgrade would provide additional assurance that the PORVs will operate as designed to depressurize the Reactor Coolant System in the event of a steam generator tube rupture event. Accordingly, the Commission has determined that the above change involves no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: B.J. Youngblood.

Duke Power Company, et al, Docket No. 50–413, Catawba Nuclear Station, Unit 1, York County, South Carolina

Date of amendment request: June 6, 1986.

Description of amendment request: The proposed amendment would revise License Condition 2.C.(16) of Catawba Unit 1 Facility Operating License, NPF–35, to allow an extension of time for the resolution of the steam generator tube rupture (SGTR) analysis. The extension would be for one complete cycle of operation and would be accomplished by replacing "first" by "second" in License Condition 2.C.(16). This Condition will then read: "Prior to startup following the second refueling outage, Duke Power Company shall submit. . . ." The licensee, together with a number of utilities utilizing the Westinghouse NSSS, has formed an Owners Group to address the licensing issues associated with the SGTR event on a generic basis. In December 1984, the group submitted WCAP–10698 titled "SGTR Analysis Methodology to Determine the Margin to Steam Generator Overfill," which presented the development of a design basis SGTR analysis methodology. On May 24, 1985, the group submitted Supplement 1 to WCAP–10698 titled "Evaluation of Offsite Radiation Doses for a SGTR Accident" which presented an evaluation of potential offsite doses for a design basis SGTR in the absence of steam generator overfill. On February 28, 1986, the group submitted WCAP–11002 titled "Evaluation of Steam Generator Overfill due to a SGTR Accident."

WCAP–10698 and WCAP–11002 are currently under review by the staff. The staff's Safety Evaluation Report on Supplement 1 to WCAP–10698 was transmitted to the group by letter dated December 17, 1985. Although significant progress has been made in addressing the SGTR issue, additional time is needed for the staff to complete its reviews of the Owners Group reports. It is expected that additional plant specific submittals will be needed in order to demonstrate that the above generic reports are applicable to Catawba. Furthermore, the licensee concluded that the extension does not involve any adverse safety considerations because the reports submitted to date indicate: (1) That the operators can respond to a design basis SGTR and perform the required recovery actions to terminate the primary to secondary leakage before steam generator overfill occurs, and (2) that the offsite radiation doses for a design basis SGTR will be less than the allowable limits.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (51 FR 7744) 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 would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because those depend on the applicable Technical Specification surveillance requirements and the mechanisms that cause SGTR events. The extension of the completion and approval date for SGTR analysis would not change applicable Technical Specification surveillance requirements and would not affect the mechanisms that cause SGTR events. Also, it would not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed extension introduces no new modes of facility operation and no physical modifications are required to be performed to the facility. Finally, it would not (3) involve a significant reduction in a margin of safety because the extension of the analysis completion and approval date would not affect any mechanism that causes SGTR event, and would not change the design or operation of the facility. Accordingly, the Commission has determined that the above change involves no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: B.J. Youngblood.

Duke Power Company, et al, Docket No. 50–413, Catawba Nuclear Station, Unit 1, York County, South Carolina

Date of amendment request: June 6, 1986.

Description of amendment request: The proposed amendment would revise License Condition 2.C.(12)(a) of Catawba Unit 1 Facility Operating License, NPF–35, to (1) allow an extension of time for the resolution of the accumulator tank instrumentation issue and (2) modify License Condition 2.C.(12)(a) to make it consistent with License Condition 2.C.(8)(a) of Catawba Unit 2 Facility Operating License, NPF–52, issued on May 15, 1986, because the same issue is applicable to both units. The extension of time would be for two complete cycles of operation. The modified License Condition 2.C.(12)(a) would then read "Prior to startup following the third refueling outage, Duke Power Company shall provide qualified accumulator discharge instrumentation." The above issue is related to Generic Letter 82–33, Supplement 1 to NUREG–0737, regarding Requirements for Emergency Response Capabilities. It was also discussed in Section 7.5.2 of Supplements 4 and 5 to the Catawba Safety Evaluation (SER). The Catawba Unit 1 operating license was conditioned to require that modifications be implemented for the items listed below consistent with the guidance of Regulatory Guide 1.97, Revision 2, unless prior approval of an alternate design of these items is granted by the NRC staff before startup following the first refueling outage. These items, as listed in License Condition 2.C.(12)(a) and in Duke Power Company's letter of September 26, 1983, were:

(a) Reactor coolant system cold leg water temperature;
(b) Containment sump water level;
(c) Residual heat removal heat exchanger outlet temperature;
(d) Accumulator tank level and pressure;
(e) Steam generator pressure;
(f) Containment sump water temperature;
(g) Chemical and volume control system makeup flow and letdown flow;
(h) Emergency ventilation damper position;
(i) Area radiation;
(j) Plant airborne and area radiation.

Subsequent Duke Power Company submittals and staff reviews, as documented in Supplement 5 to the Catawba SER issued in February 1986, resolved all the above items except for item (d). Furthermore, the staff slightly modified that item to require Duke to designate either level or pressure as the key variable to be upgraded. This variable is currently under additional staff review and further discussion with Duke is expected. Assuming that Duke plans to upgrade either the accumulator level or pressure instrumentation, it is estimated that approximately 23 months lead time would be required for implementation during a refueling outage. This would coincide with the end of the cycle 3 refueling outage currently scheduled to begin in January 1989.

The primary function of the accumulator pressure or level instrumentation is to monitor the pre-accident status of the accumulators to assure that the passive safety system is in a ready state to serve its safety function. The licensee stated that the accumulator tank level or pressure are not referenced in any emergency procedure covering design basis events which may cause a harsh environment. No operator actions in these procedures are based on accumulator indications. Therefore, the licensee concluded that extension of the date for upgrading the accumulator pressure or level instrumentation until startup following the third refueling outage does not involve any adverse safety considerations.

Deletion of the items other than accumulator tank level or pressure has no safety implications, since such a change simply removes those items which have been reviewed and approved by the staff in accordance with the license condition.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (51 FR 7744) 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 would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed extension of time needed to upgrade the accumulator discharge level or pressure would not affect the capability of the current instrumentation, as it exists at the facility, to provide pre-accident monitoring of the status of the cold-leg accumulators and as such has no effect on the cause mechanism or the consequences of an accident. The modification of License Condition 2.C.(12)(a) to delete the remaining items would have no impact because these items were reviewed and found acceptable by the staff as documented in Supplement 5 to Catawba SER.

Also, it would not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed extension would not affect any mechanism that causes accidents and would not change the operation of the facility.

The modification of License Condition 2.C.(12)(a) would have no impact for the same reason stated above. Finally, it would not (3) involve a significant reduction in a margin of safety because the current instrumentation, as it exists at the facility, is fully qualified for its intended function of preaccident monitoring of the cold-leg accumulators.

Deletion of the remaining items in License Condition 2.C.(12)(a) would have no impact because these items were found acceptable by the staff. Accordingly, the Commission has determined that the above change involves no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: B.J. Youngblood.

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: June 6, 1986.

Description of amendment request: The proposed amendments would revise the Technical Specifications (TS) and Bases for plant systems that are affected by the addition of the Boron Dilution Mitigation System at Catawba Unit 1.

This system provides automatic actions for mitigating a boron dilution event and will be installed during the first refueling outage currently scheduled to start in late August but no later than September 28, 1986. Such a system will not be installed at Catawba Unit 2 until its first refueling outage. Thus, it is necessary to provide separate TS for each Unit.

Accordingly, with the exception of the proposed change to Surveillance Requirement 4.9.1.3 which affects Units 1 and 2, the existing TS would be retained for Catawba Unit 2 and the proposed changes would affect Catawba Unit 1. The changes would be accomplished by (1) stating that the following TS are applicable to Unit 2 only: 4.1.1.1.3; 4.1.1.1.4; 4.1.1.2.2; 3.3.1, Table 3.3–1, item 6.b.; 4.3.1.1, Table 4.3–1, part of notation 9; and 3/4.9.2, (2) adding the following TS for Unit 1 only: 3.3.1, Table 3.3–1, item 6.b.; 3/4.3.3.12

(Boron Dilution Mitigation System); and 3/4.9.2 (Instrumentation), (3) modifying Surveillance Requirements 4.9.1.3 to reflect that isolation of the Reactor Makeup Water Supply can be more easily achieved by closing valve NV-230 in lieu of closing valves NV-231, NV-237, NV-240, NV-241, and NV-244 because NV-230 is located upstream of all other valves. Bases 3/4.3.3.12 related to the Boron Dilution Mitigation System were added, and Bases 3/4.9.2 related to Instrumentation were slightly expanded.

The proposed changes to the TS are required to ensure proper operation and surveillance of the Boron Dilution Mitigation System at Catawba Nuclear Station, Unit 1. This system was added to meet the requirements of Section 15.4.6 of the Standard Review Plan (SRP) which requires that at least a 15-minute interval be available between the time when an alarm announces an unplanned moderator dilution and the time of loss of shutdown margin during power operation, hot standby, hot and cold shutdown, and startup. A 30-minute interval must be available during refueling. Section 15.2.4.2 of the Catawba Safety Evaluation Report discusses the NRC staff's requirements regarding Inadvertent Boron Dilution Event.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (51 FR 7744) 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 would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because these changes are necessary to reflect the addition of a system, at Catawba Unit 1, that meets the requirements of Section 15.4.6 of the SRP. For Catawba Unit 2 the existing Technical Specifications remain applicable. The proposed change to Surveillance Requirement 4.9.1.3 provides the same isolation required by the existing Surveillance Requirements.

Also, it would not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the addition of the Boron Dilution Mitigation System would not affect the plant systems, at Catawba Unit 1, other than those required to mitigate a boron dilution event, and would enhance the manner in which the facility is operated. For Catawba Unit 2 there is no change in the design or operation of the facility. The proposed change to Surveillance Requirement 4.9.1.3 would enhance operation by making the required isolation easier to perform.

Finally, it would not (3) involve a significant reduction in a margin of safety because the addition of this system at Catawba Unit 1 would enhance the safety margin. For Catawba Unit 2 there is no change in the safety margin. The proposed change to Surveillance Requirement 4.9.1.3 would not affect the safety margin.

Accordingly, the Commission has determined that the above changes involve no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: B.J. Youngblood.

Florida Power and Light Company, Docket No. 50-335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of amendment request: July 8, 1986.

Description of amendment request: The licensee proposes to modify Technical Specification 5.6.1 entitled "Fuel Storage Criticality." Presently, this specification details (1) the physical spacing requirements for new fuel storage and spent fuel storage, (2) the reactor physics criticality requirements for spent fuel storage, and (3) the maximum U-235 weight percent (currently 3.7) that can be stored in the spent fuel pool.

The modified Technical Specifications would divide the requirements into two sections: The first section, 5.6.1.a, will address spent fuel storage and the second section, 5.6.1.b, will address new fuel storage. The spent fuel section requirements will retain the current physical spacing and reactor physics criticality requirements but increase the maximum U-235 enrichment that can be stored in the pool. The proposed value is 4.0 weight percent. It will also include the minimum pool boron concentration of 1720 ppm, as stated in the updated Safety Analysis Report. The new fuel section requirements will delete the current physical spacing requirement, add a reactor physics criticality requirement, and also increase the maximum U-235 enrichment that can be stored in the pool. The proposed value is 4.0 weight percent, the same proposed value for the spent fuel pool. Although the physical spacing requirement of the new fuel storage racks will be deleted, the racks will not be physically modified, and the spacing will remain the same. The added reactor physics criticality requirement includes the actual physical spacing.

The licensee states that the changes will increase flexibility in fuel management and will accommodate storage of higher enrichments for possible use in future cycles.

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(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the 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. The licensee addressed the above three standards in the amendment application. In regard to the first standard, the licensee provided the following analysis:

> The requested change does not increase the probability or consequences of accidents previously analyzed. Since the configuration of the plant and the mode of operation remain unchanged, the probability of accidents previously analyzed remains unchanged.
>
> FPL has identified the following potential accident scenarios whose consequences would be affected by the proposed change.
>
> A. A fuel assembly drop in the spent fuel pool.
>
> B. Loss of spent fuel pool cooling system and makeup.
>
> C. Spent fuel cask drop.
>
> For A, the criticality acceptance criterion is not violated as identified in Section 3.3 of the Safety Analysis Report. The radiological consequences of this type of accident are bounded by the fuel handling accident analyzed in the FSAR because this application is not intended for extended burnup operation. In particular, the assumptions used in the FSAR fuel handling accident (i.e. burnup, fractional release, etc) are still bounding for the higher enriched fuel assemblies. Based on this discussion, it is concluded that the proposed amendment will not result in an increase of the probability or consequences from the previously evaluated fuel handling accident.
>
> The consequences of B, "loss of spent fuel cooling system and makeup" will not be affected since this application is not intended to qualify the fuel for extended burnup operation. The increase in U-235 enrichment linear loading will not affect the decay heat

characteristics of the fuel assembly or the previous FSAR evaluation (Section 9.1.3) of the loss of spent fuel cooling system and makeup. Based on this, it is concluded that the proposed increase in the U-235 enrichment linear loading will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The consequences of C, "a spent fuel cask drop", will not be affected by an increase in linear loading since this application is not intended to qualify the fuel for extended burnup nor is the configuration of the storage racks being altered. Therefore, the consequences of a cask drop accident are still bounded by the previously evaluated FSAR Chapter 15 cask drop analysis. In conclusion, the proposed amendment will not result in an increase of the probability or consequences of an accident previously evaluated for a cask drop.

Based on the above findings, the proposed amendment to increase the maximum allowable U-235 linear loading and corresponding enrichment does not result in an increase in the probability or consequences of an accident previously evaluated.

In connection with the second standard, the licensee states that:

The requested change does not create the possibility of a new or different kind of accident from any accident previously evaluated because the plant configuration and the manner in which it is operated remain the same. The proposed change does not constitute any change in the procedures for plant operation or hardware. In addition, FPL has evaluated the proposed technical specification changes in accordance with the guidance of the NRC position paper entitled "OT Position for Review and Acceptance of Spent Fuel Storage Handling Applications", and appropriate Industry Codes and Standards as listed in the Reference section of the Safety Analysis Report. Based on this evaluation, FPL finds that the proposed technical specification change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Regarding the third standard, the licensee states that:

The proposed change does not involve a significant reduction in a margin of safety. As described in the attached Safety Analysis Report, the new fuel storage rack calculated keff of 0.925 (95% confidence level) is considerably lower than the established acceptance criteria of less than or equal to 0.98 keff. The 0.918 keff (95% confidence level) calculated for the spent fuel pool and 0.924 keff (95% confidence level) calculated for the fuel handling structures is also considerably lower than the established acceptance criteria of less than or equal to 0.95 keff. It is important to note that the above calculated neutron multiplication factors include all the necessary biases and uncertainties.

As noted above, the required acceptance criteria (less than or equal to 0.95 keff under optimum moderation conditions and less than or equal to 0.95 under fully flooded conditions for the new fuel storage racks, less than or equal to 0.95 keff for the spent fuel pool and fuel handling structures) have been adhered to in the criticality analysis performed in support of this proposed technical specification change. Specifically the 0.02 delta keff and 0.05 delta keff criticality margin of safety required for the new fuel storage area under optimum moderation and fully flooded conditions respectively, and the 0.05 delta keff criticality margin of safety required for the spent fuel storage area and fuel handling structures have been maintained as specified in the attached Safety Analysis Report.

Based on the previous discussion' the proposed amendment to increase the fuel storage U-235 linear loading and corresponding enrichment will not involve a significant reduction in the margin of safety for nuclear criticality.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based upon this review, it appears that the standards have been met because (1) the licensee addressed the appropriate considerations such as criticality, decay heat removal, and accident scenarios, and applied appropriate acceptance criteria; and (2) there will be no physical modifications to the new fuel storage racks or spent fuel storage racks.

Based upon the above discussion, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virgina Avenue, Ft. Pierce, Florida 33450.

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street NW., Washington, DC 20036.

NRC Project Director: Ashok C. Thadani.

Florida Power and Light Company, et al., Docket No. 50-389, St. Lucie Plant. Unit No. 2, St. Lucie County, Florida

Date of application of amendment: July 15, 1986.

Brief description of amendment: The licensee proposes to change the Reactor Coolant System Pressure/Temperature (P/T) limit figures as contained in TS 3/4.4.9.1 entitled "Pressure/Temperature Limits—Reactor Coolant System." Technical Specification 4.4.9.1.2 requires the reactor vessel irradiation surveillance specimens to be removed and examined periodically and the results used to update the P/T limits. The first capsule containing the specimens was required to be removed at one effective full power year. The specimen results were used to develop the new P/T limit figures. Specifically, existing figures 3.4-2, 3.4-3, and 3.4-4 will be deleted, and proposed figures 3.4-2 through 3.4-15 will be added. Existing figures 3.4-2, 3.4-3, and 3.4-4 contain the P/T limits for 0 to 2 calendar years of operation, 2 to 10 calendar years of operation, and 10 to 40 calendar years of operation, respectively. Proposed figures 3.4-2, 3.4-4, 3.4-6, 3.4-8, 3.4-10, 3.4-12, and 3.4-14 will contain the P/T limits for heatup and core critical for 0 to 5 effective full power years (EFPY) of operation, 5 to 10 EFPY, 10 to 15 EFPY, 15 to 20 EFPY, 20 to 25 EFPY, 25 to 30 EFPY, and 30 to 32 EFPY, respectively. Proposed figures 3.4-3, 3.4-5, 3.4-7, 3.4-9, 3.4-11, 3.4-13, and 3.4-15 will contain the P/T limits for cooldown and inservice test for 0 to 5 EFPY, 5 to 10 EFPY, 10 to 15 EFPY, 15 to 20 EFPY, 20 to 25 EFPY, 25 to 30 EFPY, and 30 to 32 EFPY, respectively. As can be seen, the limits will now be a function of EFPY instead of calendar years of operation. Thirty two (32) EFPY equals forty (40) calendar years of operation.

The licensee also proposes to change the Technical Specifications which address overpressure protection systems as contained in TS 3/4.9.3 entitled "Reactor Coolant System Overpressure Protection Systems." This specification needs to be changed because it depends upon the P/T limits that are proposed to be changed. Specifically, the licensee proposes to change the lift (pressure relief) setting of the power-operated relief valves. The licensee also proposes to add the shutdown cooling system relief valves as overpressure protection devices. In addition, the reactor coolant system (RCS) cold leg temperature specification in the applicability statement will be changed from a constant value as a function of time to a variable value as a function of time. The variable RCS cold leg temperature values will be contained in new Table 3.4-3. Time will be expressed in EFPY.

Also, the Bases section of the Technical Specifications will be changed to reflect the above discussed changes.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards considerations exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the 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.

The licensee addressed the above three standards in the amendment application. In regard to the first standard, the licensee provided the following analysis:

The pressure/temperature (P/T) limit curves in the Technical Specifications are conservatively generated in accordance with the fracture toughness requirements of 10 CFR 50 Appendix G as supplemented by the ASME Code Section III, Appendix G. The RT_{NDT} values for the revised curves are based on Regulatory Guide 1.99, Revision 02 (Draft) shift predictions and Combustion Engineering flux attenuation factors. The analysis of reactor vessel material irradiation surveillance specimens are used to verify the validity of the fluence predictions and the P/T limit curves. Use of the revised curves in conjunction with the surveillance specimen program ensures that the reactor coolant pressure boundary will behave in a nonbrittle manner and that the possibility of rapidly propagating facture is eliminated.

In conjunction with revising the P/T limit curves, a low temperature overpressure protection analysis has been performed to establish the configuration and PORV setpoints of the Unit 2 overpressure protection system.

To ensure compliance with the P/T limit curves, overpressure protection is provided to keep the RCS pressure below the P/T limits for any given temperature after the initiation of assumed pressure transients (energy-addition and mass-addition transients) while operating below the temperature at which the pressurizer safety valves provide overpressure protection during heatup and cooldown.

The revised P/T curves and LTOP system do not represent a significant change in the configuration or operation of the plant. The results of the LTOP analysis show that the limiting pressures for a given temperature are not exceeded for the assumed transients and that reactor vessel integrity is maintained. Thus, the proposed amendment does not involve an increase in the probabillty or consequences of events previously evaluated.

In connection with the second standard, the licensee states that:

The evaluation performed by Combustion Engineering has resulted in revised P/T limits based on the fracture toughness requirements of 10 CFR 50 Appendix G, and in a revised low temperature overpressure protection system based on standard energy-addition and mass-addition transients. Use of the revised limits/setpoints will not create the possibility of a new or different kind of accident from any previously evaluated.

Regarding the third standard, the licensee states that:

The proposed amendment will not involve a significant reduction in a margin of safety, because the fracture toughness requirements of 10 CFR Part 50 Appendix G are satisfied and conservative operating restrictions are applied for the purpose of low temperature overpressure protection.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based on this review, it appears that the proposed amendment does not involve an increase in the probability or consequences of events previously evaluated and that the proposed amendment will not create the possibility or a new or different kind of accident from any previously evaluated because the licensee did address the usual technical areas of concern in updating the P/T limit figures and changing the low temperature overpressurization specification. Likewise, it does not appear that the margin of safety is reduced because the licensee used Appendix G in the formulation of the figure changes and it does appear that conservative operating restrictions were applied for the purpose of low temperature overpressure protection.

Based upon the above discussion, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virgina Avenue, Fort Pierce, Florida 33450.

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036.

NRC Project Director: Ashok C. Thadani.

Indiana and Michigan Electric Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendment request: July 10, 1986.

Description of amendment request: The proposed amendment would revise the Technical Specifications for the Control Room Emergency Ventilation System, add Technical Specifications for the Chlorine Detection System, and make a number of editorial changes. The changes to the Control Room Emergency Ventilation System have been grouped as follows: (1) Adoption of the 1980 version of ANSI N510 standard for testing of ventilation systems, (2) extending the time that a filter train can be inoperable from 24 to 72 hours, (3) clarifying the pressure boundaries with the system, (4) adding requirements for modes 5 and 6, (5) adding limits on the amount of outdoor makeup air allowed to ensure habitability during a radiological-type accident, (6) clarifying the system description and related requirements to make the original Technical Specification approach more consistent with actual plant design, and (7) adding leak testing requirements after taking samples from charcoal filters and deleting leak testing of HEPA filters following charcoal tray reinstallation. For purposes of this notice, group (8) is addition of the chlorine detection technical specifications and group (9) is editorial changes.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the applications of the standards for making a no significant hazards determination by providing certain examples (51 FR 7744). One of these examples (i) is a purely administrative change to achieve consistency, correct an error, or a change in nomenclature. The proposed editorial changes by the licensee are directly related to this example. Another example (ii) is a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications. The changes to add modes 5 and 6 requirements for control room emergency vent systems, add limits on the amount of outdoor makeup air allowed during operations designed to account for radiological-type accidents, add chlorine detection technical specifications, and to add leak testing of charcoal filters after sample collection are all directly related to this example. The remaining changes have been examined for significance as follows. The removal of the requirement to leak test HEPA filters following charcoal filter sampling and reinstallation is to achieve consistency with industry standards and regulatory practice. The HEPA filters are located in different sections of the filter housing, and removing a charcoal tray for a sample is not expected to impact the leakage characteristics of the HEPA units. Deleting the HEPA filter leak tests currently required for each charcoal filter reinstallation will not result in or involve a significant increase in the probability or consequences of an accident previously evaluated nor will it create the possibility of a new or different kind of accident. Since the HEPA filter installation remains unchanged and the previous leak test remains valid, this proposed change does not involve a significant reduction in a margin of safety.

The proposed change to adopt the 1980 version of ANSI N510 testing requirement is to recognize that the Cook ventilation systems were operational before the ANSI N510–1975 testing requirements and are not

designed to the ANSI N509–1976 design requirements. The proposed 1980 version of ANSI N510 recognizes this and the proposed change is to make the Cook control room emergency ventilation system consistent with the intent of the industry standard. Since the 1980 version corresponds more closely to the Cook system design and the testing remains consistent with industry testing requirements, the changes do not significantly increase the probability or consequences of previously analyzed accidents nor do they create the possibility of a new or different kind of accident. Since the 1980 version is the current industry standard and generally consistent with current plant practice, the change does not involve a significant reduction in a margin of safety.

The proposed change to increase the filter train inoperability from 24 hours to 72 hours is to allow sufficient time to correctly repack and test the charcoal filters. It was also recognized when the technical specifications were first issued that some changes may be necessary as operating experience was gained. The licensee can institute additional measures to assure protection in the control room if one train is in repair and the remaining systems fail during an accident. Since no physical changes will be necessary to the plant, this change will not increase the probability of an accident previously evaluated. Since the filter train will be out of service for a longer period, the significance of the consequences of an accident requiring a control room filter could be increased. The additional measures available to the operators, the decreased likelihood of personal errors involved in the repair, and the unlikely occurrence of an accident during the increased out of service time all make the increases in accident consequences insignificant. There will be no changes to plant design or operations, therefore, the change would not create an accident of a new or different kind than previously analyzed. The confidence gained by careful and orderly repair of the filter train along with the alternatives available to the operation (use of the other control room system for a brief period), are sufficient to offset any minor reduction in the margin of safety. The overall reduction, if any, is believed to be insignificant.

The proposed change to the control room boundary for determining an acceptable positive pressure is consistent with the intent of protecting the operators against in-leakage of radioactive gases following an accident. The licensee definition of boundary is therefore consistent with the intent of the technical specification. The licensee also proposes to establish testing of the adjacent rooms served by the ventilation system. Since no changes in plant operation or procedures are proposed and the ventilation system adequately serves the pressure boundary, this change does not result in a significant change to the probability or consequences of a previously evaluated accident nor does it create the possibility of a new or different kind of accident. These changes do not delete or reduce in any way previous requirements for safety, thus, they do not reduce previous margins of safety. The last proposed change is to clarify the systems description and separate the testing requirements and acceptance criteria during the recirculation mode. The proposed change recognizes that test signals from each unit may automatically start the systems and the tests must assure that either unit is capable of generating the appropriate signal. The design requirements for the system as listed in the surveillance requirements are clearly identified as applicable in the recirculation mode. These changes of clarity do not change the probability or consequences of a previously analyzed accident nor do they create a new or difference kind of accident. There is no change in the plant design or operation as a result of the change, therefore, there is no change in the margin of safety.

On the basis of all the above considerations the staff proposes to find that the changes do not involve a significant hazards consideration.

Local Public Document Room Location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, DC 20036.

NRC Project Director: B.J. Youngblood.

Kansas Gas & Electric Company, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: March 4, 1986, as supplemented by letter dated July 29, 1986.

Description of amendment request: By letter dated March 4, 1986, the licensee requested revision of Wolf Creek Generating Station, Technical Specification Figure 6.2–1, Figure 6.2–2, and Section 6.5.2.2 to reflect a title change, a change in reporting relationship, the correction of typographical errors, addition and deletion of groups from the Nuclear Unit Organization chart, the addition of positions and groups to the Nuclear Department organization, and two changes in membership to the Nuclear Safety Review Committee. Notice of this request, was published in the **Federal Register** on July 30, 1986, (51 FR 27285). By letter dated July 29, 1986, the licensee supplemented the original amendment request to reflect a change in reporting relationship, add a new member to the Nuclear Safety Review Committee, and change the titles of two positions.

Basis for proposed no significant hazards consideration determination: The first reporting revision changes the reporting relationship of the Manager, Licensing in Figure 6.2–1 such that this position will report directly to the Director, Engineering Technical Services rather than reporting to the Director, Engineering indirectly through the Manager, Nuclear Services. This change represents an organizational enhancement by altering reporting relationships. This does not constitute a change in job responsibilities or overall organizational commitments.

The second change adds the position of Nuclear Coordinator to the Nuclear Safety and Review Committee in Specification 6.5.2.2. This is a new position added to the committee roster that enhances the level of expertise on the committee.

The final two changes revise the titles of the Manager, Quality Assurance (Home Office) and the Manager, Quality Assurance (WCGS) in Figure 6.2.1 by replacing them by the Manager, Quality Assurance and the Manager, Supplier Quality respectively. These requested changes result from a reorganization within the Quality Branch which consolidates all personnel of each quality discipline under the same manager and do not cause the overall quality commitments of the Quality Branch to decrease.

The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing examples of amendments that are not likely to involve Significant Hazards Considerations (51 FR 7744). Among those examples are (i) "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" and (ii) "A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specification . . . ."

The above requested revisions to the Wolf Creek Generating Station, Technical Specification Figure 6.2–1 and

Section 6.5.2.2 are similar to the above cited examples that are not likely to involve significant hazards considerations and do not involve a significant increase in the probability or consequences of an accident or other adverse condition over previous evaluations; or create the possibility of a new or different kind of accident or condition over previous evaluations; or involve a significant reduction in a margin of safety. Based on this information and utilizing the guidance provided by the Commission, the requested license amendment does not present significant hazards.

Local Public Document Room location: The William Allen White Library, Emporia State University, Emporia, Kansas; and the Washburn University School of Law, Topeka, Kansas.

Attorney for licensee: Jay Silburg, Esquire, Shaw, Pittman, Potts, & Trowbridge, 1800 M Street NW., Washington, DC, 20036.

NRC Project Director: B.J. Youngblood.

Kansas Gas and Electric Company, Kansas City Power and Light Company, Kansas Electric Power Cooperative, Inc., Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: April 15, 1986 as supplemented July 29, 1986.

Description of amendment request. The amendment as proposed would change the operating license and Technical Specifications to permit licensed activities to be under the control of a new corporation jointly established by the Wolf Creek owners.

Kansas Gas and Electric Company (KG&E), Kansas City Power and Light Company (KCPL), and Kansas Electric Power Cooperative, Inc. (KEPCO), the owners, are the holders of Facility Operating License NPF–42 which authorizes KG&E to act as agent for KCPL and KEPCO and to use and operate Wolf Creek Generating Station in accordance with the procedures and limitations set forth in the license. The owners have jointly established a new corporation, the wolf Creek Nuclear Operating Corporation, to operate the station. The owners intend that the Operating Corporation assume all responsibilities for operation now held by KG&E. Ownership would remain with the owners and would not be transferred to the Operating Corporation.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for making no significant hazard determinations by providing certain examples (51 FR 7744) of amendments that are considered not 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 amendment 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, (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 because the changes relate to organizational modifications only and do not involve any changes to the number or technical qualifications of operating personnel nor do they involve changes in plant equipment or plant systems. VP Nuclear Operation continues to report directly to the President and Chief Executive Officer of the Operating Organization. Therefore, this change does not adversely affect nuclear plant management. In addition, the licensee has indicated that the new operating organization is an "Electric Utility" as defined in 10 CFR 50.2. Accordingly, the staff proposes to determine that the requested change does not involve a significant hazards consideration.

Local Public Document Room location: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia Kansas, 66801 and Washburn University School of Law Library, Topeka, Kansas.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, DC 20036.

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 requests: January 29, 1986, as amended April 14 and July 16, 1986.

Description of amendment request: The amendment would make six changes in the Technical Specifications: (1) Change the names and valve numbers of certain plant service water system valves listed in Technical Specification Tables 3.6.4–1, 3.6.4.1–1, and 3.6.4.2–1 to reflect the incorporation of those valves into the drywell chilled water system: (2) clarify which quality assurance records specified in Technical Specification 6.10.2.i must be retained for the duration of the operating license; (3) change Technical Specification 3/4.6.5 "Drywell Post-LOCA vacuum Breakers" to reflect the installation of position indicators for the vacuum breaker check valves; (4) delete reference to Specification 6.9.1.13.f in Technical Specification 3.12 "Radiological Environmental Monitoring"; (5) change Technical Specification 3/4.1.3 "Control Rods" to reflect installation in the control rod scram discharge volume system of diverse and redundant level instrumentation and redundant vent and drain valves and, (6) change notes in Technical Specification Tables 3.3.3–1 and 4.3.3.1–1 to make permanent the temporary condition allowing the HPCS activation signals of Drywell Pressure-High and Manual Initiation to be inoperable when the reactor water level is higher than Level 8 and reactor pressure is less than 600 psig.

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. The Commission has also provided guidance concerning the application of these standards by providing examples of amendments considered likely, and not likely, to involve a significant hazards consideration. These were published in the Federal Register on March 6, 1986, (51 FR 7744).

The licensee has provided an analysis of significant hazards considerations in its January 29, April 14 and July 16, 1986, submittals. The licensee has concluded, with appropriate bases, that the proposed amendment satisfies the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards considerations. The NRC staff has made a preliminary review of the licensee's amendment request. A summary of staff's review follows.

Changes (1), (2), and (4) of the proposed amendment are similar to example (i) in 48 FR 14870. Example (i) is a purely administrative change to

Technical Specifications: e.g., a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature. Change (1) would change only names and identification numbers for certain plant service water (PSW) system valves listed in Technical Specifications tables. The new names and numbers identify the valves as belonging to the drywell chilled water (DCW) system. The DCW system was installed to increase the drywell cooling capability of the PSW system. The DCW system used the existing PSW valves and piping but nomenclature of the valves was not changed at the time of installation. The proposed change will make the valves listed in Technical Specifications reflect the system with which they are now associated and will permit name plates, labels and tags to identify them as DCW valves instead of PSW valves. The Technical Specifications requirements are unaffected by this nomenclature change. Change (2) would achieve consistency between Technical Specification (TS) 6.10.1 which requires certain records to be retained for five years and T.S. 6.10.2 which requires certain records to be retained for the duration of the operating license. The individual records identified in T.S. 6.10.1.a, T.S. 6.10.1.b, and T.S. 6.10.1.d are part of the quality assurance records identified as a whole in T.S. 6.10.1.i "Records of Quality Assurance activities required by the operational Quality Assurance Manual." Change (2) would add the phrase "not listed in Specification 6.10.1" after "Manual" in T.S. 6.10.2.i to achieve consistency between the two specifications. Change (4) would correct an error in Technical Specification 3.12 "Radiological Environmental Monitoring" by deleting a reference to Technical Specification 6.9.1.13.f. Specification 6.9.1.13.f had been previously deleted by a license amendment in response to Generic Letter 83–43 regarding implementation of 10 CFR 50.73 "License Event Reporting System." It was intended to delete all references to this specification throughout the Technical Specifications, but the reference in T.S. 3.12 was inadvertently not deleted.

Another example provided by the Commission of actions likely to involve no significant hazards considerations (v) is a relief granted from an operating restriction that was imposed because construction was not completed. Change (3) is similar to this example. License Condition 2.C.(35) requires that position indicators for drywell vacuum breaker check valves be installed prior to startup following the first refueling outage. An action statement and two surveillance requirements were added by Note 1 to Technical Specification 3/4.6.5 "Drywell Post LOCA Vacuum Breakers" until the position indicators are installed and operable. The licensee has previously submitted the proposed design changes by letter dated May 24, 1985, and the staff has previously reviewed and accepted the proposed design changes by letter dated July 23, 1985. Change (3) would delete Note 1 to T.S. 3/4.6.5 and specify the actions to be taken if a vacuum breaker or its associated isolation valve is found to be inoperable or if the position indicators for these valves is found to be inoperable by the surveillance tests.

Change (5) would provide Technical Specification changes needed for operation with new equipment to be installed in the control rod scram discharge volume (SDV) system. License Condition 2.C.(15) requires the installation prior to startup following the first refueling shutdown of diverse and redundant level instrumentation and redundant vent and drain valves. The redundant level instrumentation will provide redundant trip signals to the reactor protection system before the scram discharge volume is overfilled with water. The redundant signal to RPS will help to ensure that the reactor is shutdown before the scram discharge volume is filled to the point that sufficient volume is not available to accept the discharge from the control rod drive system during control rod scram. The redundant scram discharge volume vent and drain valves in series with the present vent and drain valves will provide additional assurance that the scram discharge volume will isolate on a control rod scram signal. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated because the design change increases the reliability of the reactor protection system and the scram discharge volume isolation function and does not change the accident mitigation function. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated because the design change adds redundant reactor protection trip signals and redundant scram discharge volume isolation valves. The proposed change does not involve a significant reduction in the margin of safety because there is no change in the level instrumentation control rod scram setpoint nor in the isolation valve closing time.

Change (6) would modify the note in Technical Specification Table 3.3.3–1, "ECCS Actuation Instrumentation," and Table 4.3.3.1–1, "ECCS Actuation Instrumentation Surveillance Requirements," by deleting the phrase "Prior to STARTUP following the first refueling outage." The deletion of this phase from the note to the two tables makes the note applicable for the duration of the operating license. The note modifies the Technical Specifications on the high pressure core spray (HPCS) system actuation instrumentation such that the injection function of Drywell Pressure-High and Manual Initiation are not required to be OPERABLE when the indicated water level on the wide range instrument is greater than Level 8 coincident with the reactor pressure being less than 600 psig. The effect of this note on plant safe operation was previously analyzed by the licensee and accepted by the NRC staff in its safety evaluation attached to Amendment 10 to the GGNS low power license (September 23, 1983). The limitation in the note to allow such operation only prior to startup following the first refueling outage was included until the accuracy of the water level instrumentation could be determined. The accuracy of the installed water level instrumentation was analyzed by the licensee and accepted by the NRC staff in its letter dated March 18, 1985. Because Change (6) does not change equipment, procedures or conditions for operation from those previously analyzed and because the reason for the time limitation (uncertainty in water level instrumentation accuracy) has been satisfactorily addressed in a previous safety evaluation, the change would not: (1) Involve a significant increase in the probability or consequence 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.

Accordingly, the Commission proposes to determine that the proposed changes do 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 NW., Washington, DC 20036.

NRC Project Director: Walter R. Butler.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: June 24, 1986.

Description of amendment request: The amendment would modify the Technical Specifications to clarify the role of written procedures. Technical Specification 6.3.2 presently specifies that written procedures shall be "provided and adhered to." The proposed amendment would revise 6.3.2 to specify that written procedures shall be "established, implemented, and maintained." The proposed wording is consistent with Standard Technical Specifications (NUREG-0123) and would eliminate misinterpretations.

Basis for proposed no significant hazards consideration determination: The Commission has provided criteria for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the 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.

(1) The proposed license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed change simply clarifies one minor administrative item. The change does not alter existing equipment, surveillances or procedures. Consequently, the staff has determined that this change does not increase the possibility or consequences of an accident previously evaluated.

(2) The proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change does not introduce any changes to the present facility systems, structures, or equipment or to the present modes of operation but provides clarification only. Therefore, the proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed amendment does not involve a significant reduction in a margin of safety because due to the purely administrative nature of the change, it does not affect any equipment or procedures that would affect a margin of safety. No protective system setpoints or operating limitations would change. The added clarity provided by this change will not result in any reduction in the margin of safety.

Since the application for amendment involves proposed changes that are encompassed by the criteria for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Auburn Public Library, 188 15th Street, Auburn, Nebraska 68305.

Attorney for licensee: Mr. G.D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601.

NRC Project Director: Daniel R. Muller.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: March 24 and July 22, 1986, superseding application dated September 6, 1976, as revised July 2 and October 5, 1982.

Description of amendment request: The proposed amendment would revise Technical Specifications (TS) to permit operation of the plant with only one recirculation loop in operation. Specifically, the proposed TS changes are as follows:

1. Average Power Range Monitor (APRM) Scram and Rod Block; (a) In Section 2.1, change the formula for the APRM scram trip setting to include a factor to account for reverse flow through the inactive jet pumps during periods of single loop operation (SLO) and define this factor for both SLO and two loop operation; (b) Add GE Report NEDO-24271, "Monticello Nuclear Generating Plant Single Loop Operation," dated July 1980 to Section 2.3 references; (c) change the expression for the Upscale APRM Rod Block in Table 3.2.3, item 3.a to include the factor to account for SLO and define this factor in note 2 to Table 3.2.3.

2. In Sections 3.5 and 4.5, delete Specification I and add Specification H, "Recirculation System " Limiting Conditions for Operation and Surveillance Requirements as related to operation of the plant with one recirculation loop in operation.

3. Fuel Thermal Characteristics: (a) Add a multiplying factor for SLO which would reduce the Maximum Average Planer Linear Heat Generation Rate (MAPLHGR) limit by 15%; (b) Specify that the single loop operating limit minimum critical power ratio (OLMCPR) be 0.01 greater than the corresponding two loop OLMCPR; (c) Specify the MCPR safety limit for SLO be increased by 0.01; and (4) Add GE Report NEDO-24271, "Monticello Nuclear Generating Plant Single Loop Operation," dated July 1980, to the listed Section 3.11 references.

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 analysis, using the standards in 10 CFR 50.92, about the issue of no significant hazards consideration. Therefore, in accordance with the 10 CFR 50.91 and 10 CFR 50.92, the licensee has provided the analysis. With respect to Item (1) above, the licensee states:

1. The proposed amendment will not involve significant increase in the probability or consequences of an accident previously evaluated.

The proposed technique for determining the APRM flux scram trip setpoint will not change the characteristics of Monticello reactor operation. The indicated flow correction factor for SLO is used to establish the relationship between the acceptable operating region of the power-flow map and the trip setpoint for two recirculation loop operation. Therefore, the proposed amendment will not result in a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Single Loop Operation is judged not to create the possibility of a new or different kind of accident from any previously analyzed. All abnormal operating transients which could be initiated because of SLO, such as a Recirculation Pump Trip at Power, Recirculation Pump Seizure, Recirculation Flow Control Failure and Startup of an Idle Recirculation Pump have been analyzed and the results presented in the Monticello USAR. [Updated Safety Analysis Report.

3. The proposed amendment will not involve a significant reduction in the margin of safety.

The operating limits and setpoints are being revised for SLO to ensure that the margin of safety will not be reduced as demonstrated in the referenced NEDO-24271 "Monticello Single Loop Operation," June 1980 and subsequent reload analyses. Acceptable margins of safety are therefore preserved by the proposed changes.

The proposed changes are related to the methods used in the calculation of a safety system setpoint based upon previously published and approved information. While these changes may result in some change in the probability or consequences of a

previously analyzed accident or may change in some way a safety margin, the results of the changes are clearly within all acceptance criteria established by the Commission.

For Item (2), the licensee's analysis states that:

1. The proposed amendment will not involve significant increase in the probability or consequences of an accident previously evaluated.

The proposed addition to the Technical Specifications will not involve significant reductions in current safety margins. Trip setpoints and safety setpoints have been reevaluated to preserve current safety margins without significantly reducing operational flexibility. Additional surveillance will be done, and restrictions placed on neutron flux and core plate delta P noise. This will aid the operations staff in detecting, and mitigating, core limit cycle oscillations in the unlikely event they should occur. Therefore, the proposed amendment will not result in a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Single Loop Operation will not create the possibility of a new or different kind of accident from any previously analyzed. All abnormal operating transients which could be initiated because of SLO, such as a Recirculation Pump Trip at Power, Recirculation Pump Seizure, Recirculation Flow Control Failure and Startup of an Idle Recirculation Pump have been analyzed and the results presented in the Monticello USAR.

3. The proposed amendment will not involve a significant reduction in the margin of safety.

The operating limits and setpoints are being revised for SLO to ensure that the margin of safety will not be reduced as demonstrated in the referenced NEDO-24271 "Monticello Single Loop Operation," June 1980 and subsequent reload analyses.

The proposed changes are related to surveillance requirements and operational limitations. while these changes may result in some change in the probability or consequences of a previously analyzed accident or may change in some way a safety margin, the results of the changes are clearly within all acceptance criteria established by the Commission.

For Item (3), the licensee's analyses states that:

1. The proposed amendment will not involve significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes will not significantly reduce any safety margins or significantly increase the probability of a previously evaluated accident. Changes to the MAPLHGR and MCPR limits have been evaluated for Single Loop Operation using the same techniques that were used for two loop operation. Adjustments to these parameters for single loop operation were derived to preserve margins of safety.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Single Loop Operation is judged not to create the possibility of a new or different kind of accident from any previously analyzed. All abnormal operating transients which could be initiated because of SLO, such as a Recirculation Pump Trip at Power, Recirculation Pump Seizure, Recirculation Flow Control Failure and Startup of an Idle Recirculation Pump have previously been analyzed and the results presented in the Monticello USAR.

3. The proposed amendment will not involve a significant reduction in the margin of safety.

The operating limits and setpoints are being revised for SLO to ensure that the margin of safety will not be reduced as demonstrated in the referenced NEDO-24271 "Monticello Single Loop Operation," June 1980, and subsequent reload analyses.

The proposed changes are related to limiting safety settings. While these changes may result in some change in the probability or consequences of a previously analyzed accident or may change in some way a safety margin, the results of the changes are clearly within all acceptance criteria established by the Commission.

For Item (3), the licensee's analyses states that:

1. The proposed amendment will not involve significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes will not significantly reduce an safety margins or significantly increase the probability of a previously evaluated accident. Changes to the MAPLHGR and MCPR limits have been evaluated for Single Loop Operation using the same techniques that were used for two loop oeration. Adjustments to these parameters for single loop operation were derived to preserve margins to safety.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Single Loop Operation is judged not to create the possibility of a new or different kind of accident from any previously analyzed. All abnormal operating transiets which could be initiated because of SLO, such as a Recirculation Pump Trip at Power, Recirculation Pump Seizure, Recirculation Flow Control Failure and Startup of an Idle Recirculation Pump have previously been analyzed. All abnormal operating transients Monticello USAR.

3. The proposed amendment will not involve a significant reduction in the margin of safety.

The operating limits and setpoints are being revised for SLO to ensure that the margin of safety will not be reduced as demonstrated in the referenced NEDO-24271 "Monticello Single Loop Operation," June 1980, and subsequent reload analyses.

The proposed changes are related to limited safety settings. While these changes may result in some change in the probability or consequences of a previously analyzed accident or may change in some way a safety margin, the results of the changes are clearly within all acceptance criteria established by the Commission.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, based on this review, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, DC 20036.

NRC Project Director: John A. Zwolinski.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: May 1, 1986, superseding application dated January 30, 1976, as revised May 4, 1976.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) to conform to the NRC Standard TS for Appendix J testing, including the staff approved modifications and exemptions. These proposed changes would also clarify and eliminate a number of interpretation problems. Specifically, the amendment would revise the wording of TS Section 4.7.A.2, "Primary Containment Integrity" and associated bases to conform to the wording of NRC Standard TS (NUREG-0123), Revision 3, Section 4.6.1. The additional requested changes are as follows:

a. Airlock testing requirements for Type B testing as approved by NRC letter dated June 3, 1984.

b. Increase the TS value of Pa, Peak Containment Accident Pressure from 41 psig to 42 psig as a result of new analysis performed by General Electric Company.

c. Deletion of requirement for inerting system makeup monitoring as specified in Section 4.7.A.2.6. This is not a requirement in the Standard TS and the plant's operating history has proven that this requirement is impractical.

d. The Bases for Sections 3.7 and 4.7 have been revised to reflect the above changes.

e. Action statements consistent with NUREG–0123 have been included in Section 3.7.A.2.

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 analysis, using the standards in 10 CFR 50.92, about the issue of no significant hazards consideration. Therefore, in accordance with the 10 CFR 50.91 and 10 CFR 50.92, the following analysis has been performed by the licensee:

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment would revise the Technical Specifications to conform to the requirements of Appendix J to 10 CFR Part 50 except in those cases where exemptions have been granted by the Commission. The proposed wording conforms to the requirements of the NRC Standard Technical Specifications, NUREG–0123.

These changes are being proposed following a detailed NRC staff review of Monticello compliance with the requirements of Appendix J. Following this review, and the resolution of exemptions requested by Northern States Power Company, a number of plant modifications were designed to permit Appendix J testing. Technical Specifications conforming to NUREG–0123 and Appendix J are now being requested.

The proposed requirements are very similar to the original Technical Specification requirements. Except for the deletion of a meaningless and unnecessary requirement to monitor nitrogen makeup, no significant changes are proposed in the type of testing to be conducted or the frequency of testing. Proposed test acceptance criteria, while different in several instances, are very similar to existing criteria. The proposed addition of action statements and updating of the Bases will improve the clarity of the Technical Specifications. For these reasons the proposed changes will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes deal exclusively with surveillance testing requirements except for the addition of action statements which apply when containment integrity deficiencies exist and the updating of the Bases. The action statements conform to the requirements of NUREG–0123. No new type of testing is proposed. The changes involve deletion of an unnecessary test, a small change in test pressure, and changes to conform acceptance criteria to current NRC standards. For these reasons the proposed changes cannot create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment will not involve a significant reduction in the margin of safety.

As discussed above, the proposed changes update the Technical Specifications to conform to the requirements of 10 CFR Part 50, Appendix J in all areas except where exemptions have been granted by the Commission. Following modifications to achieve conformance to Appendix J and revision of the Technical Specifications to conform to NRC guidance, the margins of safety related to containment integrity will be enhanced. While there are some changes in the leakage test acceptance criteria to conform to current NRC guidance, none of these are deemed significant.

The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (March 6, 1986, 51 FR 7751). Addition to action statements for limiting conditions for operation are similar to example (ii) since they consist of additional limitations, restrictions, or controls not presently included in the TS. The other items are similar to example (vii) since they can be best described as changes to conform the license to changes in the regulations, where the license changes result in very minor changes to facility operations clearly in keeping with the regulations. The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. In addition, these changes are encompassed by the Commission's Sholly Coordinator examples (ii) and (vii) of amendments not likely to involve significant hazards considerations. Therefore, based on the above, the staff has made a proposed determination that the application for amendment involves no significant hazards considerations.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW, Washington, DC 20036.

NRC Project Director: John A. Zwolinski.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: May 12, 1986.

Description of amendment request: The proposed amendment would relocate the hydrogen monitor trip function from the recombiner train trip logic to the offgas compressor trip logic. This would allow offgas flow to continue to flow in those portions of the system able to withstand a hydrogen detonation while operators investigate hydrogen monitor trips. The change would increase plant reliability by providing more time for operators to respond to hydrogen monitor trips.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazard 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 analysis using the standards in 10 CFR 50.92, about the issue of no significant hazards considerations. Therefore, in accordance with 10 CFR 50.92, the following analysis has been performed by the licensee.

1. *The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.*

The proposed Technical Specification change will transfer the high hydrogen monitor trip from recombiner inlet valve closure to compressor trip. This change will have no adverse safety significance. It will allow operators greater flexibility in dealing with spurious hydrogen monitor trips.

The offgas system is designed to withstand the pressure encountered from a hydrogen detonation from an initial operating pressure of 20 psia assuming a stoichiometric hydrogen and oxygen mixture. The Standard Review Plan, Section 11.3, "Gaseous Waste Management System," provides guidance for systems being designed to withstand a hydrogen explosion. It's recommendation is that piping be designed to 350 psia. As a minimum, all piping in the offgas system meets this recommendation except the compressed gas storage tanks. The compressed gas storage tanks are designed for a maximum pressure of 330 psig. The system upstream of the compressors normally operates at 12 psia. On sensing high hydrogen, the compressors would isolate [be tripped and stop operating] and pressure would slowly build up in the 42-inch delay line (approximate volume of 4650 cubic feet). Up to several hours would be available for an operator to investigate and correct the source of the monitor trip. Prior to reaching 17 psia, the manual bypass valve to the stack could be opened providing additional time to resolve the problem without resulting in a scram from loss of condenser vacuum. Bypassing the holdup system is permitted for a period of up to seven days by the existing Technical Specifications. 10 CFR Part 20 and Appendix I guidelines would still be satisfied at the site boundary.

The proposed logic modification will continue to isolate [i.e., no flow through the offgas compressor] the most probable ignition

source, the offgas compressors, before a flammable mixture of hydrogen and oxygen is reached. A flammable mixture will not be allowed to reach the compressed gas storage tanks.

The lower limit of flammability is four percent hydrogen by volume. Because of mixing in the 42-inch delay line downstream of the recombiners, the volumetric concentration of hydrogen will not exceed 2.5 percent at the compressors' suction prior to isolation (assuming a catastrophic failure of the recombiners).

Therefore, the proposed amendment will not result in a significant increase in the probability or consequences of an accident previously evaluated.

2. *The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.*

The proposed amendment involves a logic modification and procedural changes only. No safety analyses are affected. No new or different accident type is created. The proposed amendment will not create the possibility of a new or different kind of accident from any previously evaluated.

3. *The proposed amendment will not involve a significant reduction in the margin of safety.*

For the past 10 years the recombiners have performed reliably. Hydrogen analyzer trips have occurred periodically, however. These were spurious and caused by analyzer sensitivity to moisture in the sample stream. Prior to the installation of the modified Offgas System, potentially explosive hydrogen and oxygen mixtures were safely handled without incident. In the event a detonation should occur, the system with the compressed storage subsystem isolated is designed for the pressures encountered and thus will maintain its design integrity. Therefore, the proposed amendment will not involve a significant reduction in the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, based on this review, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, DC 20036.

NRC Project Director: John A. Zwolinski.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of application for amendment: July 17, 1986.

Brief description of amendment: The amendment would change the Technical Specifications to provide Main Steam Isolation to avoid overpressurization of containment in the event of a Main Steam Line Break with continued feedwater addition.

Basis for proposed no significant hazards consideration determination: In response to IE Bulletin 80–04, the logic to close the Main Steam Isolation Valves was duplicated for the Main Feedwater Isolation Valves and renamed "Steam Generator Isolation Signal." As a result of these changes, the Technical Specifications need to be changed to accomplish the following:

1. Correct the wording of Specification 2.14. The specification currently states that the "setting limits and permissible bypasses shall be as stated in Table 2–1." Table 2–1 does not contain permissible bypasses, so this statement has been reworded.

2. A paragraph has been added to 2.14 Basis items (1) and (4) to discuss the steam generator isolation signal. Additionally, Section 2.14 References have been changed from FSAR to the current terminology, USAR.

3. Item e, Steam Generator Isolation, has been added as a channel of functional Unit 1, High Containment Pressure, of Table 2–1.

4. Table 2–1 Item 4a has been reworded to "Steam Generator Isolation" from "Steam Line Isolation."

5. The wording of Specification 2.15 has been revised to more accurately reflect the contents of Tables 2–2 through 2–5.

6. Table 2–4 has been modified to correctly specify those signals which comprise a signal to isolate the steamline.

The addition of the signal, correctly defined, to the Technical Specifications will alleviate a portion of the confusion on this subject. It should also be noted that the mode of operation (or isolation) has not changed, it has only been clarified.

The staff has conducted a preliminary review of the licensee's submittal and agrees that these changes serve to clarify the Technical Specifications concerning the Steam Generator Isolation Signal and that there has been no change in the method of operation, only clarification of existing operating practices. As a result, the staff has concluded that the changes requested meet the criteria of 10 CFR 50.92 in that they do not: (i) Involve any significant increases in the probability or consequences of an accident previously evaluated; or (ii) create the possibility of a new or different kind of accident from any accident previously evaluated; or (iii) involve any reduction in the margin of safety.

Based on this, the Commission proposes to determine that the proposed amendment involves no significant hazards considerations.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Attorney for licensee: LeBoeuf, Lamb, Leiby, and MacRae, 1333 New Hampshire Avenue NW., Washington, DC 20036.

NRC Project Director: Ashok C. Thadani.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of application for amendment: July 17, 1986.

Brief description of amendment: The proposed amendment would change the expiration date for the Fort Calhoun Station, Unit No. 1 Operating License, DPR–40 from June 7, 2008 to August 9, 2013.

Basis for proposed no significant hazards consideration determination: The currently licensed term for Fort Calhoun Station, Unit No. 1, is 40 years commencing with the issuance of the construction permit. The construction permit was issued to the Omaha Public Power District on June 7, 1968. Construction activities were completed 5 years later and the operating license was issued on August 9, 1973. The effective operating license term resulting from the construction activities is just slightly more than 35 years. The licensee's application requests a 40-year operating license term for Fort Calhoun Station, Unit No. 1, commencing with the operating license issuance date of August 9, 1973.

The licensee's request for extension of the operating license is based on the fact that a 40-year service life was considered during the design and construction of the plant. Although this does not mean that some components will not require replacement during the plant lifetime, design features were incorporated that maximize the inspectability of structures, systems, and equipment. Surveillance and maintenance practices that are implemented in accordance with the ASME Code and the unit Technical Specifications provide assurance that any degradation in plant equipment will be identified and corrected.

The design of the reactor vessel and its internals considered the effects of 40 years of operation at full power with a plant capacity factor of 80% (32 effective full power years). Analyses have demonstrated that expected cumulative neutron fluences will not be a limiting consideration. Calculations, based on a 40 year operating life, were made in accordance with the requirements of 10 CFR 50.61 and found to be below the screening criteria. In addition, to these

calculation, surveillance capsules placed inside the reactor vessel provide a means of monitoring the cumulative effects of power operation.

Aging analyses have been performed for all safety-related electrical equipment in accordance with the requirements of 10 CFR 50.49, "Environmental qualification of electrical equipment important to safety for nuclear power plants", identifying qualified lifetimes for this equipment. These lifetimes are incorporated into equipment maintenance and replacement practices to insure that all safety-related electrical equipment remains qualified and available to perform its safety function throughout a 40 year lifetime.

Based upon the above, it is concluded that the extension of the operating license for Ft. Calhoun Station, Unit No. 1, to allow a 40-year service life is consistent with the safety analysis in that all issues associated with plant aging that are required to be addressed have been addressed. Since the proposed amendment does not involve changes in the Technical Specifications or safety analysis, the staff concludes that it meets the criteria of 10 CFR 50.92 in that it does not: (i) Involve any significant increases in the probability or consequences of an accident previously evaluated; or (ii) create the possibility of a new or different kind of accident from any accident previously evaluated; or (iii) involve any reduction in the margin of safety.

Based on this, the Commission proposes to determine that the proposed amendment, which provides for a 40 year operating life for Fort Calhoun Station, Unit No. 1, involves no significant hazards consideration.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Attorney for licensee: LeBoeuf, Lamb, Leiby, and MacRae, 1333 New Hampshire Avenue, Washington, DC 20036.

NRC Project Director: Ashok C. Thadani.

Pennsylvania Power and Light Company, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Dates of amendment request: April 23, 1986, revised July 17, 1986.

Description of amendment request: The licensee in letters dated April 23, 1986 and July 17, 1986, requested changes to Technical Specification 3.8.1.1 which would reduce the number of required diesel generator starts when in a Limiting Condition of Operation (LCO) or during the 18 month surveillance tests. The licensee states that the proposed changes are consistent with NRC Generic Letter 84–15 and do not reduce the ability of the diesels to mitigate the consequences of an accident but are intended to increase the diesel's reliability by not causing undue wear due to excessive testing.

The licensee has reviewed the pertinent sections of the Final Safety Analysis Report (FSAR) and the staff's Safety Evaluation Report (SER) and finds that the proposed changes do not invalidate either of these documents. Technical Specification 3.8.1.1 has been changed in the following ways: Footnote # has been deleted. This footnote was incorporated to allow the licensee to tie-in the fifth diesel generator. Since all work associated with tying in the new "E" diesel has been completed this footnote is obsolete and is being removed. This is an administrative change. Action Statement A has been modified in accordance with Generic Letter 84–15, in that when one offsite circuit is out of service the licensee will be required to test the remaining diesels within 24 hours of entering the LCO. Proposed Action Statement B was previously part of Action Statement A. This new Action Statement B is in accordance with Generic Letter 84–15 and fulfills the LCO requirements when declaring one required diesel generator out of service. Separating Action A into proposed Actions A and B is an administrative change to provide clarity. Proposed Action Statement C is applicable when one offsite circuit and one required diesel generator are inoperable. This action statement has also been modified in accordance with Generic Letter 84–15. Proposed Action Statement D includes a change in labeling as a result of splitting Action A into Proposed Actions A and B. This change is purely administrative. Proposed Action Statement E requires the licensee to perform Surveillance Requirements 4.8.1.1.2.a.4 within eight hours after a loss of both offsite circuits as opposed to within four hours. This change is also consistent with Generic Letter 84–15. Proposed Action Statement F requires the licensee to perform Surveillance Requirement 4.8.1.1.1.a within one hour and every eight hours thereafter upon the loss of two required diesel generators. Presently the licensee is required to perform Surveillance Requirement 4.8.1.1.1.a within one hour. The licensee's proposed change adds an additional restriction.

Surveillance Requirement 4.8.1.1.2.d.3 contains a typographical error in that generator voltage should not exceed 4560 volts not 4360 volts, as presently written. This is an administrative change.

Proposed Surveillance Requirement 4.8.1.1.2.d.4 will demonstrate the diesel's ability to respond to a loss-of-offsite power (LOOP) in conjunction with an ECCS actuation test signal, a LOOP by itself, and an ECCS signal without a LOOP. These three cases will be demonstrated with only one start of the diesel.

There are three changes in this surveillance requirement: (1) the diesel will not be started for the simulated LOOP by itself; (2) the diesel will not be started for the ECCS actuation test signal, with a LOOP; and (3) a new surveillance has been incorporated which describes testing of the LOCA relays.

These safety functions occur as a result of loss-of-offsite power (LOOP), ECCS actuation signal (LOCA), a combination of a LOOP and a LOCA signal, and either a LOOP or a LOCA signal.

The circuits for LOOP and LOCA are independent. Testing these functions simultaneously is acceptable. The only advantage of testing these functions non-concurrently is to verify that one signal is not dependent upon the other signal. However, there is no reason to assume that the circuits have become dependent upon each other since no design changes have been incorporated.

Testing for actions which occur as a result of concurrent LOOP and LOCA signals should be tested with concurrent LOOP and LOCA signals. Since both signals are required for actuation, both signals should be present during testing.

Testing for either a LOOP or a LOCA signal is the only test where each signal should be individually actuated. One trip is defeated while the other is tested. Then the other trip is defeated while the first trip is tested.

Testing of the LOOP and LOCA functions concurrently can perform the intended function as long as those functions which occur due to either signal (i.e. the logic circuitry upstream of the diesel start signal) are tested with only one signal at a time. This proposed surveillance requirement would replace Surveillance Requirements 4.8.1.1.2.d. 4 and 5.

Proposed Surveillance Requirement 4.8.1.1.2.d.5 is presently labeled 4.8.1.1.2.d.7 and requires a 24 hour load test with a restart requirement within five minutes. The licensee proposes to delete this restart requirement from the 24 hour load run section and place the restart requirement in Proposed Surveillance Requirement 4.8.1.1.2.d.6.

This proposed change will allow the licensee to fulfill the five minute restart requirement after completing a one hour 4000 KW run or within five minutes of reaching stable operating temperature.

Proposed Surveillance Requirement 4.8.1.1.2.d.7 currently labeled 4.8.1.1.2.d.8 requires a verification to assure that the auto-connected loads to each required diesel generator do not exceed the 2000 hour rating of 4700 KW. The licensee proposes to verify these loads by calculation. The licensee states that it is more suitable to verify this number by calculation rather than test since all the auto connected loads are known and the sum of these loads can be compared to the 2000 hour rating, two unit loads could be considered and that during a test all auto connected loads would not necessarily be running at full load.

The licensee proposes to delete Surveillance Requirement 4.8.1.1.2.d.11 which requires the verification that the fuel transfer pump in fact transfers fuel from each tank to the engine mounted day tank of each diesel generator. Regulatory Guide 1.108 recommends this surveillance if the practice is part of normal operating practices. The licensee states that at Susquehanna, this transferring is not part of normal operating procedure and was not taken credit for in any safety analyses. Fuel transfer from the fuel oil tank to the corresponding diesel generator day tank is tested every 31 days.

The licensee proposes to modify Surveillance Requirement 4.8.1.1.2.d.13. The requirement will be relabeled 4.8.1.1.2.d.11. The proposed change will clarify how the diesel generator lockout features work. This change is administrative.

The licensee has proposed a change to Table 4.8.1.1.2–1 which lists the frequency of diesel tests as a function of failures. The proposed change changes the valid tests per nuclear unit basis to a per diesel generator basis.This change to a per diesel generator basis would not allow all diesels to be penalized by increasing testing of all diesels if all diesels are not a problem.

The licensee has proposed a change to Surveillance Requirement 4.8.1.1.3 which requires all diesel failures, valid or non-valid, to be reported to the Commission. The proposed change revises the method for determining the number of failures in the last 100 valid tests from a per nuclear unit basis to a per diesel generator basis. This change is consistent with the change to Table 4.8.1.1.2–1 as discussed above, and is administrative in nature.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (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 licensee has stated that the proposed changes do not: (1) Involve an increase in the probability or consequences of an accident previously evaluated. The proposed changes reduce test frequencies and modify loading requirements consistent with manufacturer's recommendations. These changes are expected to enhance diesel reliability by minimizing severe test conditions and excessive starts. Since the changes only involve diesel loadings and test frequencies, and there are no physical modifications to the diesel generators as a result of these changes, the limiting accident is still the failure of one diesel generator which has been evaluated in § 8.3 of the FSAR; (2) create the possibility of a new or different kind of accident from any accident previously evaluated. As stated in (1), the proposed changes should enhance diesel reliability. Any accident subsequent to these changes would be no worse than the failure of a diesel generator which has already been evaluated; or (3) involve a reduction in a margin of safety. The margin of safety has been determined acceptable assuming the loss of one diesel generator. The proposed changes will enhance diesel reliability thereby reducing the probability of a loss of a diesel generator.

The NRC staff agrees with the licensee's evaluation in these regards and proposes to find the proposed changes do not involve a significant hazards consideration.

Local Public Document Room Location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington DC 20036.

Project Director: Elinor G. Adensam.

Pennsylvania Power & Light Company, Docket No. 50–388, Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Dates of amendment request: April 30, June 19, and July 25, 1986.

Description of amendment request: The proposed amendment would revise the Unit 2 Technical Specifications (TS) to support the operation of Susquehanna Steam Electric Station (SSES), Unit 2 at full rated power during the upcoming Cycle 2. The proposed amendment request, to support this reload, would change the Technical Specifications in the following areas: (1) Establish operating limits for all fuel types for upcoming Cycle 2 operation; (2) establish the Average Power Range Monitor setpoints; (3) reflect the replacement of approximately 42 percent of the core with ENC 9x9 fuel assemblies (the original core was all GE fuel); and (4) modify the bases section.

To support the license amendment request for operation of Susquehanna Unit 2 during Cycle 2, the licensee submitted as attachments to the application the following:

I. Susquehanna Unit 2 Cycle 2 Reload Analysis Design and Safety Analyses (XN–NF–86–06).

II. Susquehanna Unit 2 Cycle 2 Plant Transient Analysis (XN–NF–86–55).

III. Susquehanna LOCA–ECCS Analysis MAPLHGR results for 9x9 Fuel (XN–NF–86–65).

IV. Susquehanna Unit 2 Cycle 2 Proposed Startup Physics Tests Summary Description.

V. Susquehanna Unit 2 Cycle 2 Stability Test Program.

VI. Susquehanna SES Unit 2 Cycle 2 Reload Summary Report.

During the first refueling outage, PP&L will be replacing approximately 42 percent of the previous Cycle 1 core with fresh ENC 9x9 fuel assemblies. The ENC 9x9 fuel is the first use of 9x9 fuel at the Susquehanna facilities. Due to differences in the ENC 9x9 fuel from the previously used GE 8x8 fuel, several Technical Specification changes are proposed to incorporate the additional safety analyses performed for Cycle 2.

Basis for no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the 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 an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

This reload will consist of replacing 324 fuel assemblies (approximately 42 percent) of the previous Cycle 1 core with fresh ENC 9x9/3.31 w/o U235 (XN-1) fuel assemblies. The Unit 2 Cycle 2 (U2C2) XN-1 fuel is the ENC 9x9 design, which has similar operating characteristics (thermal-hydraulic and nuclear) to the GE P8x8R fuel that will remain in the core. The mechanical and nuclear design differences of the 9x9 ENC fuel required new analyses to be performed. These included analyzing for anticipated operational occurrences, performing LOCA and MAPLHGR analyses for the XN-1 fuel, and analyzing for the rapid drop of a high worth control rod to assure that excessive energy would not be deposited in the fuel. Analyses for normal operation of the reactor consisted of fuel evaluations in the areas of mechanical, thermal-hydraulic, and nuclear design. In addition, changes were also implemented to the core monitoring system and supplemental analyses were performed to reevaluate the expanded power flow map region for Cycle 2 operation. The use of the ENC 9x9 Type XN-1 fuel assemblies and the associated analytical methods used for Cycle 2 reload analyses have been previously approved by the Commission's staff for use in other boiling water reactors (BWR's). Based on limited operating experience at Dresden-2, the staff has reviewed the operating characteristics of 9x9 fuel based on surveillance data collected at Dresden-2. In addition to the reload analyses provided by PP&L and Exxon, PP&L has submitted a proposed stability surveillance and test program for U2C2. Based on previous experience, the staff has determined that only small differences result between the use of Exxon and GE analytical methods. The core loading pattern for U2C2 is the same as that approved for the previous core at this facility. The core is essentially a conventional scatter loading pattern with the lowest reactivity bundles placed in the periphery region of the core. The loading pattern was designed to maximize the operating cycle length consistent with the constraints on power peaking. This core reload involves the use of fuel assemblies that are not significantly different from those previously found acceptable to the Commission for a previous core at the Dresden facility. This amendment request would change the Technical Specifications by providing new operating limits associated with the Cycle 2 reload. These operating limits are based on the new core physics and are within acceptable criteria. In the analyses supporting this reload, there have been no significant changes in the acceptance criteria for the Technical Specifications.

(A) The licensee has proposed several definition changes to the Technical Specifications. The first definition change is Definition 1.2—Average Exposure. This change reflects the addition of an average exposure definition appropriate for Exxon (ENC) fuel. The ENC POWERPLEX core monitoring system determines Maximum Average Planar Linear Heat Generation Rate (MAPLHGR) based on average bundle exposure rather than average planar exposure, which is the related term for GE fuel. This definition merely provides the appropriate identification for determining MAPLHGR limits for ENC fuel. Additionally this change does not impact that definition applicable to GE fuel. The second definition change is Definition 1.13—Fraction of Limiting Power Density (FLPD). This definition has been altered to reflect the appropriate Linear Heat Generation Rate used in determining FLPD. This was necessary since a Linear Heat Generation Rate curve was also specifically provided for determining Average Power Range Monitor (APRM) setpoints. Specification 3/4.1.2—Reactivity Anomalies, has been altered to reflect how the POWERPLEX monitoring system detects reactivity anomalies; POWERPLEX monitors k_{eff}, which provides a more direct measurement of reactivity than the previous monitoring of rod density.

The Commission has provided examples of the types of changes not likely to involve a significant hazards consideration (51 FR 7744). The above changes fall under example (i), a change that is administrative in nature, as all of the above changes are incorporated to provide information for ENC fuel which is consistent with that already provided for the existing GE fuel.

(B) Specification 3/4.2.1—Average Planar Linear Heat Generation Rate (APLHGR) has been changed to (1) reflect the use of the revised Definition 1.2, discussed above, (2) reflect changes to the remaining GE MAPLHGR figures by incorporating consistent units, (3) reflect the removal of all GE 0.711 percent enriched fuel, and (4) reflect the addition of the appropriate limits for all Cycle 2 ENC 9x9 (XN-1) fuel. These proposed changes do not (1) involve a significant increase in the probability or consequences of an accident previously evaluated. All of the changes to Specification 3/4.2.1 are administrative except for the new XN-1 fuel limits. Figures 3.2.1-1 and 3.2.1-2 for GE fuel have been altered to provide consistency with new Figure 3.2.1-3. Figures 3.2.1-1 and 3.2.1-2 units have been changed from "MWD/t" to "MWD/MT". The current Figure 3.2.1-3 has been deleted since the 0.711 percent enriched GE fuel has been removed. New Figure 3.2.1-3 illustrates the MAPLHGR limits for ENC 9x9 XN-1 fuel. These limits are based upon an ENC analysis of the Loss of Coolant Accident (LOCA) as described in XN-NF-86-60. Based on this analysis, operation within the proposed MAPLHGR limits will ensure that the Peak Cladding Temperature (PCT) remains below 2200 °F, local $Zr-H_20$ reaction remains below 17 percent, and core-wide hydrogen production remains below 1 percent for the limiting LOCA as required by 10 CFR 50.

With respect to GE fuel, the licensee's Reload Summary Report shows that the XN-1 fuel is hydraulically and neutronically compatible with GE fuel. Therefore, the existing MAPLHGR limits, based on the GE LOCA analysis provided in the FSAR, remain applicable for Unit 2 Cycle 2 operation with GE fuel.

The proposed changes do not (2) create the possibility of a new or different kind of accident from any accident previously evaluated, because the operating characteristics of the ENC 9x9 fuel do not significantly differ from those of the GE 8x8 fuel. The differences in the fuels are physical.

The proposed changes do not (3) involve a significant reduction in the margin of safety as the analyses were in accordance with the regulations, the methodologies contain similar inherent conservatisms to those used to support the initial core, and the proposed limits are within the acceptance criteria.

(C) Specification 3/4.2.2—Average Power Range Monitor (APRM) setpoints have been changed to explicitly define T (T=Lowest value of the ratio of Fraction of Rated Thermal Power (FRTP) divided by the Maximum Fraction of Limiting Power Density (MFLPD)) for the GE and ENC fuel. T for ENC fuel is dependent on a transient-based Linear Heat Generation Rate (LHGR). As a result, a new Figure 3.2.2-1 has been incorporated. This change does not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated since the method used for determining T for the

new ENC 9x9 fuel provides an equivalent amount of protection for the ENC fuel as that provided for the existing GE fuel. For ENC fuel, the T factor is modified by an exposure-dependent LHGR which is based on Exxon's "Protection Against Fuel Failure" (PAFF) line shown in XN–NF–85–67, Revision 1. This LHGR is provided in new Figure 3.2.2–1. Under this limit, cladding and fuel integrity are protected during Anticipated Operational Occurrences (AOO's), including an overpower condition for transients initiated from partial power. Therefore, this change will ensure fuel design limits are not violated. This change does not (2) create the possibility of a new or different kind of accident from any accident previously evaluated, as the applicable change for the GE fuel is administrative, and the change for the ENC fuel, namely the new LHGR limit provides assurance that the cladding and fuel integrity are protected during AOO's. This change does not (3) involve a significant reduction in the margin of safety since the analytical methods used in developing the appropriate limits are shown to provide appropriate protection against one percent clad strain and fuel centerline melting.

(D) Specification 3/4.2.3—Minimum Critical Power Ratio (MCPR), has been revised to address the addition of ENC 9x9 fuel. This proposed change does not (1) involve a significant increase in the probability or consequences of an accident previously evaluated as the changes to this specification are consistent with the acceptable methodologies being utilized to determine MCPR operating limits. As detailed in the Susquehanna SES Unit 2 Cycle 2 Reload Summary Report, delta Critical Power Ratio (CPR) results for local transients and core wide transients have been completed based on approved methods.

The plant transient model used to evaluate the system affects of the Feedwater Controller Failure (FWCF) and Load Rejection Without Bypass (LRWOB) transients is ENC's COTRANSA code. This output will be utilized by the XCOBRA–T methodology to determine delta CPRs. The COTRANSA code has been used in previous approved licensing submittals. The XCOBRA–T code is appropriate for use in this application because it provides a more realistic treatment of transient phenomena than previously utilized methods and has been benchmarked against transient critical heat flux tests as reported in the licensee's reload submittal.

This proposed change does not (2) create the possibility of a new or different kind of accident from any accident previously evaluated, as the analytical methods used to determine the MCPR limits contain the same inherent conservatisms as those used for the previous core. This proposed change does not (3) significantly reduce the margin of safety. The analytical methods used for determining MCPR limits are more realistic and meet all pertinent regulatory requirements.

(E) Specification 3/4.2.4—Linear Heat Generation Rate (LHGR), has been changed to provide appropriate limits for ENC fuel. The existing GE LHGR limit remains. This change does not (1) result in a significant increase in the probability or consequences of an accident previously evaluated since new specification 3/4.2.4.2 and Figure 3.2.4.2–1 reflect appropriate LHGR limits for ENC fuel under steady-state conditions. The figure is based on information provided in the fuel mechanical design analysis (XN–NF–85–67, Rev. 1) and assures margin to design limits for the life of the fuel. Addition of these limits to ENC fuel does not (2) create the possibility of a new or different accident because this new control has been shown to ensure compliance with all relevant fuel mechanical design criteria. Nor do these limits (3) significantly reduce the margin of safety because by its nature of ensuring compliance with all relevant fuel mechanical design criteria they ensure appropriate safety margin.

(F) Specification 3/4.3.4.2, End-of-Cycle Recirculation Pump Trip System Instrumentation (EOC–RPT), has been changed to incorporate into this specification action statements to ensure compliance with appropriate MCPR limits when EOC–RPT is inoperable. This action statement was previously contained in the MCPR specification but has been moved for clarity in defining operator action. The requirements are consistent with those in the current MCPR Specification; as a result this change is administrative and falls under the Commission's example (i).

(G) Specification 3/4.7.8—Main Turbine Bypass System has been changed. This change is similar to that proposed for Specification 3/4.3.4.2 and is proposed to make this specification consistent with the changes to 3/4.2.3, Minimum Critical Power Ratio. A footnote has been added to Specification 3/4.7.8. This footnote merely replaces a requirement previously contained in the MCPR Specification. Since this change is consistent with the requirements in the current MCPR specification, no change in level of control has occurred. Therefore, this change is administrative and falls under example (i) of the Commission.

(H) Specification 5.3.1—Fuel Assemblies has been changed. This specification previously only provided GE P8X8R general core design information. The proposed changes provide the same information for the ENC fuel being introduced in Cycle 2 and are administrative in nature and fall under example (i) of the Commission's examples.

(I) Specification 3/4.4.1.1.2—Recirculation Loops—Single Loop Operation, has been changed to preclude extended operation with one recirculation loop out-of-service. Since this specification previously allowed such operation, this change constitutes an additional restriction which is much more conservative than the current provisions, and therefore falls under example (ii), a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications of the Commission's examples of changes not likely to involve a significant hazards consideration.

Based on the foregoing discussion, the NRC staff proposes to find that the amendment request does not involve a significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Attorney for the licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, DC 20036.

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: June 4, 1986.

Description of amendment request: The licensee provided the following description:

The application for revision to the Indian Point 3 Technical Specifications would provide for the use of a temporary closure plate in place of the equipment door during refueling operations. Also included are editorial changes to Section 3.8.

The current Indian Point 3 Technical Specifications require that the equipment door and at least one door in each personnel air lock shall be properly closed during refueling operations. This

requirement has been imposed to ensure a barrier that will restrict direct release from the containment in the event of a postulated accident.

During refueling operations the reactor is cooled below 140 °F, is depressurized and open to containment. The IP–3 Technical Specifications require that whenever movement of irradiated fuel is made, the minimum water level in the area of movement shall be maintained 23 feet over the top of the reactor pressure vessel flange. Also to ensure redundant decay heat removal capability, at least two of the following requirements must be met:

(a) No. 31 residual heat removal pump and heat exchanger, together with their associated piping and valves are operable.

(b) No. 32 residual heat removal pump and heat exchanger, together with their associated piping and valves are operable.

(c) The water level in the refueling cavity above the top of the reactor vessel flange is equal to or greater than 23 feet.

The licensee considers a postulated fuel handling accident the most limiting accident with regard to the installation of a temporary closure plate.

The Fuel Handling System is designed to minimize the possibility of mishandling or maloperations that cause fuel damage and potential fission product release. The reactor is refueled with equipment designed to handle the spent fuel underwater from the time it leaves the reactor vessel until it is placed in a cask for shipment from the site. Boric acid is added to the water to ensure subcritical conditions during refueling. Therefore, if a fuel handling accident inside containment does occur, the impact and damage of the fuel assembly takes place underwater. Under these conditions there is no potential for a rapid release of energy to the containment which might cause an increase in pressure. The evaluation of a postulated fuel handling accident is discussed in detail in Section 14.2 of IP–3's FSAR.

The closure plate that would be installed, will be designed to a pressure which ensures containment integrity during refueling operations. This temporary closure plate will provide the same level of protection as that of the equipment door for the fuel handling accident by restricting direct leakage from the containment to the environment.

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.

The licensee has provided the following analysis of this change:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change does not increase the probability or consequences of an accident previously evaluated. Since redundant decay heat removal capability is provided, and a postulated fuel handling accident will occur underwater, there is no potential for a rapid release of energy to the containment.

2. Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. The temporary closure plate will be seismically designed to ensure no breach of containment as a result of a seismic event. This plate will provide the same level of protection as that of the equipment door by restricting containment leakage to the environment.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

The proposed change of installing a closure plate during refueling operations in place of the equipment door does not involve a significant reduction in a margin of safety. The plate will be seismically installed and designed to a pressure which ensures containment integrity during refueling operations.

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.

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: June 13, 1986.

Description of amendment request: This revision to the Indian Point 3 Technical Specifications seeks to increase the maximum fuel enrichment to 4.3 w/o U–235 from the current Technical Specification maximum allowable enrichment of 3.4 w/o U–235.

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.

The licensee's discussion of these standards as they relate 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 increased fuel enrichment of up to 4.3 w/o U–235 will not affect the core operating parameters, such as power level, reactor coolant temperature, reactor coolant pressure and core peaking factors. These parameters are considered in detail in the core reload safety evaluations. As such, the operating transient analyses are not impacted solely by a change in the maximum allowable fuel enrichment.

The higher enrichments will facilitate extended fuel cycles. An extended fuel cycle will not increase the fuel rod gap activity since the activity reaches an equilibrium value prior to the end of the current fuel cycle. As such, the off-site dose consequences of a fuel handling accident will not be increased due to an extended fuel cycle.

In conclusion, the proposed Technical Specifications change for maximum allowable enrichment and fuel storage will not increase the probability or consequences of the FSAR design basis accidents.

(2) Does the proposed license amendment create the possibility of a

new or different kind of accident from any accident previously evaluated? The proposed change seeks to increase the enrichment of the fuel pellets only. No hardware changes are necessary. The maximum power operation level will not be increased. As such, the requested change will not create a new or different kind of accident.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

The analysis provided by the licensee shows that the criticality design criteria of k_{eff} less than or equal to 0.95 will not be exceeded if the fuel is loaded into the spent fuel cells per Technical Specification 3.8.

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.

Public Service Electric and Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendments request: February 6, 1986.

Description of amendments request: The proposed amendment change would revise Salem Units 1 and 2 Technical Specification Sections 4.9.6.1, 3.9.7 and 4.9.7 to reduce the loads handled over the spent fuel pools. Accordingly, Technical Specifications 3.9.7 and 4.9.7 would be revised to reflect the derating of the fuel handling cranes. Technical Specification 4.9.6.1 would be revised to clarify that the load cut-off for the manipulator crane is set to include the heavy load plus the weight of the crane mast and gripper.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exits by providing certain examples (51 FR 7744). This request would reduce the allowable heavy loads traveling over the spent fuel pools. As such, the change corresponds to Example (ii), a change that constitutes a more stringent limitation not presently included in the technical specifications. Therfore, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Salem Free Library, 122 West Broadway, Salem, New Jersey 08079.

Attorney for licensee: Conner and Wetterhann, Suite 1050, 1747 Pennsylvania Avenue NW., Washington, DC 20006.

NRC Project Director: Steven A. Varga.

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 20, 1986.

Description of amendment request: The requested amendment involves administrative changes to Technical Specification sections 3/4.5.4, Table 4.3–8, Table 4.3–9, Table 4.3–2, and 3/4.2.4 bases. The changes involve renumbering of sections, terminology changes for consistency, typographical corrections, and clarification of the notes to Tables 4.3–8, and 4.3–9 as to what instrument analog channel operation tests must demonstrate.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (51 FR 7751) of actions likely to involve no significant hazards considerations. One of the examples of actions likely to involve no significant hazards considerations relates to a purely administrative change to Technical Specifications such as a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature. The proposed changes involving renumbering of Technical Specification sections, terminology changes for consistency, and typographical corrections are similar to that example. However, the clarification of the notes to Tables 4.3–8 and 4.3–9 do not match any of the examples.

The licensee has identified portions of the Technical Specifications dealing with radiation monitors which need clarification. As identified in Tables 4.3–8 and 4.3–9, an analog channel operation test is required of effluent monitoring instrumentation. Notes contained in the tables pertaining to certain monitors indicate that this test shall also demonstrate that automatic isolation of the pathway and control room alarm annunciation occurs if certain conditions exist. One of these conditions (existing Item 4 of the notes) is the instrument controls not set in the operate mode. The licensee's position has always been that when those radiation monitors to which the notes apply are placed in the bypass position (via the Normal/Bypass switch) for the performance of a test procedure, the monitors are considered inoperable and the applicable action statement is applied. The purpose and incorporation of the Normal/Bypass switch in the original design of the systems was to defeat the interlock function during calibration and maintenance to allow implementation of action statements without the need to temporarily lift leads and/or install jumpers. Therefore, the Normal/Bypass switch is not considered to be one of the instrument controls as stated in existing Item 4 of the notes. A second condition, loss of flow or low flow will also initiate an alarm. To describe existing system function the low flow (alarm only) and Normal/Bypass switch set in Bypass (alarm only) items should be added to existing Notes 1 and 5 on page 3/4 3–72 and to existing Note 1 on page 3/4 3–79. In addition the low flow item should be added to Note 2 on page 3/4 3–79. Table 4.3–8 does not reference Note 2 on page 3/4.3–72; therefore Note 2 on page 3/4.3–72 should be deleted and existing Notes 3, 4 and 5 be renumbered 2, 3 and 4 respectively.

The staff has reviewed the licensee's request for the above change 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 changes clarify existing Technical Specification surveillance requirements, 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 Technical Specification effluent monitoring 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.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2 , Hamilton County, Tennessee

Date of amendment request: June 20, 1986.

Description of amendment request: The proposed amendments would delete from the Design Features Section 5.3.1 of the Sequoyah Technical Specifications (TS) the maximum fuel rod weight limit of 1,766 grams of uranium. The purpose of the change would be to permit the use of assemblies slightly over the weight limit. Fuel weights have increased slightly due to recent changes to the fuel design, including chamfered pellets with reduced dish and nominal density increase.

Basis for proposed no significant hazards consideration determination: In accordance with the requirements of 10 CFR 50.92, the licensee submitted the following significant hazards determination:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of previously evaluated accidents?

Response: The change In fuel rod weight that could occur without a Technical Specification limit is small because other fuel design constraints such as rod diameter, gap size, UO_2 density, fuel active lengths, etc., limit the variation in rod weights. The current safety analyses are not based on fuel rod weights, but more on parameters such as power thermal conductivity, fuel dimensions, etc. These parameters are either: (1) not affected at all by fuel rod weight, or (2) are only slightly affected. However, a review of parameters which may be affected indicates that a change in fuel weight does not cause other parameters to exceed the values assumed in the safety analyses, or to cause acceptance criteria to be exceeded. The slight effects are such that the monitored nuclear parameters (power, power distribution, nuclear coeficients, etc.) remain within their Technical Specification limits. Thus, it is concluded that the changes does not involve a signficant increase in the probability or consequences of previously evaluated accidents.

2. Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluted?

Response: The possibility of a new or different kind of accident from any previously evaluated has been considered and is not affected by this change. All of the fuel is contained in the fuel rod which is of the same dimensions and designed to function the same as previous fuel. The existing new and spent fuel criticality analyses bound the changes observed. Therefore, this change does not create the possibility of a new or different kind of accident.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: The margin of safety is maintained by adherence to other Technical Specification limits and the FSAR Design Bases. The deletion of fuel rod weight limits in Technical Specifications Design Features Section 5.3.1 does not directly affect any safety system or safety limits. Because safety margins are maintained by other limiting Technical Specifications, Design Features Section 5.3.1 will not affect the margin of safety.

Based on the above analysis, the licensee concluded that the proposed amendments do not involve significant hazards considerations. The staff has reviewed the licensee's signficant hazards considerations 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 signficant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Attorney for licensee: Mr. Herbert S. Sanger, Jr., Esq., General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B33, Knoxville, Tennessee 37902.

NRC Project Director: B.J. Youngblood.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of amendment request: January 14, 1986.

Description of amendment request: The purpose of the proposed amendment is to revise Callaway Technical Specification Sections 3/4.7.1.6 and B3/4.7.1.6 to add a new technical specification which requires the operability of at least three of the four installed steam generator atmospheric relief valves to ensure that reactor decay heat can be dissipated to the atmosphere in the event of a steam generator tube rupture and loss of offsite power.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (51 FR 7744). One of the examples (ii) of these actions involving no significant hazards consideration relates to a change which constitutes an additional limitation, restriction or control not presently included in the Technical Specifications. The proposed changes are similar in nature to the example provided by the Commission. The changes to the Callaway Technical Specifications add a new technical specification requiring the operability of at least three of the four installed steam generator atmospheric relief valves in Modes 1, 2, and 3, and also add a Section B3/4.7.1.6 to the Technical Specification bases that provides additional clarification regarding Section 3/4.7.1.6. These proposed changes introduce additional management controls not presently in the Technical Specifications and, therefore, involve no significant hazards. These requests do not involve a significant increase in the probability or consequence of an accident or other adverse condition over previous evaluations; or create the possibility of a new or different kind of accident or condition over previous evaluations; or involve a significant reduction in a margin of safety. Based on this information, the requested license amendment does not present a significant hazard.

Local Public Document Room location: Fulton City Library, 709 Market Street, Fulton, Missouri 65251 and the Olin Library of Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: B.J. Youngblood.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: January 24, 1986, May 13, 1986, and June 9, 1986.

Description of amendment request: By letters dated January 24, 1986, May 13, 1986 and June 9, 1986, the licensee, Vermont Yankee Nuclear Power Corporation, submitted a proposed license amendment for NRC review and approval which would revise the Vermont Yankee Technical Specifications with respect to certain radiological effluent requirements. These changes would:

(1) Specify action to be taken when the plant stack noble gas activity monitor is unavailable.

(2) Clarify location requirements for sample points for airborne iodine and particulate off site air monitoring stations.

(3) Delete confusing definitions for radioactive material and contamination from the Definitions sections of Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (51 FR 7751). One of the examples (ii) of actions not likely to involve a significant hazards consideration is a change which constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications, for example, a more stringent surveillance requirement. As described above, the change specifying the required action when the plant stack noble gas activity monitor is unavailable (item 1) constitutes an additional limitation and control not presently included in the Technical Specifications for Vermont Yankee, and is similar to example (ii).

Another of the Commission's examples (i) states: 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. Proposed changes described in items (2) and (3) fall within the envelope of example (i) since the changes would clarify requirements without changing the intention and would remove confusing definitions. These changes would not alter the intention of the existing Technical Specifications but would remove ambiguity, and therefore are similar to example (i).

Accordingly, the Commission proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Attorney for licensee: John A. Ritscher, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Project Director: Daniel R. Muller.

Virginia Electric and Power Company, Docket No. 50-338, North Anna Power Station, Unit No. 1, Louisa County, Virginia

Date of amendment request: July 11, 1986.

Description of amendment request: The proposed amendment would reinstate the North Anna-1 (NA-1) Technical Specification (TS) 3.4.9.1.C. By administrative error, the NA-1 TS 3.4.9.1.C was deleted in the NA-1 License Amendment No. 74, issued January 15, 1986. TS 3.4.9.1.C specifies "a maximum temperature change of less than or equal to 10 °F in any one hour period during inservice hydrostatic and leak testing operations above the heatup and cooldown limit curves." An identical requirement is presently specified in the NA-2 TS, and Station Operating Procedures for both NA-1&2 presently contain the necessary restrictions on temperature changes during inservice hydrostatic and leak testing.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards by providing certain examples which were published in the Federal Register on March 6, 1986 (51 FR 7751). Example (i) states: "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." The proposed change is enveloped by example (i) above, since the proposed change would reinstate the NA-1 TS 3.4.9.1.C which was deleted by administrative error in the NA-1 Amendment No. 74, issued January 15, 1986. Accordingly, the Commission proposes to determine this change involves no significant hazards consideration.

Local Public Document Room locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212.

NRC Project Director: Lester S. Rubenstein.

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 requests: July 14, 1986.

Description of amendment requests: The proposed change will modify Section 6 of the Surry Technical Specifications to reflect a company reorganization in which the Quality Assurance (QA) organization will now report to the Senior Vice President—Engineering and Construction, rather than to the Senior Vice President—Power Operations. The amendments will also correct the titles of several on-site and off-site supervisors.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a proposed license amendment involves significant hazards considerations. The licensee has reviewed its amendment request and determined that the proposed amendments would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. This change would merely revise where the QA organization reports to enhance independence and correct titles in the on-site and off-site organization charts. Thus, this change does not change plant design or operation and cannot increase the probability or consequences of an accident.

(2) Create the possibility of a new or different kind of accident from any previously analyzed. It has been determined that a new or different kind of accident will not be possible due to this change. Realigning the QA organization with Engineering and Construction and revising supervisor titles does not create the possibility of a new or different kind of accident.

(3) Involve a significant reduction in a margin of safety. This change does not involve a change in the basis for any Technical Specification or the Updated Final Safety Analysis Report accident analysis. Therefore, the change does not involve a significant reduction in the margin of safety.

Based on the above analysis, the licensee concluded that its request for amendments involves no significant hazards consideration. The staff has reviewed the licensee's no significant hazards determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the requested amendments involve no significant hazards considerations.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Mr. Michael W. Maupin, Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Project Director: Lester S. Rubenstein.

Washington Public Power Supply System, Docket No. 50-397, WNP-2, Richland, Washington

Date of amendment request: May 27, 1986

Description of amendment request: This proposed amendment, if approved, would revise the WNP-2 Operating License, NPF-21, by modifying Technical Specifications Section 3.4.5, Bases Section 3/4.4.5 and Administrative Controls Section 6.9.1.5. In accordance with Generic Letter 85-19, the Technical Specifications changes would amend the reporting requirements for iodine spiking to eliminate the short term reporting requirements of Sections 3.4.5.b and 3.4.5.c and add similar information to the Annual Report, Section 6.9.1.5. Additionally the amendment would eliminate the existing requirements to shut the plant down if coolant iodine activity limits are exceeded for 800 hours in a 12 month period.

These changes of reporting requirements for iodine spiking are being requested in conformance with the Generic Letter to delete unnecessary reporting requirements. The information to be included in the Annual Report is similar to that previously required in the Licensee Event Report but would be changed to designate more precisely the information required in specific activity analyses and relocate the requirement for reporting to the administrative section of the Technical Specifications.

The quality of nuclear fuel and fuel management has been greatly improved in recent years, such that normal coolant iodine activity is maintained well below the minimum limits. Appropriate actions would be initiated long before accumulating 800 hours above the iodine activity limit. In addition, 10 CFR 50.72 (b)(1)(ii) requires that the NRC be notified immediately of serious principal safety barrier degradation occurring during operation; therefore, these Technical Specification limits are no longer necessary.

Basis for no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the 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 an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined, and the staff agrees, that the requested amendment per 10 CFR 50.92 does not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed amendment affects only data accumulation and in no way affects the design or performance of the nuclear fuel; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the change affects only the reporting requirements from a short-term report—Special Report or Licensee Event Report—to an item which is included in the Annual Report and does not impact the actions required as a result of primary coolant activity increase (iodine spiking); or (3) involve a significant reduction in a margin of safety because the same limits are applied in monitoring iodine activity in the primary coolant and the same actions are required to place the plant in an isolated and safe condition if the limits are exceeded.

Based on our review of the proposed modification, the staff finds that there exists reasonable assurance that this proposed change will have little or no impact on the public health and safety. Accordingly, the Commission proposes to determine that the requested change to the WNP-2 Operating License involves no significant hazards considerations.

Local Public Document Room location: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

Attorney for the Licensee: Nicholas Reynolds, Esquire; Bishop, Liberman, Cook, Purcell and Reynolds, 1200 Seventeenth Street NW., Washington, DC 20036.

NRC Project Director: Elinor Adensam.

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.

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 6, 1985 as supplemented by letters dated July 29, August 15, August 30, September 11, September 12, November 1, and December 12, 1985, and March 14, March 15, June 5, and June 9, 1986.

Description of amendment request: The amendment would revise Section 5.6 "Fuel Storage" of the Technical Specifications to allow increased spent fuel storage capacity. This increased capacity would be obtained by replacing the spent fuel racks in the upper containment pool and in the spent fuel storage pool with high density spent fuel racks. This spent fuel reracking would increase the upper containment pool capacity used for temporary storage during refueling from 170 to 800 fuel assemblies and increase the spent fuel pool capacity used for long term storage during plant operation from 1270 to 4348 fuel assemblies. However, the number of fuel assemblies to be stored in the spent fuel pool would be limited by Technical Specifications to 2324. The amendment would also change the Technical Specifications by reducing the limiting spent fuel pool water temperature from 150 °F to 140 °F.

Date of publication of individual notice in **Federal Register**: July 18, 1986 (51 FR 26078).

Expiration date of individual notice: August 18, 1986.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

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, NW., Washington, DC, 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, DC 20555, Attention: Director, Division of Licensing.

Arkansas Power & Light Company, Docket No. 50–368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of Application for Amendment: June 9, 1986.

Brief Description of Amendment: The amendment revised the Technical Specifications concerning the surveillance requirement for Control Element Assemblies.

Date of Issuance: July 22, 1986.

Effective Date: July 22, 1986.

Amendment No.: 76.

Facility Operating License No. NPF–6: Amendment revised the Technical Specifications.

Date of Initial Notice in **Federal Register:** June 20, 1986 (51 FR 22584).

The Commission's related evaluation of the amendment is contained in a Safety Evaluated dated July 22, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Arkansas Power & Light Company, Docket No. 50–368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of Application for Amendment: September 16, 1985

Brief Description of Amendment: The amendment revised the Technical Specifications pertaining to the Core Protection Calculator (CPC) addressable constants and the reactor protection system surveillance requirements.

Date of Issuance: July 22, 1986.

Effective Date: July 22, 1986.

Amendment No.: 77.

Facility Operating License No. NPF–6: Amendment revised the Technical Specifications.

Date of Initial Notice in **Federal Register:** December 4, 1985 (50 FR 49779 at 49781).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 22, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Arkansas Power & Light Company, Docket No. 50–368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of Application for Amendment: March 14, 1986.

Brief Description of Amendment: The amendment deleted facility license condition 2.C.(7) relating to the US/International Atomic Energy Agency Safeguards program.

Date of Issuance: July 22, 1986.

Effective Date: July 22, 1986.

Amendment No.: 78.

Facility Operating License No. NPF–6: Amendment revised the operating license.

Date of Initial Notice in **Federal Register:** April 23, 1986 (51 FR 15393).

The Commission's related evaluation of the amendment is contained in a letter dated July 22, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Arkansas Power & Light Company, Docket No. 50–368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of Application for Amendment: February 27, 1986.

Brief Description of Amendment: The amendment revised the Technical Specifications pertaining to the Core Protection Calculators (CPC) as a part of the CPC Improvement Program.

Date of Issuance: July 22, 1986.

Effective Date: July 22, 1986.

Amendment No.: 79.

Facility Operating License No. NPF–6: Amendment revised the Technical Specifications.

Date of Initial Notice in **Federal Register:** June 18, 1986 (51 FR 22228).

The Commission's related evaluation of the amendment is contained in a Safety Evaluated dated July 22, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Carolina Power and Light Company, Docket No. 50–261, H.B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: August 28, 1985.

Brief description of amendment: The amendment adds a provision to the Technical Specifications to allow the shift compliment and fire brigade to be one less than the minimum requirement for a period not to exceed two hours.

Date of issuance: July 29, 1986.

Effective date: July 29, 1986.

Amendment No. 100.

Facility Operating License No. DPR–23. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 4, 1985 (50 FR 49781).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 29, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Carolina Power and Light Company, Docket No. 50–261, H.B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: October 9, 1985.

Brief description of amendment: The amendment revises the Technical Specifications by updating the allowable method for data collection during excore detector calibration, and also involves changes of an editorial nature, such as consistency of terminology, correction of a figure number and adding a reference document.

Date of issuance: July 30, 1986.

Effective date: July 30, 1986.

Amendment No.: 101.

Facility Operating License No. DPR–23. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 4, 1985 (50 FR 49782).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 30, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Commonwealth Edison Company, Docket No. 50–010, Dresden Nuclear Power Station, Unit 1, Grundy County, Illinois

Date of application for amendment: January 7, 1986.

Brief description of amendment: The amendment modifies License No. DPR–2 to permit the Commonwealth Edison Co. to possess the Dresden Nuclear Power Station, Unit 1, but not to operate it, as the unit is permanently shutdown.

Date of issuance: July 23, 1986.

Effective Date: July 23, 1986.

Amendment No.: 36.

Facility Operating License No. DPR–2. Amendment revised the license.

Date of initial notice in **Federal Register:** June 4, 1986 at 51 FR 20369.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 23, 1986.

No significant hazards consideration comments received: None.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Commonwealth Edison Company, Docket No. 50–249, Dresden Nuclear Power Station, Unit No. 3, Grundy County, Illinois

Date of application for amendment: February 21, 1986, as supplemented April 18, 1986.

Brief description of amendment: The amendment changes the nuclear limits to reflect the Cycle 10 9x9 reload, incorporates an expanded power/flow operating map, deletes the license condition for Single Loop Operation (SLO) and incorporates SLO provisions in the body of the Technical Specifications, incorporates Linear Heat Generation Rate (LHGR) limits for Exxon 8x8 and 9x9 fuel as a limiting condition for operation and incorporates reactor stability monitoring and restrictions on the allowable operation conditions during SLO.

Date of issuance: July 24, 1986.

Effective date: July 24, 1986.

Amendment No. 87.

Facility Operating License No. DPR–25. The amendment revised the license and the Technical Specifications.

Date of initial notice in **Federal Register:** May 7, 1986 (51 FR 16923).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 24, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Commonwealth Edison Company, Docket No. 50–373, La Salle County Station, Unit 1, La Salle County, Illinois

Date of application for amendment: June 10, 1986.

Brief description of amendment: This amendment revises the La Salle Unit 1 Technical Specifications to correct the Rod Block Monitor setpoints for both dual and single loop operation. On October 22, 1985, as supplemented on March 21, 1986, the licensee transmitted the Unit 1, Cycle 2 Reload package which was approved by the staff on May 9, 1985. The licensee, in this Cycle 2 Reload submittal, failed to modify the Rod Block Monitor setpoints to the corrected values which decreased by 2% as a result of new analyses performed for the Cycle 2 Reload. To conform to the new approved setpoints, the licensee submitted a request for amendment to Table 3.3.6–2 to incorporate the corrected setpoints. In addition, an administrative change was requested to correct an error in the Index to the Technical Specifications by deleting reference to a non-existent specification.

The above items addressed in this amendment will be incorporated into the Technical Specifications prior to startup after the first refueling outage.

Date of Issuance: July 25, 1986.

Effective Date: July 25, 1986.

Amendment No.: 45.

Facility Operating License No. NPF–11: Amendment revised the Technical Specifications.

Date of Initial Notice in **Federal Register:** June 25, 1986 (51 FR 23173).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 25, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of amendment request: June 18, 1985.

Description of amendment request: The amendment revises the Technical Specifications to provide for reporting of relief and safety valve challenges in the Monthly Operating Report and to conform the wording concerning the Monthly Operating Report to the Standard Technical Specification wording. The June 18, 1985 amendment application concerned several topics. The other topics are the subject of separate amendments.

Date of issuance: July 22, 1986.

Effective date: July 22, 1986.

Amendment No.: 114.

Facilities Operating License No. DPR–26: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 28, 1985 (50 FR 34936).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 22, 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.

Dairyland Power Cooperative, Docket, No. 50–409, La Crosse Boiling Water Reactor, Vernon County, Wisconsin

Date of application for amendment: February 21, 1986.

Brief description of amendment: Minor wording changes in the technical specification on reactor coolant chemistry to help ensure that plant personnel will uniformly interpret the necessary action to be taken if conductivity, pH or chloride concentration normal operating limits are exceeded.

Date of Issuance: July 15, 1986.

Effective date: July 15, 1986.

Amendment No. 50.

Provisional Operating License No. DPR–45. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 7, 1986 (51 FR 16926).

The Commission's related evaluation for the license amendment is contained in a Safety Evaluation dated July 15, 1986. No significant hazards consideration comments received: No.

Local Public Document Room location: La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Dairyland Power Cooperative, Docket No. 50–409, La Crosse Boiling Water Reactor, Vernon County, Wisconsin

Date of application for amendment: September 29, 1982 as revised October 29, 1982, September 16, 1985, and April 1, 1986.

Brief description of amendment: The amendment involves the consolidation and clarification of operability and surveillance requirements for the emergency core cooling system (ECCS).

Date of Issuance: July 30, 1986.

Effective date: July 30, 1986.

Amendment No. 51.

Provisional Operating License No. DPR–45. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 23, 1983 (48 FR 49583); April 7, 1986 (51 FR 16925). The Commission's related evaluation for the license amendment is contained in a Safety Evaluation dated July 30, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Detroit Edison Company, Docket No. 50–341, Fermi-2, Monroe County, Michigan

Date of application for amendment: October 9, 1985 and supplemented on November 13, 1985.

Brief description of amendment: This amendment revises the Fermi-2 Technical Specifications to permit postponement of the inerting of the Fermi-2 primary containment from December 21, 1985, until either completion of the startup test program or until the reactor has operated for 120 effective full power days, whichever is earlier. This change is reflected in changes to Technical Specification 3/4.10.5 on page 3/4 10–5.

Date of issuance: July 30, 1986.

Effective date: July 30, 1986.

Amendment No.: 3.

Facility Operating License No. NPF–43: Amendment revised the Technical Specifications.

Dates of initial notice in **Federal Register:** Individual November 29, 1985 (50 FR 49145).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 30, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Indiana and Michigan Electric Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan..

Date of application for amendments: May 10, 1983, as supplemented by letter dated June 20, 1986.

Brief description of amendments: The amendments revise the Technical Specifications to remove the duplicative inservice inspection and testing surveillance requirements for Unit 1, remove the duplicative operable surveillance requirements for Unit 1, and correct the charging pump discharge pressure during shutdown for Unit 2. The Unit 1 inservice inspection and testing requirements, with the exception of pump testing frequency, are now contained in Section Xl of the ASME Boiler and Pressure Vessel Code as may be modified by written relief. By letter dated June 20, 1986, the licensee withdrew the request to change the pump test frequency from 31 to 90 days as allowed by the ASME Code, until the necessary safety analyses could be performed with reduced pump discharge pressure. That proposed change will be the subject of new and separate proposed license amendments and notice.

Date of issuance: July 29, 1986.

Effective date: July 29, 1986.

Amendment Nos.: 98 and 85.

Facility Operating License Nos. DPR–58 and DPR–74. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 20, 1983 (48 FR 33081).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 29, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Iowa Electric Light and Power Company, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: January 9, 1986.

Brief description of amendment: The amendment revised the DAEC Technical Specifications to (a) conform to the Commission's rule 10 CFR 50.49 related to environmental qualifications of safety related electrical equipment, (b) achieve consistency throughout the Technical Specifications, (c) correct errors caused by previous amendments, and (d) correct typographical errors.

Date of issuance: July 9, 1986.

Effective date: July 9, 1986.

Amendment No.: 133.

Facility Operating License No. DPR–49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 26, 1986 (51 FR 10462).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 9, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, SE., Cedar Rapids, Iowa 52401.

Iowa Electric Light and Power Company, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: January 27, 1984, as revised October 11, 1985 and January 13, 1986.

Brief description of amendment: The amendment revises the Technical Specifications to incorporate the limiting conditions for operation for post accident containment pressure monitor, water level monitor, and hydrogen monitor.

Date of issuance: July 21, 1986.

Effective date: July 21, 1986 to be implemented within 30 days.

Amendment No.: 134.

Facility Operating License No. DPR–49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 22, 1984 (49 FR 10736).

The October 11, 1985 and January 13, 1986 submittals provided clarifying information. These submittals did not change the initial notice published in the **Federal Register.**

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 21, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401.

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 application for amendment: December 27, 1985, as supplemented January 31, 1986.

Brief description of amendment: Changes license condition 2.C.(33)(d)(2) to be consistent with the schedular requirements of the January 25, 1985, amendment to 10 CFR 50.44.

Date of issuance: July 22, 1986.

Effective date: July 22, 1986.

Amendment No. 13.

Facility Operating License No. NPF-29. This amendment revised the License.

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 July 22, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

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 application for amendment: June 4, 1986.

Brief description of amendment: Changes in Technical Specifications Section 6.0, "Administrative Controls." Specifically, revisions in the positions in the Unit organization and modifications to the composition of the Plant Safety Review Committee.

Date of issuance: July 30, 1986.

Effective date: July 30, 1986.

Amendment No. 14.

Facility Operating License No. NPF-29. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 18, 1986 (51 FR 22240).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 30, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

Pennsylvania Power & Light Company, Docket Nos. 50-387 and 50-388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: May 14, 1986.

Brief description of amendments: The Unit 1 and Unit 2 Technical Specifications have been changed in order to allow the licensee to optionally define secondary containment as Zone III during operational conditions 4 and 5 with condition "*" in effect, no operations with the potential for draining the reactor vessel (OPDRVs) in progress, and Zone I and/or Zone II isolated from Zone III.

Date of issuance: August 1, 1986.

Effective date: Upon Issuance.

Amendment Nos. 59 and 27.

Facility Operating License Nos. NPF-14 and NPF-22: Amendments revise the Technical Specifications.

Date of initial notice in **Federal Register:** July 2, 1986 (51 FR 24260).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 1, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: November 18, 1985.

Brief description of amendments: These amendments permit certain changes to the Technical Specifications regarding plant organization as specified in Section 6 (Administrative Controls) and revised organization charts as requested. The NRC staff is still reviewing two of the proposed changes identified as Items (6) and (10) in the licensee's submittal.

Date of issuance: July 9, 1986.

Effective date: July 9, 1986.

Amendments Nos.: 118 and 122.

Facility Operating Licenses Nos. DPR-44 and DPR-56. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 29, 1986 (51 FR 3717).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 9, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: February 21, 1985, as supplemented April 22, 1986.

Brief description of amendments: The amendments revise the Technical Specifications to add surveillance and operability requirements pertaining to Appendix R modifications involving fire doors and penetration seals.

Date of issuance: July 30, 1986.

Effective date: July 30, 1986.

Amendments Nos.: 119 and 123.

Facility Operating Licenses Nos. DPR-44 and DPR-56. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 21, 1985 (50 FR 20985) and May 21, 1986 (51 FR 18693).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 30, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Portland General Electric Company, et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: April 9, 1986.

Brief description of amendment: The amendment deletes the requirement for shut down if primary coolant iodine activity limits are exceeded for 800 hours in a 12-month period. In addition, this change revises the reporting requirements related to primary coolant specific activity levels. The amendment request is in response to Generic Letter 85-19.

Date of issuance: July 25, 1986.

Effective date: July 25, 1986.

Amendment No.: 118.

Facilities Operating License No. NPF-1: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 4, 1986 (51 FR 20372).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 25, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Multnomah County Library, 801 S.W. 10th Avenue, Portland, Oregon.

Portland General Electric Company, Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendments: April 7, 1986.

Brief description of amendments: The amendment deletes Technical Specification 3.4.10.1.d which allowed the licensee to perform an evaluation to determine the consequences of continued operation with reduced structural integrity of ASME Code Class 1, 2, and 3 components. This request is

in response to the staff's February 10, 1986 letter requesting the licensee to review Technical Specification 3.4.10.1.d.

Date of issuance: July 28, 1986.

Effective date: July 28, 1986.

Amendment No.: 119.

Facility Operating Licenses Nos. DPR–80 and DPR–82: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: June 4, 1986 (51 FR 20371).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 28, 1986.

No significant hazards consideration comments received: No

Local Public Document Room location: Multnomah County Library, 801 SW. 10th Avenue, Portland, Oregon.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: March 17, 1986.

Brief description of amendment: The amendment changes Technical Specification (TS) 6.2.2, "Administrative Controls—Unit Staff," by clarifying that the Director, Nuclear Plant Operations does not need to review individual overtime during extended shutdown periods. The amendment also changes TS 3.5.3, "ECCS Subsystems—Tavg Less than 350 °F," by clarifying 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. The amendment is effective as of its date of issuance and shall be implemented within 30 days of issuance.

Date of issuance: July 22, 1986.

Effective date: July 22, 1986.

Amendment No. 51.

Facility Operating License No. NPF–12. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: June 4, 1986 (51 FR 20374).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 22, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: October 22, 1985.

Brief description of amendments: The amendments change the Technical Specifications related to the Reactor Trip System instrumentation trip setpoints.

Date of issuance: July 28, 1986.

Effective date: July 28, 1986.

Amendment Nos.: 44 and 36.

Facility Operating License Nos. DPR–77 and DPR–79. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: December 4, 1985 (50 FR 49793).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 28, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

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, the Commission has either issued a Federal Register notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been 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, DC, 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, DC 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 September 12, 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.

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, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, 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 (*Project Director*): 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 Office of the General Counsel, Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 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, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Georgia Power Company, Olgethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50–366, Edwin I. Hatch Nuclear Plant, Unit No. 2, Appling County, Georgia

Date of amendment request: July 28, 1986.

Brief description of amendment: It consists of one time only changes to the Technical Specifications to allow the unit operate with the 2C diesel generator inoperable during the period July 26, 1986 to August 4, 1986.

Date of issuance: July 30, 1986.

Effective date: July 30, 1986.

Amendment No.: 63.

Facility Operating License No. NPF–5. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration. No.

The Commission's related evaluation of the amendment, consultation with the State of Georgia, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated July 30, 1986.

Attorney for licensee: G.F. Trowbridge, Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, DC 20036.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Dated at Bethesda, Maryland this 7th day of August, 1986.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Director, Division of PWR Licensing-B, Office of Nuclear Reactor Regulation.

[FR Doc. 86–18125 Filed 8–12–86; 8:45 am]

BILLING CODE 7590-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-373, 50-374

Commonwealth Edison Co., LaSalle Nuclear Station; Receipt of Petition

Notice is hereby given that, by its Petition dated July 25, 1986, the Village of Seneca, Illionis (Petitioner) requested that the Nuclear Regulatory Commission

revoke the operating license for the LaSalle Nuclear Station of the Commonwealth Edison Company due to alleged inadequacies in the area of emergency planning. The Petitioner raised a number of emergency planning issues regarding the adequacy of notification procedures, evacuation planning for the village of Seneca given its arterial network and high transient weekend population, and the efficacy of using volunteers to undertake emergency planning measures during a disaster. A relevant consideration with respect to this Petition is the fact that the Villege of Seneca has formally withdrawn from the emergency plan for the LaSalle Nuclear Station.

The Petition is being treated pursuant to 10 CFR 2.206 of the Commission's regulations and, accordingly, appropriate action will be taken on the request within a reasonable time. A copy of the Petition is available for inspection in the Commission's Public Document Room, 1717 H Street, Washington, DC 20555 and at the Local Public Document Room for the LaSalle generating Station located at Public Library of Illinois Valley Community College, Rural Route Number 1, Ogelsby, Illinois 61348.

Dated at Bethesda, Maryland, this 6th day of August, 1986.

For the Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

[FR Doc. 86-18239 Filed 8-12-86; 8:45 am]

BILLING CODE 7590-01-M

Appointments to Performance Review Board for Senior Executive Service

AGENCY: Nuclear Regulatory Commission.

ACTION: Appointment to Performance Review Board for Senior Executive Service.

SUMMARY: The Nuclear Regulatory Commission (NRC) has announced the following new appointments to the NRC Performance Review Board (PRB):

Edward L. Jordan, Director, Division of Emergency Preparedness and Engineering Response, Office of Inspection and Enforcement

Ronald M. Scroggins, Director, Office of Resource Management.

In addition to the above appointments, the following members are continuing on the PRB:

Guy A. Arlotto, Director, Division of Engineering Safety, Office of Nuclear Regulatory Research

Robert M. Bernero, Director, Division of Boiling Water Reactor Licensing, Office of Nuclear Reactor Regulation

Richard E. Cunningham, Director, Division of Fuel Cycle & Material Safety, Office of Nuclear Material Safety and Safeguards

James A. Fitzgerald, Assistant General Counsel for Adjudications and Opinions, Office of the General Counsel

Robert D. Martin, Regional Administrator, Region IV

Donald B. Mausshardt, Deputy Director, Office of Nuclear Material Safety and Safeguards

James P. Murray, Associate General Counsel for Hearings and Enforcement, Office of the General Counsel

James H. Sniezek, Deputy Executive Director for Regional Operations and Generic Requirements

Richard H. Vollmer, Deputy Director, Office of Nuclear Reactor Regulations.

William B. Kerr, Director, Office of Small and Disadvantaged Business Utilization and Civil Rights, continues as an ex officio nonvoting member.

The NRC Performance Review Board Panel consists of Clemens J. Heltemes, Jr., Director, Office for Analysis and Evaluation of Operational Data, Thomas E. Murley, Regional Administrator, Region I, and Jack W. Roe, Deputy Executive Director for Operations.

All appointments are made pursuant to Section 4314 of Chapter 43 of Title 5 of the United States Code.

EFFECTIVE DATE: August 6, 1986.

FOR FURTHER INFORMATION CONTACT: James P. Murray, Chair, Performance Review Board, U.S. Nuclear Regulatory Commission, Washington, DC 20555, 301-492-7503.

Dated at Bethesda, Maryland, this 6th of August 1986.

For the Nuclear Regulatory Commission.

Jack W. Roe,

Chairman, Executive Resources Board.

[FR Doc. 86-18240 Filed 8-12-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

Consideration of Issuance of Amendment to Provisional Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing; GPU Corp., et al.

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Provisional Operating License No. DPR-16 issued to GPU Nuclear Corporation and Jersey Central Power and Light Company, for operation of the Oyster Creek Nuclear Generating Station, located in Ocean County, New Jersey.

The proposed amendment would make changes to sections 3.5 and 4.5, Containment, of the Appendix A Technical Specifications (TS) to account for proposed changes to the existing requirements on containment leakage testing in accordance with the licensee's application dated July 25, 1986. The licensee is proposing to add a new requirement in TS 3.5.A.3.b on when an inoperable air lock must be returned to service before the reactor is shut down. The Applicability and Objectives sections in TS section 4.5 are being revised to list the major surveillances and tests described in section 4.5 and to refer to Appendix J to 10 CFR Part 50 and ANSI/ANS Standard 56.8-1981, respectively. The licensee is also proposing to revise existing TS 4.5.A through TS 4.5.L. The existing TS 4.5.G through TS 4.5.K are only being renumbered and there is no proposed revision to the existing TS requirements. Existing TS 4.5.L is a previously deleted TS and the existing TS 4.5.K is proposed to be renumbered TS 4.5.L to fill the previously deleted TS.

The licensee is proposing to revise the requirements in TS 4.5.A through 4.5.F. These TS affect the following existing requirements: (a) Integrated primary containment leakage rate test, (b) acceptance criteria, (c) corrective action, (d) frequency of integrated leak rate tests, (e) local leak rate tests, and (f) corrective action. The new TS will be numbered TS 4.5.A through TS 4.5.G. The licensee is proposing a new TS section, 4.5.G, on the frequency for the local leak rate tests. The title for TS 4.5.E is proposed to be changed to "Type B and Type C Local Leak Rate Tests (LLRT)."

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves 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 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.

The basis for this proposed determination is the following. Appendix J to 10 CFR Part 50 was published on February 14, 1973. On August 7, 1975, the NRC requested Jersey Central Power and Light (JCP&L) Company to review its containment leakage testing progam for Oyster Creek and the associated TS, for compliance with the requirements of Appendix J.

JCP&L responded by letter dated December 24, 1975, which was supplemented by letters dated August 12, 1976, November 22, 1978 and June 27, 1980.

NRC letter dated March 4, 1982 transmitted the staff's Safety Evaluation (SE) of the above Appendix J review for the Oyster Creek Nuclear Generating Station. Consistent with this SE, and by a letter dated September 25, 1984 GPU Nuclear Corporation (GPUN) submitted TS Change Request No. 130 to change TS 4.5.F.1.B. In the NRC staff June/July Progress Review meeting with GPUN on July 31 and August 1, 1985, the licensee agreed to withdraw TS Change Request No. 130. The withdrawal was confirmed by NRC letter dated August 26, 1985.

GPUN is now submitting TS Change Request No. 126. Change No. 126 addresses the program which verifies that the leakage from the primary containment, both integrated and local, is maintained within specific values as outlined in Appendix J of 10 CFR Part 50, and as detailed in ANSI/ANS Standard 56.8–1981. The major modifications incorporated in the Integrated Leak Rate Testing (LLRT) Program are the establishment of a stabilization period for internal containment pressure, and a verification test to help check the accuracy of leakage detection methods. The leakage limits are also more closely defined in this proposed revision. The new section on "Corrective Action" gives detailed options on what may be done to limit leakage during the primary containment integrated leak rate test (PCILRT). This specification allows for repairs and local testing of the repairs. It also allows for the re-commencement of the PCILRT without the required stabilization period if containment was not depressurized. The testing frequency of 3 times in 10 years, or approximately every 40 months is established and the reference to doing the pre-operational test is eliminated.

The major modification to the LLRT program is the modification to the drywell airlock test. The 35 psig peak pressure airlock test required by Appendix J is established, but because of concerns described in NUREG/CR–4398 the frequency of airlock tests at 35 psig will be limited. When permissible a 10 psig test will be utilized. The acceptance criteria for the LLRT program is established as well as a testing frequency for it. The proposed amendment would add a limiting condition for operation (LCO) in TS section 3.5 to limit plant operation when the airlock is not operable.

There is no plant configuration change nvolved with this TS change request. The testing described is a surveillance program designed to verify primary containment integrity. The program outlined is designed to bring the current program in conformance with the requirements of Appendix J to 10 CFR Part 50 as detailed in ANSI/ANS 56.8–1981.

The Commission has provided guidance concerning the application of the standards of 10 CFR 50.92 for determining when a significant hazard consideration is likely not to exists by providing certain examples as discussed in the **Federal Register** on March 6, 1986 (51 FR 7751). Example (i) relates to a purely administrative change to Technical Specifications, i.e., a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature. Example (ii) relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications; i.e., a more stringent surveillance requirement. Example (vii) relates to a change to make a license conform to changes in the regulations, when the license change results in very minor changes to facility operations clearly in keeping with the regulations.

The change in the numbering scheme is clearly an administrative change as described in example (i). The addition of Specification 3.5.A.3.b is consistent with both examples (ii) and (vii). The modifications and additions made to Specifications 4.5.A through 4.5.G are related to example (ii) in that a more stringent and comprehensive surveillance requirement is established. Example (vii) also relates in that the surveillance program, in the form presented in this proposal, is defined by a regulation to which the license is conforming to by the proposed amendment.

In addition, the proposed changes to the TS will not involve a significant hazards consideration because operation of Oyster Creek Nuclear Generating Station in accordance with these changes would:

(1) Not involve a significant increase in the probability or consequences of an accident previously evaluated. This amendment re-defines the leak rate testing program for primary containment. This program is designed to ensure that the primary containment is able to perform its design function. That function is to contain the energy and the radioactive release of the design basis loss of coolant accident. Therefore, this change cannot increase the probability or consequences of an accident previously evaluated.

(2) Not create the possibility of a new or different kind of accident from any previously analyzed. It has been determined that, because this amendment more clearly establishes the requirements and methods of testing the primary containment integrity and does not involve a change in the containment configuration, this change will not create the possibility of a new or different kind of accident from any previously evaluated.

(3) Not involve a significant reduction in a margin of safety. This proposed amendment has increased the requirements, as established in Appendix J, in the TS that the primary containment must meet to be considered operable. Therefore, this change will not reduce the margin of safety.

This proposed amendment reflects the rquirements of Apendix J to 10 CFR Part 50 as described in ANSI/ANS Standard 56.8–1981. No changes proposed in this amendment are outside the scope of those two documents.

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.

Written 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, and should cite the publication date and page number of this **Federal Register** notice. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street, NW, Washington, DC.

By September 12, 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. Request 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 pemitted 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 procceding 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 as 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 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 effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing 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 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. 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, DC 20555, Att: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW Washington, DC. 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 John A. Zwolinski, Director, BWR Project Directorate #1, Division of BWR Licensing: 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 Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC. 20555, and to Ernest L. Blake, Jr., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW, Washington, DC 20036, 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, DC, and at the Local Public Document Room located at the Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

Dated at Bethesda, Maryland, this 8th day of August 1986.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, BWR Project Directorate No. 1, Division of BWR Licensing.

[FR Doc. 86-18238 Filed 8-12-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 030-03347, License No. 45-10831-02, EA 86-107]

Maryview Hospital; Confirmatory Order Modifying License

I

Maryview Hospital, 3636 High Street, Portsmouth, VA 23707 (the licensee) holds Byproduct Material License No. 45-10831-02, which authorizes the licensee to possess and use various radiopharmaceuticals and sealed sources for diagnosis and treatment of humans. The license was renewed on April 8, 1985 and will expire on April 30, 1990.

II

On April 9, 1986 a patient was scheduled to receive a therapy dose of phosphorus-32 as colloidal chromic phosphate. However, the patient was administered a therapy dose of phosphorus-32 as sodium phosphate. The difference in chemical form resulted in an unintended dose of several hundred rads to the patient's bone marrow. The licensee identified and reported the misadministration to the NRC on April 9, 1986, the day it occurred.

The circumstances surrounding the misadministration were reviewed during

a special safety inspection that was conducted by the NRC Region II staff on April 11, 1986. It was determined that the misadministration resulted from a failure of the licensee to require that written prescriptions be used for ordering therapy doses. In this case, a verbal order was misinterpreted after being relayed through a third party.

The NRC is concerned that the circumstances surrounding the misadministration reflect inadequate control over the safe use of licensed material. On April 10, 1986 Region II issued a Confirmation of Action Letter documenting commitments made by the licensee to establish and implement written procedures for ordering licensed material for therapy doses by written prescription as described in Appendix E of NRC Regulatory Guide 10.8 (Revision 1, dated October 1980), "Guide for the Preparation of Applications for Medical Programs," to prevent such misadministrations in the future. These commitments also were discussed at an Enforcement Conference on May 2, 1986. Implementation of these corrective actions should provide greater assurance that future radiopharmaceutical therapies will be performed as prescribed. Because of the importance of these commitments to the safe and appropriate use of licensed material, I have determined that the public health, safety, and interest require that the licensee's commitments should be confirmed by an immediately effective Order.

III

In view of the foregoing and pursuant to sections 81, 161(b), and 161(o) of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and Parts 30 and 35, it is hereby ordered, effective immediately, that:

1. The licensee shall implement procedures for ordering and receiving licensed material for therapy doses including the use of written requests as described in items 1 and 2 of Appendix E of NRC Regulatory Guide 10.8 (Revision 1, dated October 1980), "Guide for the Preparation of Applications for Medical Programs."

2. The licensee shall ensure that individuals administering therapy doses verify each patient dose as described in item 6.b. of Appendix G of NRC Regulatory Guide 10.8 (Revision 1, dated October 1980), "Guide for the Preparation of Applications for Medical Programs."

The Regional Administrator, NRC Region II, may relax or terminate any of the preceding conditions for good cause.

IV

The licensee or any other person adversely affected by this Order may request a hearing on this Order. Any request for hearing shall be sent, within 20 days of the date of issuance of this Order, to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. A copy of any hearing request also shall be sent to the Assistant General Counsel for Enforcement at the same address. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested by the licensee or any person who has an interest adversely affected by this Order, the Commission will issue an Order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Dated at Bethesda, Maryland, this 7th day of August 1986.

For the Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

[FR Doc. 86-18241 Filed 8-12-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-133-OLA ASLBP No. 86-536-07 LA]

Pacific Gas and Electric Co.; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Pacific Gas and Electric Company

Humboldt Bay Power Plant, Unit No. 3, Facility Operating License No. DPR-7

This Board is being established pursuant to a notice published by the Commission on July 3, 1986 in the **Federal Register** (51 FR 24458-59) entitled "Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing." The proposed amendment is in response to Licensee's application and Environmental Report dated July 30, 1984, as revised through June 12, 1986, related to decommissioning the facility.

The Board is comprised of the following administrative judges:

Dr. Robert M. Lazo, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Dr. James H. Carpenter, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washingotn, DC 20555

Dr. Peter A. Morris, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Issued at Bethesda, Maryland, this 7th day of August, 1986.

Robert M. Lazo,

Acting Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 86-18260 Filed 8-12-86; 8:45 am]

BILLING CODE 7590-01-M

PENSION BENEFIT GUARANTY CORPORATION

[Case No. 120-570]

Request for Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer That Contributes to a Multiemployer Plan: CHF Industries, Inc. (Cameo Curtains)

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from CHF Industries, Inc., for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974. Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not result in a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years beginning after the sale. ERISA authorizes the PBGC to grant an exemption from this requirement after giving interested persons an opportunity to comment on the exemption request. The effect of this notice is to advise interested persons of this exemption request and to solicit their views on it.

DATE: Commenters must submit comments on or before September 29, 1986.

ADDRESSES: Commenters should address all written comments to: Director, Corporate Policy and Regulations Department (35100), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006. The exemption request and the comments received will be available for public inspection at the PBGC Communications and Public Affairs Department, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Corporate Policy and Regulations Department (35100), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006; 202–956–5050 (202–956–5059 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

Section 4204(a)(1) of the Employee Retirement Income Security Act of 1974 ("ERISA") provides that a bona fide arm's-length sale of assets to an unrelated party by an employer that contributes to a multiemployer pension plan will not result in a withdrawal if three conditions are met. These conditions, listed in section 4204(a)(A)(1)–(C), are that—

(A) The purchaser has an obligation to contribute to the plan for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years before the year of sale or the seller's required annual contribution for the plan year before the year of sale; and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay its liability to the plan, the seller will be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above will be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) and the contract-provision requirement of section 4204(a)(1)(C). The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of plans with the least practicable intrusion into normal business transactions. The granting of an exemption from the requirements of section 4204(a)(1) (B) or (C) is not a finding by the PBGC that the transaction satisfies the other requirements of section 4204(a)(1).

Under § 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets (29 CFR Part 2643), the PBGC will approve an exemption request if it determines that approval of the exemption—

(1) Will more effectively or equitably carry out the purposes of Title IV of ERISA; and

(2) Will not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for an exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed exemption.

The Request

The PBGC has received a request from CHF Industries, Inc. ("CHF"), to waive the bond/escrow requirement of section 4204(a)(1)(B) of ERISA. (The request antedates the amendments to 29 CFR Part 2643 that were published in the **Federal Register** on May 31, 1984 (49 FR 22635).) The applicant represents, among other things, as follows:

(1) Effective January 3, 1983, CHF purchased the assets of M&HR Corp. (formerly Cameo Curtains, Inc.) ("M&HR").

(2) In connection with the sale, CHF assumed M&HR's obligation to contribute to the ILGWU National Retirement Fund ("the Fund").

(3) The Fund has informed CHF that the amount of the bond or escrow required of CHF under section 4204(a)(1)(B) is $43,687. The estimated amount of the withdrawal liability that M&HR would otherwise incur as a result of the sale if section 4204 did not apply to the sale is $345,000.

(4) CHF stated that the request for an exemption should be granted on a *de minimis* basis. Based on information provided to CHF by the Fund, the average annual contributions made by all employers to the Fund for the three plan years preceding the plan year in which the sale occurred were $144,505,961. Thus, the amount of the bond/escrow is about three-hundredths of one percent of the amount of employer contributions. The PBGC is considering granting this request on a *de minimis* basis.

(5) The applicant has sent a copy of this request (excluding copies of financial statements included with the request) to the Fund and the collective bargaining representatives of the former employees of M&HR by certified mail, return receipt requested.

Comments

The PBGC invites all interested persons to submit written comments on the pending exemption request to the above address by September 29, 1986. The PBGC will make all comments a part of the record. Comments received, as well as the application for exemption, will be available for public inspection at the address set forth above.

Issued at Washington, DC, on this 7th day of August 1986.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 86–18164 Filed 8–12–86; 8:45 am]

BILLING CODE 7708–01–M

POSTAL SERVICE

Proposed Changes in INTELPOST Service Rates and Fees

AGENCY: Postal Service.

ACTION: Notice with invitation for public comment.

SUMMARY: To reflect cost increases and changes in the methods of providing the service, the Postal Service proposes new INTELPOST Service rates and fees.

Present INTELPOST postage rates consist of a single uniform rate of $5.00 a page, regardless of the number of pages sent by the customer. This rate was established when INTELPOST service was a new experimental service provided by means of a distributed computer network interconnected by leased lines, for which only estimated mail volume statistics were available. The proposed rate is $10.00 for the first page of a document and $6.00 for the second and each additional page. The proposal reflects: (a) Increases in the level of costs associated with the provision of the service; (b) changes in the method of providing the service; (c) higher costs for the first page of each document; and, (d) the fact that the service, although still in an experimental stage, is no longer new to the market.

The proposal also would simplify the special handling and delivery fee

structure for INTELPOST service by including a new $5.00 special handling and delivery fee which does not vary from country to country. The present practice is to charge a different special handling and delivery fee based on the destinating countries' charge for such additional service.

DATE: Comments must be received on or before September 11, 1986.

ADDRESS: Written comments should be provided to the Director, Office of Rates and Classification Department, U.S. Postal Service, Washington, DC 20260–5350. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in room 8620, 475 L'Enfant Plaza West SW., Washington, DC 20260–5350.

FOR FURTHER INFORMATION CONTACT: Leon W. Perlinn, (202) 268–2673.

SUPPLEMENTAL INFORMATION: INTELPOST Service is the fastest international postal service for documents, in which the exchange of mail between U.S. and foreign post offices is accomplished by means of electronic facsimile technology. A detailed description of the service is published in Notice 82A, the U.S. Postal Service's "INTELPOST Directory and User's Guide" (September 1985).[1]

In order to obtain the views of customers and other interested parties, the Postal Service has decided to invite public comments on the proposed changes in INTELPOST service rates and fees before initiating any changes in Notice 82A, referred to above. If the proposal is adopted, a notice of the adoption of the proposal will be published in the **Federal Register.**

Authority: 39 U.S.C. 401, 403, 404, 407, 410.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 86–18163 Filed 8–12–86; 8:45 am]

BILLING CODE 7710–12–M

Privacy Act of 1974; Systems of Records

AGENCY: Postal Service.

ACTION: Final and Interim Notice of modifications to existing systems of records.

SUMMARY: The purposes of this notice are: (1) To expand the population of individuals covered by two Postal Service systems of records, USPS 050.020 and USPS 120.070. These changes are necessary due to the Civil Service Retirement Spouse Equity Act of 1984 (Pub. L. 98–615) which requires the Postal Service to maintain information on certain former spouses who may be eligible for health benefits coverage under the Federal Employees Health Benefits Program; (2) to publish notice of the deletion of two temporary routine uses (29 and 33) to system 050.020; and (3) to make revisions to the "Retention and Disposal" sections of systems: USPS 010.010, USPS 010.020, USPS 050.020, USPS 120.035, USPS 120.151, USPS 120.152 and USPS 140.020.

EFFECTIVE DATE: Part 1 of this notice is effective on an interim basis, on August 13, 1986, in order to correspond with the implementation provisions of Pub. L. 98–615. However, interested persons are invited to submit written data, views, or arguments concerning the changes in compliance with 5 U.S.C. 552a(e)(11). Comments must be received on or before September 12, 1986. Parts 2 and 3 are effective August 13, 1986.

ADDRESS: Comments on Part 1 may be mailed to the Records Officer, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–5010 or delivered to Room 8121 at the above address between 8:15 a.m. and 4:45 p.m. Comments received may also be inspected during the above hours in Room 8121.

FOR FURTHER INFORMATION CONTACT: Rubenia Carter, Records Officer (202) 268–4872.

SUPPLEMENTARY INFORMATION:

PART 1—System Modification to Expand the Population Covered

Under the provisions of Pub. L. 98–615, certain former spouses of Federal/Postal Service employees and Civil Service Retirement annuitants may qualify for health benefits coverage under the Federal Employees Health Benefits Program. As a result, the Postal Service will maintain health benefits information pertaining to former spouses of current and former postal employees who qualify and apply for health benefits coverage. A complete statement of the existence and character of systems 050.020 and 120.070 last appeared in 50 FR 28883 dated July 16, 1985, and 40 FR 10980 dated March 15, 1983, respectively. Therefore, systems 050.020 and 120.070 must be modified as follows to describe the expansion of the population of individuals covered by those systems that will be necessary to administer this activity:

USPS 050.020, Finance Records—Payroll System

Categories of Individuals Covered by the System

Change to read: "Current and former USPS employees; postmaster relief/replacement employees, and certain former spouses of current and former postal employees who qualify for Federal Employees Health Benefits coverage under Pub. L. 98–615."

USPS 120.070, Personnel Records—General Personnel Folder (Official Personnel Folders and records related thereto)

Categories of Individuals Covered by the System

Change to read: "Present and former USPS employees; and certain former spouses of current and former postal employees who qualify and apply for Federal Employees Health Benefits coverage under Pub. L. 98–615."

PART 2—Deletion of two temporary Routine Uses

Temporary Routine Uses No. 30 and No. 34 to system 050.020 were published in 49 FR 37488 and 50 FR 6087 dated September 24, 1984, and February 13, 1985, respectively, to be in effect for a period of one year from dates of publication. These routine uses were subsequently renumbered 29 and 33. See 50 FR 28862. While in effect, Routine Use 29 allowed for the disclosure to the DC Department of Human Resources (DC–DHS) of information about particular postal employees to identify welfare recipients who are employed by the Postal Service in the District of Columbia, and in the States of Maryland and Virginia and who have not reported their earnings from postal employment to the DC–DHS. Routine Use 33 allowed on a one-time basis, the disclosure to the Office of the Philadelphia, Pennsylvania School District (PSD) and the City of Philadelphia (CP), of information to be used to identify postal employees who may have fraudulently received compensation benefits from either the Postal Service, the PSD or the CP.

The effective period of one year elapsed for Routine Use 29 on September 24, 1985, and for Routine Use 33 on February 13, 1986. Routine uses 29 and 33 are being deleted, and existing routine uses 30, 31 and 32 are renumbered 29, 30 and 31, respectively.

PART 3—Minor Modification to Existing Systems

The Postal Service published final notices that, among other things, changed the "Retention and Disposal"

[1] This document may be obtained by writing or calling the Office of Marketing, Market Development Division, U.S.P.S. Headquarters, 475 L'Enfant Plaza West SW., Washington, DC 20260–6331, telephone (202) 268–2275.

sections of several of its systems of records, e.g., Federal Register notice dated July 16, 1985, (50 FR 28863) affected system USPS 050.020, and notice dated November 15, 1985, (50 FR 47311) affected USPS systems 010.010, 010.020, 120.035, 120.151, 120.152, and 140.020. The notices changed the "Retention and Disposal" sections of these systems to read: "See USPS records control schedules." However, reconsideration has been given to this matter and it has been determined that Postal Service systems should contain the specific retention and disposal information as part of the systems descriptions for ease of reference purposes. Therefore, the term "See USPS records control schedules" is being deleted from the above-mentioned systems and replaced with specific retention and disposal information as indicated below. Accordingly, this constitutes final notice of changes to the "Retention and Disposal" sections of those systems.

USPS 010.010, Collection and Delivery Records—Address Change and Mail Forwarding Records

Retention and Disposal

Change to read "a. Source document retained for 18 months from effective date and then destroyed by shredding or burning.

b. Information on magnetic tape is retained for 18 months from effective date. At the end of the period, the tapes are erased."

USPS 010.020, Collection and Delivery Records—Boxholder Records

Retention and Disposal

Change to read "a. Boxholder Applications—Destroy 2 years after termination of the rental.

b. Post Office Box Renter Register for Caller Service Fees—Destroy 2 years from date of last entry on card. If automated, delete this customer's record upon termination of the box rental or caller service.

c. Post Office Box and Caller Service Records: (1) Closed Files and Index Cards—Destroy 6 months from date of closing. (2) Closed Appeal Files—Destroy when 1-year old."

USPS 050.020, Finance Records—Payroll System

Retention and Disposal

Change to read "a. Leave Application Files (Absence Control) and Unauthorized Overtime—Destroy when 2 years old.

b. Time and Attendance Records (other than payroll) and local payroll records—Destroy when 3-years old.

c. PDC records retention—contact PDC Payroll Office or Records Office.

USPS 120.035, Personnel Records—Employee Accident Records and Exposure Records

Retention and Disposal

Change to read "Records are maintained locally for 2 years. Copies are maintained at National Headquarters for 5 years following the end of the calendar year to which they relate as required by OSHA."

USPS 120.151, Personnel Records—Recruiting, Examining and Appointment Records

Retention and Disposal

Change to read "a. Applications for Employment—Dispose of upon expiration of eligibility, unless extended for an additional year at the request of the eligible.

b. Applications for Master Instructor Positions—Destroy 3 years after date of selection.

c. Employment Registers: (i) Notice of Rating Card—Forward to applicant. (ii) Record and Register Cards—Destroy when 10-years old.

d. Outside Applicant Files: (i) Successful Applicant Files—Move PS 50B or PS 52, as appropriate, to the OPF. Dispose of all other forms and papers when 6-months old. (ii) Unsuccessful Applicant File—Dispose of when 1 year old."

USPS 120.152, Personnel Records—Career Development, Training, and Training Evaluation Records

Retention and Disposal

Change to read "a. Management Training Program Records: (1) Trainee's Individual Files—Destroy 5 years from the date trainee leaves the program. (2) Trainee Travel Records—Destroy 1 year from date trainee leaves program. (3) Travel files of postal manager in connection with program—dispose of when 1-year old.

b. Nomination for Executive Leadership Files—Destroy 1 year from date of selection.

c. Employee Training Files—Destroy 5 years from date of training.

d. Case Examination Records—Destroy 1 year from date of separation of employee.

Certain records of examinations are maintained as part of USPS 120.120, Personnel Records—Personnel Research and Test Validation Records."

USPS 140.020, Postage—Postage Meter Records

Retention and Disposal

Change to read "Records are maintained for 1 year after final entry or the duration of the license and then destroyed by shredding."

A complete statement of these systems as revised appears below.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

USPS 010.010

SYSTEM NAME:

Collection and Delivery Records—Address Change and Mail Forwarding Records, 010.010.

SYSTEM LOCATION:

Post Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Postal customers requesting mail forwarding services from their local postal facilities and any postal customers who are victims of a disaster who have requested mail forwarding services through the Red Cross.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain customer name, old address, new mailing address, mail forwarding instructions, effective date, information as to whether the move is permanent or temporary and the customer's signature.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 403, 404.

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

Purpose—(1) To provide mail forwarding and address correction services to postal customers who have changed address; and (2) To provide address information to the Red Cross about a postal customer who has been relocated because of a disaster.

Use—

1. Disclosure of the address of any named individual may be made from a permanent address change record to the public, upon request.

Note.—Temporary changes of address will not be furnished except by the postmaster upon a showing of a compelling emergency situation, or to a Federal, State, or local government agency showing proper identification and providing proper certification that the information is required in the course of a criminal investigation.

2. Disclosure may be made to a congressional office from the record or

an individual in response to an inquiry from the congressional office made at the request of the individual.

3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

4. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

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

STORAGE:

This source document is stored in filing cabinets at the delivery unit. They are filed alphabetically by name within month or quarter. Records generated from the source document are stored on cards or list forms or recorded on magnetic tape where central markup is computerized. These records are filed alphabetically by name and route number or zone.

RETRIEVABILITY:

This system of records is indexed by names and address. Information may be retrieved by route number of ZIP Code where a computerized system is in use.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

a. Source document retained for 18 months from effective date and then destroyed by shredding or burning.

b. Information on magnetic tape is retained for 18 months from effective date. At the end of that period, the tapes are erased.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Delivery Service Department, Headquarters.

NOTIFICATION PROCEDURE:

Customers wishing to know whether information about them is maintained in this system of records should address inquiries to their local postmaster. Inquiries should contain full name and address, effective date of change order, route number (if known) and ZIP Code.

RECORD ACCESS PROCEDURES:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains.

USPS 010.020

SYSTEM NAME:

Collection and Delivery Records—Boxholder Records, 010.020.

SYSTEM LOCATION:

Post Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Postal customers who have applied for or expressed an interest in post office box or caller services, whether for private or public use.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records are in printed or card form and contain name, addresses, telephone number, record of payment, post office box service preference and the names of persons or agents whether family members, business associates, or employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 403, 404.

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

Purpose—To provide post office box services to postal patrons.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

2. Disclosed to a Federal, State or local government agency upon prior written certification that the information is required for the performance of its official business.

3. Disclosed to persons authorized by law to serve judicial process when necessary to serve process.

4. Disclosure of the name, address, and telephone number may be made from the post office box application form, to the public, upon request, when the box is being used for the purpose of doing or soliciting business with the public.

5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

6. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

7. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

8. May be disclosed to a Federal or State agency providing parent locator services or to other authorized persons as defined by Pub. L. 93–647.

9. Disclosure of address information may be made, upon prior written certification from a foreign government agency citing the relevance of the information to an indication of a violation or potential violation of law and its responsibility for investigating or prosecuting such violation, and only if the address is—(1) outside of the United States and its territories, and (2) within the territorial boundaries of the requesting foreign government.

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

STORAGE:

Information is stored on printed or card form filed in metal cabinets. In locations where the records have been automated, information may be found on magnetic tape, magnetic cards or mylar strips.

RETRIEVABILITY:

Information is filed according to local needs, and the volume of records. Billing forms are filed numerically by box number within month in which rent is due. Applications are filed alphabetically by name of individual or firm.

SAFEGUARDS:

Access limited to employees working in the boxholder section.

RETENTION AND DISPOSAL:

a. Boxholder Applications—Destroy 2 years after termination of the rental.

b. Post Office Box Renter Register for Caller Service Fees—Destroy 2 years from date of last entry on card. If automated, delete this customer's record upon termination of the box rental or caller service.

c. Post Office Box and Caller Service Records:

1. Closed Files and Index Cards—Destroy 6 months from date of closing.

2. Closed Appeal Files—Destroy when 1 year old.

SYSTEM MANAGER(S) ADDRESS:

APMG, Delivery Service Department.

APMG, Department of the Controller, Headquarters.

APMG, Rates & Classification Department, Headquarters.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the local postmaster, requestors in person should identify themselves with drivers license, military, government or other form of identification.

RECORD ACCESS PROCEDURES:

See "NOTIFICATION" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION" above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains.

USPS 050.020

SYSTEM NAME:

Finance Records—Payroll System.

SYSTEM LOCATION:

Payroll system records are located and maintained in all Departments, facilities and certain contractor sites of the Postal Service. However, Postal Data Centers are the main locations for payroll information. Also, certain information from these records may be stored at emergency records centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former USPS employees, postmaster relief/replacement employees, and certain former spouses of current and former postal employees who qualify for Federal Employees Health Benefits coverage under Pub. L. 98–615.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain general payroll information including retirement deduction, family compensations, benefit deductions, accounts receivable, union dues, leave data, tax withholding allowances, FICA taxes, salary, name, social security number, payments to financial organizations, dates of appointment or status changes, designation codes, position titles, occupation code, addresses, records of attendance, and other relevant payroll information. Also includes automated Form 50 records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 1003.5 U.S.C. 8339.

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

Purpose—

1. Information within the system is for handling all necessary payroll functions and for use by employee supervisors for the performance of the managerial duties.

2. To provide information to USPS management and executive personnel for use in selection decisions and evaluation of training effectiveness. These records are examined by the Selection Committee and Regional Postmasters General.

3. To compile various lists and mailing list, i.e., Postal Leader, Women's Programs, Newsletter, etc.

4. To support USPS Personnel Programs such as Executive Leadership, Non-Bargaining Positions Evaluations of Probationary Employees, Merit Evaluation, Membership and Identification Listings, Emergency Locator Listings, Mailing Lists, Women's Programs, and to generate retirement eligibility information and analysis of employees in various ranges.

Use—

1. Retirement Deduction—To transmit to the Office of Personnel Management a roster of all USPS employees under Title 5 U.S.C. 8334, along with a check.

2. Tax Information—To disclose to Federal, State and local government agencies having taxing authority, pertinent records, relating to individual employees, including name, home address, social security number, wages and taxes withheld for other jurisdiction.

3. Unemployment Compensation Data—To reply to State Unemployment Offices at the request of separated USPS employees.

4. Employee Address File—For W–2 tax mailings and Postal mailing such as Postal Life, Postal Leaders, etc.

5. Salary payments and allotments to financial organizations—To provide pertinent information to organizations receiving salary payments or allotments as elected by the employee.

6. FICA Deductions—The Social Security Act requires that FICA deductions be made for those employees not eligible to participate in the Civil Service Retirement System (casuals). In addition, the Tax Equity and Fiscal Responsibility Act of 1982 requires that contributions to the Medicare program be deducted from all employees' earnings. (These statutes do not apply to employees in the Trust Territories who are not U.S. citizens.) Accordingly, records of earnings (i.e., W–2 information) must be disclosed to the Social Security Administration in order that it may account for funds received and determine individual's eligibility for benefits. Information disclosed includes name, address, SSN, wages paid subject to withholding, Federal, state, and local income tax withheld, total FICA wages paid and FICA tax withheld, occupational tax, life insurance premium and other information as reported on an individual's W–2 form.

7. Determine eligibility for coverage and payments of benefits under the Civil Service Retirement System, the Federal Employees Group Life Insurance Program and the Federal Employees Health Benefits Program and transfer related records as appropriate.

8. Determine the amount of benefit due under the Civil Service Retirement System, the Federal Employees, Group Life Insurance Program and the Federal Employees Health Benefits program and authorizing payment of that amount and transfer related records as appropriate.

9. Transfer to Office of Workers Compensation Program, Veterans Administration Pension Benefits Program, Social Security Old Ages Survivors and Disability Insurance and Medicare Programs, military retired pay programs, and Federal Civilian employee retirement systems other than the Civil Service Retirement System, when requested by that program or system or by the individual covered by this system for use in determining an individual's claim for benefits under such system.

10. Transfer earnings information under the Civil Service Retirement System to the Internal Revenue Service as requested by the Internal Revenue Code of 1954, as amended.

11. Transfer information necessary to support a claim for life insurance benefits under the Federal Employees' Group Life Insurance, 4 East 24th Street, New York, NY 10010.

12. Transfer information necessary to support a claim for health insurance benefits under the Federal Employees' Health Benefits Program to a health insurance carrier or plan participating in the program.

13. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature to the appropriate agency whether Federal, State, or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

14. To request or provide information from or to a Federal, state, or local agency maintaining civil, criminal, or

other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant, or other benefits.

15. As a date source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies, may also be utilized to respond to general requests for statistical information (without personal identification of Individuals) under the Freedom of Information Act or to locate specific individual for personnel research or other personnel management functions.

16. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

17. Certain information pertaining to Postal Supervisors may be transferred to the National Association of Postal Supervisors.

18. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

19. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

20. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

21. Inactive records may be transferred to a Federal Records Center prior to destruction.

22. To provide to the Office of Personnel Management (OPM) approximately 19 data elements (including SSAN, DOB, service computation date, retirement system, and FEGLI status) for use by OPM's Compensation Group collected are not for the purpose of making determinations about specific individuals but are used only as a means of ensuring the integrity of the active employee/annuitant data systems and for analyzing and statistically projecting Federal retirement and insurance system costs. The same data submission will be used to produce summary statistics for reports of Federal employment.

23. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR 1613, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

24. Records in this system are subject to review by an independent certified public accountant during an official audit of Postal Service finances.

25. May be disclosed to a Federal or State agency providing parent locator services or to other authorized persons as defined by Pub. L. 93–647.

26. Disclosure of informaton about particular postal employees may be made to requesting states in connection with approval computer matching programs, limited to only those data elements considered relevant to making a determination of eligibility under unemployment insurance programs administered by the states (and by those states to local governments); to improve program integrity; and to collect debts and overpayments owed to those governments and their components.

27. To union-sponsored insurance carriers for the purposes of determining eligibility for coverage and payments of benefits under union-sponsored non-Federal insurance plans and transferring related records as appropriate.

28. Disclosure of information about particular current or former postal employees may be made to requesting Federal agencies or non-Federal entities under approved computer matching efforts, limited to only those data elements considered relevant to making a determination of eligibility under particular benefit programs administered by those agencies or entities or by the Postal Service; to improve program integrity; and to collect debts and overpayments owned under those programs.

29. (Temp.) To provide the Department of Housing and Urban Development the names, social security account numbers and home addresses of postal employees for the purpose of notifying those individuals of their indebtedness to the United States under programs administered by the Secretary of Housing and Urban Development and for taking subsequent actions to collect those debts.

Note.—This routine use will be in effect for a period of five years ending September 24, 1989.

30. To provide to the Department of Defense (DOD) upon request, on a semiannual basis, the names, social security account numbers and home addresses of current postal employees for the purposes of identifying those employees who are indebted to the United States under programs administered by the Secretary, DOD, and for taking subsequent actions to collect those debts.

31. To provide to the Department of Defense (DOD), upon request, on an annual basis, the names, social security account numbers, and salaries of current postal employees for the purposes of updating DOD's listings of Ready Reservists and reporting reserve status informaton to the Postal Service and the Congress.

POLICE AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEMS:

STORAGE:

Preprinted forms, magnetic tape, microforms, punched cards, computer reports and card forms.

RETRIEVABILITY:

These records are organized by location, name and social security number.

SAFEGUARDS:

Records are contained in locked filing cabinets; are also protected by computer passwords and tape library physical security.

RETENTION AND DISPOSAL:

a. Leave Application Files (Absence Control) and Unauthorized Overtime—Destroy when 2 years old.

b. Time and Attendance Records (Other than payroll) and local payroll records—Destroy when 3 years old.

c. PDC records retention—contact PDC Payroll Office or Records Office.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Department of the Controller and APMG, Employee Relations Departments at Headquarters.

NOTIFICATION PROCEDURE:

Request for information on this system of records should be made to the head of the facility where employed giving full name and social security number. Headquarters employees should submit requests to the System Manager.

RECORD ACCESS PROCEDURE:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURE above.

RECORD SOURCE CATEGORIES:

Information is furnished by employees, supervisors and the Postal Source Data System.

USPS 120.035

SYSTEM NAME:

Personnel Records-Employee Accident Records, and Exposure Records, 120.035

SYSTEM LOCATION:

Safety offices in any USPS facility.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees that experience an on-the-job accident and/or an occupational injury or illness.

CATEGORIES OF RECORDS IN THE SYSTEM:

Occupational accident injury and illness logs, forms, reports, and summaries. Name, address, sex, age, and type of accident.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 91–596, Executive Order 12196, and 29 CFR Part 1960.

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

Purpose—

To assist postal managers in meeting the requirement to develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics. To provide for the uniform collection and compilation of occupational safety and health data, for proper evaluation and necessary corrective action.

Use—

1. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR Part 1613, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issued involved in the complaint.

2. To furnish the U.S. Department of Labor with serious accident reports, information to reconcile claims filed with the Office of worker's Compensation and quarterly and annual summaries of occupational injuries and illnesses; and to make information available to the Secretary of Labor upon his request.

3. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statue, or rule, regulation or order issued pursuant thereto.

4. Disclosure may be made to a court, claimant, party in litigation—or counsel for a claimant or party when necessary to facilitate settlement or attempts at settlement of claims involving the accident.

5. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in the Circular.

6. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

7. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

8. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

9. Inactive records may be transferred to a Federal Records Center prior to destruction.

10. May be disclosed to Compliance Safety and Health Officers or to Compliance Safety and Health Officers—Industrial Hygienists from the Occupational Safety and Health Administration, or to Industrial Hygienists from the National Institute for Occupational Safety and Health, when conducting announced or unannounced inspections or investigations of postal facilities.

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

STORAGE:

Information in this system is maintained on index cards, magnetic tape, microfilm, preprinted forms, logs, and computer reports.

RETRIEVABILITY:

Employee name and social security number.

SAFEGUARDS:

Maintained in closed file cabinets within secured facilities, and are also protected by computer password and tape or disk library physical security.

RETENTION AND DISPOSAL:

Records are maintained locally for 2 years. Copies are maintained at National Headquarters for 5 years following the end of the calendar year to which they relate as required by OSHA.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department, Headquarters.

NOTIFICATION PROCEDURE:

Employees wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility where employed. Headquarters employees about submit requests to the SYSTEM MANAGER. Inquiries should contain full name, address, finance number and social security number.

RECORD ACCESS PROCEDURES:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

USPS Accident Reports and OWCP claim forms.

USPS 120.070

SYSTEM NAME:

Personnel Records—General Personnel Folder (Official Personnel folders and records related thereto), 120.070.

SYSTEM LOCATION:

Personnel Offices of all USPS facilities; St. Louis Personnel Records Centers, E&LR Information Centers and National Test Administration Center.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former USPS employees, and certain former spouses of current and former postal employees who apply

for Federal Employee Health Benefits coverage under Pub. L. 98–615.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications, resumes, merit evaluations, promotion/salary change and other personnel actions, letters of commendation, records of disciplinary actions, letters of commendation, records of disciplinary action, health benefit and life insurance elections and other documents pertaining to preemployment, prior Federal employment and current service as prescribed by USPS directives.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 1001, 1005 42 U.S.C. 2000e–16. Executive Orders 11478 and 11590.

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

Purpose—Used by administrators in Personnel Office and by individual employee supervisors to perform routine personnel functions.

Use—

1. To provide information to a prospective employer of a USPS employee or former USPS employee.

2. To provide statistical reports to Congress, agencies, and the public on characteristics of the USPS work force.

3. To provide information or disclose to a Federal agency, in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or issuance of a license, grant, or other benefit to the extent that the information is relevant and necessary.

4. To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, relevant to a decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

5. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

6. To provide data for the compilation of a local seniority list that is used by management to make decisions pertaining to appointment and assignments among craft personnel. The list is posted in local facilities where it may be reviewed by USPS employees.

7. Transfer to the OPM upon retirement of an employee for processing retirement benefits.

8. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

9. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

10. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

11. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding, to which the Postal Service is party before a court or administrative body.

12. Disclosure of relevant and necessary information pertaining to an employee's participation in health, life insurance and retirement programs may be made to the Office of Personnel Management and private carriers for the provision of related benefits to the participant (also see USPS 050.020).

13. Disclosure of minority designation codes may be made to the Equal Employment Opportunity Commission for the oversight and enforcement of Federal EEO regulations.

14. Disclosure of records of discipline relating to individual employees may be made to State Employment Security Agencies at the initial determination level of the unemployment compensation claim process.

15. Disclosure may be made to the Merit Systems Protection Board from the record of an individual to the extent that the information is relevant and necessary to a decision on appeal over which the Board has jurisdiction.

16. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR 1613, and the contents of the request record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

17. Inactive folders are transferred to the GSA National Personnel Records Center for storage.

18. Information pertaining to an employee who is a retired military officer will be furnished to the appropriate service finance center as required under the provisions of the Dual Compensation Act.

19. May be disclosed to a Federal or State agency, providing parent locator services or to other authorized persons as defined by Pub. L. 93–647.

20. Records in this system are subject to review by an independent certified public accountant during an official audit of Postal Service finances.

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

STORAGE:

Paper files, preprinted forms, Official Personnel Folders, magnetic tape and other computer storage devices.

RETRIEVABILITY:

Employee name and location of employment and social security number.

SAFEGUARDS:

Folders are maintained in locked cabinets to which only authorized personnel have access and are also protected by computer passwords and tape or disc library physical security.

RETENTION AND DISPOSAL:

Change to read "a. Official Personnel Folder (OPF) Records—These records are considered to be permanent and are maintained until employee is separated, and then are sent to the National Personnel Records Center, St. Louis, for storage, or to another Federal agency to which the individual transfers employment.

b. Personnel Work Sheets—Destroy 30 days after a new PS 50 is issued.

c. Temporary Records of Individual Employees—Destroy when 2 years old, upon separation, or upon transfer of employee, whichever is sooner.

d. Service Record Cards—Destroy 3 years after separation or transfer of employee."

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department, Headquarters.

NOTIFICATION PROCEDURE:

Employees wishing to gain access to their Official Personnel Folders should submit requests to the facility head where employed. Headquarters employees should submit requests to the System Manager. Former Postal Service employees should submit request to any

Postal Service facility head giving name, date of birth and social security number. Former Post Office Department employees having no Postal Service employment (prior to July 1971) should submit the request to the Office of Personnel Management (formerly the U.S. Civil Service Commission).

RECORD ACCESS PROCEDURE:

See NOTIFICATION PROCEDURE above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURE above.

RECORD SOURCE CATEGORIES:

Individual employee, personal references, former employers and USPS 050.020 (Finance Records—Payroll System).

USPS 120.151

SYSTEM NAME:

Personnel Records—Recruiting, Examining and Appointment Records, 120.151.

SYSTEM LOCATION:

U.S. Postal Service personnel offices and/or other offices within Postal Service facilities authorized to engage in recruiting or examining activities or make appointments to positions.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Job applicants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal and professional resumes, personal applications, test scores, medical assessment, academic transcripts, letters of recommendation, employment certifications, medical records, and registers of eligibles. Restricted medical records are accumulated and temporarily maintained by personnel offices prior to transmittal to medical facilities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401,1001.

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

Purpose—To provide managers, personnel officials and medical officers information in recruiting and recommending appointment of qualified persons.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local charged with the responsibility of investigating or prosecuting such violating or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, relevant to a decision concerning the hiring of retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

3. Disclosure may be made to a Federal agency in connection with the hiring or retention of an employee, the letting of a contract or issuance of a license, grant or other benefit to the extent that the information is relevant and necessary to the agency's decision on that matter.

4. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

6. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

7. Disclosure may be made from the record of an individual, where pertinent in any legal proceeding to which the Postal Service is a party before a court or administrative body.

8. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR Part 1613, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

9. Inactive records may be transferred to a Federal Records Center prior to destruction.

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

STORAGE:

Paper files, index cards, magnetic tape, punched cards, preprinted forms and computer printed reports.

RETRIEVABILITY:

Job applicant name and/or social security number.

SAFEGUARDS:

Paper records are maintained in closed filing cabinents under scrutiny of designated managers. Computer records are maintained in secured facilities.

RETENTION AND DISPOSAL:

a. Applications for Employment—Dispose of upon expiration of eligibility, unless extended for an additional year at the request of the eligible. b. Applications for Master Instructor Positions—Destroy 3 years after date of selection. c. Employment Registers:

(i) Notice of Rating Card—Forward to applicant.

(ii) Record and Register Cards—Destroy when 10 years old. d. Outside Applicant Files:

(i) Successful Applicant Files—Move PS 50B or PS 52 as appropriate, to the OPF. Dispose of all other forms and papers when 6 months old.

(ii) Unsuccessful Applicant File—Dispose of when 1 year old.

SYSTEM MANAGER(S) AND ADDRESS:

APMG Employee Relations Department, Headquarters.

NOTIFICATION PROCEDURE:

Persons wishing to know whether information is contained on them in this system of records should address inquiries to the head of the facility to which job applications was made. Inquiries should contain full name, social security number, and if applicable, approximate date of application submitted and residence.

RECORD ACCESS PROCEDURE:

See NOTIFICATION PROCEDURE above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURE above.

RECORD SOURCE CATEGORIES:

Individual, school officials, former employers, supervisors, named references, Veterans Administration and State Division of Vocational Rehabilitation Counselors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Reference 39 CFR 266.9 for details.

USPS 120.152

SYSTEM NAME:

Personnel Records—Career Development, Training, and Training Evaluation Records, 120.152

SYSTEM LOCATION:

Postal Education and Development Centers [PEDCs] and other facilities within the Postal Service where career development training, and curriculum evaluation activities are authorized.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former postal employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Career development records, applications for and record of postal and non-postal training, and records containing student and manager evaluations of training received. Also contains examination and skills bank records, including records of special qualifications, skills or knowledge, career goals, education, and work histories or summaries.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401.1001.

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

To provide managers, supervisors, and training and development professionals with decision-making information for employee career development, training, and assignment.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

2. To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, relevant to a decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

3. Disclosure may be made to a Federal agency, in connection with the hiring or retention of an employee, the letting of a contract or issuance of a license, grant, or other benefit to the extent that the information is relevant and necessary to the agency's decision on that matter.

4. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

6. Disclosure may be made to a congressional office from the record of an individual in response to any inquiry from the congressional office made at the request of that individual.

7. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

8. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR Part 1613 and the contents of the requested record are needed by the investigator in the performance of his duty—to investigating a discrimination issues involved in the complaint.

9. Inactive records may be transferred to a Federal Records Center prior to destruction.

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

STORAGE:

Paper files, index cards, magnetic tape, punched cards, preprinted forms and computer printed reports.

RETRIEVABILITY:

Employee name and social security number.

SAFEGUARDS:

Paper records are maintained in closed filing cabinets under scrutiny of designated managers. Computer records are maintained in secured facilities.

RETENTION AND DISPOSAL:

a. Management Training Program Records: (1) Trainee's Individual Files—Destroy 5 years from the date trainee leaves the program. (2) Trainee Travel Records—Destroy 1 year from date trainee leaves program. (3) Travel files of postal manager in connection with program—dispose of when 1 year old.

b. Nomination for Executive Leadership Files—Destroy 1 year from date of selection.

c. Employee Training Files—Destroy 5 years from date of training.

d. Case Examinaton Records—Destroy 1 year from date of separation of employee.

Certain records of examinations are maintained as part of USPA 120.120, Personnel Records—Personnel Research and Test Validation Records.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee relations Department, APMG, Real Estate and Buildings Department, and APMG Customer Services Department Headquarters

NOTIFICATION PROCEDURE:

Current and former filed employees wishing to know whether information is contained on them in this system of records should address inquires to the head of the appropriate employment facility. Headquarters employees should submit requests to the System Manager Inquiries should contain full name and social security number.

RECORD ACCESS PROCEDURES:

See NOTIFICATION PROCEDURES above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION PROCEDURES above.

RECORD SOURCE CATEGORIES:

Information is obtained from the subject, subject's employment records and his/her supervisor.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Reference 39 CFR 266.9 for details.

USPS 140.020

SYSTEM NAME:

Postage—Postage Meter Records. 140.020.

SYSTEM LOCATION:

Post Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Postage meter users.

CATEGORIES OF RECORDS IN THE SYSTEM:

Customer name and address, license application, and transaction documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 404.

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

Purpose—To enable responsible administration of postage meter activities.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

2. To disclose identity and address of meter user and identity of agent or user to any member of public upon request.

3. Pursuant to the National Labor Relations Act records form this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

4. Disclosure may be made to a congressional office from the record of and individual in response to an inquiry from the congressional office made at the request of that individual.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

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

STORAGE:

Printed forms.

RETRIEVABILITY:

Records are indexed by customer name and by numeric file of postage meters.

SAFEGUARDS:

Records are maintained in closed file cabinets in secured facilites.

RETENTION AND DISPOSAL:

Records are maintained for 1 year after final entry or the duration of the license and then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Rates and Classification Department, Headquarters.

NOTIFICATION PROCEDURE:

Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the local postmaster from which license was obtained supplying name and meter number.

RECORD ACCESS PROCEDURE:

See "NOTIFICATION"above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION" above.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual and officials making entries to reflect activities.

[FR Doc. 86-18211 Filed 8-12-86; 8:45 am]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-23511; File No. SR-CBOE-86-27]

Self-Regulatory Organizations; Proposed Rule Change by Chicago Board Options Exchange, Inc., Relating to American-Style Foreign Currency Option Contracts

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 1, 1986 the Chicago Board Options Exchange, Incorporated filed with the Securities and Echange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed changes to the Exchange's foreign currency option trading rules in Chapter 22 will enable the Exchange to list for trading American-style foreign currency option contracts in addition to the European-style foreign currency option contracts listed now in the British pound, Canadian dollar, French franc, Japanese yen, Swiss franc and West German mark. The American-style contracts will be one half the size of the European-style contracts.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change is to enable the Exchange to list for trading American-style foreign currency option contracts that are one half the size of the Exchange's European-style contracts. The Commission has approved the concept of the multiple listing of nonequity options in its Release Number 34-18297 dated December 2, 1981. The earliest that the Exchange would list these contracts is September 15, 1986.

The differences in the two styles of contracts will be emphasized in the Exchange's educational efforts that will begin in August in order to minimize customer confusion. In addition to explanations in the Exchange's currency option newsletter, specification cards will be sent out and personal visits will be made to firms to clarify the differences for both clerks and brokers. Because the market is a professional one with a relatively small number of investors, the differences should be understood before trading begins on the Exchange in the American-style contracts.

The Exchange's proposed position and exercise limits are the same two types of limits customers have now. The only change in currency options margin requirements provides that American contracts can be spread off or straddled with European contracts on the Exchange or on other exchanges. In addition, CBOE American currency option contracts can be spread off or straddled with similar contracts on other exchanges, just as other dually listed option contracts are margined as offsets. This appraoch is consistent with the Options Clearing Corporation's margin methodology which groups all options having the same underlying security.

The statutory basis for this proposed rule change is section 6(b)(5) of the Securities Exchange Act of 1934 (the Act), in that the proposed change is designed to facilitate transactions in foreign currency option contracts.

(B) Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change will not impose a burden on competition, since it is designed to enhance competition by means of the multiple listing of nonequity option contracts, a concept already approved by th Commission.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commisson's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by September 3, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 6, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18232 Filed 8-12-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23510; File No. SR-CBOE-86-26]

Self-Regulatory Organizations; Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Index Option Escrow Receipt Pilot Program

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 22, 1986, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

The index option escrow receipt pilot program, set forth in Exchange Rule 24.11(d), is extended through February 20, 1987.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose and statutory basis for the proposed rule change were set forth in SR-CBOE-84-28. *See also* SEC Release 34-22323, 50 FR 33439 (Aug. 19, 1985), in which the Commission approved the one year pilot program. Due to the delays in the start-up of the program in 1985, the program has thus far only really been effective for nine months. Extension of the pilot program for an additional six months will enable market participants to use the program for a sufficient period of time to provide more data for the Exchange to assess the efficacy of the program, and to include such additional information in the report to the Commission on the pilot program. See SEC Release 34-22323 at note 19.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such finding will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by September 3, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 6, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18233 Filed 8-12-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23508; File No. SR-NASD-86-16]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by National Association of Securities Dealers, Inc.

The National Association of Securities Dealers, Inc. ("NASD") submitted on June 24, 1986, copies of a proposed rule change pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder to amend Schedule D of the NASD's By-Laws. The proposal modifies the NASD's existing terminal equipment and query charges and creates a new charge applicable to terminal equipment supplied by a subscriber in substitution for NASDAQ equipment.

Notice of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 23370, June 26, 1986) and by publication in the **Federal Register** (51 FR 24279, July 2, 1986). No comments were received with respect to the proposed rule change. The NASD submitted on July 17, 1986 a letter[1] describing the nature of systems operation functions and costs and the basis for determination of general and administrative expenses, in order to provide a more complete explanation of these cost elements.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section 15A, and the rules and regulations thereunder. The Commission also finds that the NASD's letter dated July 17, 1986 provides a reasonable basis for determination of system operations and general and administrative costs, and is consistent with section 15A(b)(5) of the Act which requires that the rules of the NASD provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the NASD operates and controls.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: August 5, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18234 Filed 8-12-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23512; File No. SR-PSE-86-16]

Self-Regulatory Organizations; Proposed Rule Change by The Pacific Stock Exchange Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 22, 1986, the Pacific Stock Exchange Incorporated ("PSE" or the "Exchange") filed with the Securities and Exchange Commission on the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

In its rule filing, the Pacific Stock Exchange Incorporated ("PSE" or the "Exchange") proposes that with respect to near term options which are just at, just in, and just out-of-the-money, that trading crowds will provide "ten-up" markets in response to non-broker dealer, public order flow. The rule change provides that Order Book Officials will ensure, through an allotment procedure, that when Market Makers are making the best bid and/or offer, that orders will be filled to a minimum depth of ten contracts by the Market Makers in the trading crowd. The provision does not require however, that crowds should be held to a depth of ten contracts when the best bid and/or offer is not that of a Market Maker in the trading crowd.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to increase the liquidity in the more popular option series for the benefit of public participation. Specifically, the PSE has singled out the near term options with strike prices nearest the current price of the underlying security for this provision. Historically, these series attract the most attention and the PSE's proposal is designed to ensure adequate liquidity for the order size most associated with such public interest.

A guarantee of ten contract liquidity is geared to eliminating partially-filled retail orders which tend to boost commission costs for retail customers. By ensuring ten contract liquidity, most public orders should be filled in their entirety. This should reduce the overall transaction costs for public customers of the Exchange. The PSE may in the future expand such liquidity requirements to additional options series.

The PSE believes that this requirement is specifically in keeping with section 6 of the Act because it will facilitate transactions in securities and protect investors and the public interest. The whole thrust of the PSE's proposal is to facilitate the completion of customer orders.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe the proposed rule change imposes a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a securities exchange, and

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[1] Letter from Frank J. Wilson, Executive Vice President and General Counsel, NASD, to Richard G. Ketchum, Director, Division of Market Regulation, SEC, July 17, 1986. File No. SR-NASD-86-16.

in particular, the requirements of section 6 and the rules and regulations thereunder.

Within 35 days of the date of the publication of this notice in the **Federal Register** or within such longer period: (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned, self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by September 3, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 6, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18235 Filed 8-12-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15236; File No. 811-3259]

Centennial Government Trust; Application For an Order Declaring That Applicant Has Ceased to be an Investment Company

August 6, 1986.

Notice is hereby given that Centennial Government Trust ("Applicant"), 3410 South Galena Street, Denver, Colorado 80231, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on July 1, 1986, for an order of the Commission, pursuant to section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. 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 applicable provisions thereof.

Applicant states that it filed a registration statement pursuant to section 8(b) of the Act on September 9, 1981. It also filed a registration statement pursuant to the Securities Act of 1933 in order to make a public offering of common stock, and this registration, statement became effective on December 1, 1981. Applicant also states that it was organized as a business trust under the laws of the Commonwealth of Massachusetts. According to the application, on July 3, 1985, the Board of Trustees of Applicant, including a majority of its dependent Trustees, adopted and recommended to the shareholders an Agreement and Plan of Reorganization ("Plan"), which was subsequently approved on September 26, 1985, and the transaction closed on September 27, 1985. The Plan provided for a reorganization under which all of the assets of Applicant were exchanged for shares of Daily Cash Government Fund, open-end investment company, having equal value on the closing date. Applicant states that it does not currently have any shareholders; it does not have any assets or liabilities; it is not a party to any litigation or administrative proceeding and it does not propose to engage in any business activities other than those necessary for the winding-up of its affairs. Finally, Applicant states that on March 5, 1986, it filed to effect its dissolution with the proper Massachusetts authorities.

Notice is further given that any interested person wishing to request a hearing on a application may, not later than August 29, 1986, at 5:30 p.m., do so by submitting a writtren request setting forth the nature of his 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, DC 20549. A copy of the request should be served personally or by mail upon the 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 Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18236 Filed 8-12-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15237; File No. 811-3209]

Centennial Tax Exempt Trust; Notice of Application for an Order Declaring That Applicant Has Ceased to be an Investment Company

August 6, 1986.

Notice is hereby given that Centennial Tax Exempt Trust ("Applicant"), 3410 South Galena Street, Denver, Colorado 80231, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on July 1, 1986, for an order of the Commission, pursuant to section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. 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 applicable provisions thereof.

Applicant states that it filed a registration statement pursuant to section 8(b) of the Act on June 24, 1981. It also filed a registration statement pursuant to the Securities Act of 1933 in order to make a public offering of common stock, and this registration statement became effective on October 28, 1981. Applicant also states that it was organized as a business trust under the laws of the Commonwealth of Massachusetts. According to the application, on July 3, 1985, the Board of Trustees of Applicant, including a majority of its independent Trustees, adopted and recommended to the shareholders an Agreement and Plan of Reorganization ("Plan"), which was subsequently approved on September 26, 1985, and the transaction closed on September 27, 1985. The Plan provided for a reorganization under which all of the assets of Applicant were exchanged for shares of Daily Cash Tax Exempt Fund Inc., a registered, open-end investment company, having equal value on the closing date. Applicant states that it does not currently have any

shareholders; it does not have any assets or liabilities; it is not a party to any litigation or administrative proceeding and it does not propose to engage in any business activities other than those necessary for the winding-up of its affairs. Finally, Applicant states that on March 5, 1986, it filed to effect its dissolution with the proper Massachusetts authorities.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 29, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his 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, DC 20549. A copy of the request should be served personally or by mail upon the 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 Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-18237 Filed 8-12-86; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 09/09-0373]

Application for License To Operate as a Small Business Investment Company; New West Partners II

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR § 107.102 (1986)), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 et. seq.), and the Rules and Regulations promulgated thereunder.

Applicant: New West Partners II

Address: 4350 Executive Drive, Suite 206, San Diego, California 92121

The proposed manager, corporate general partner and general partners of the Applicant are as follows:

Name	Position	Percent ownership
Timothy P. Haidinger, 4350 Executive Dr., San Diego, CA 92121.	Manager	0
New West Ventures II, 4350 Executive Dr., San Diego, CA 92121.	Corporate General Partner.	5.1
Don Oliphant, 4350 Executive Dr., San Diego, CA 92121.	General Partner	0
Ron McMahon, 4350 Executive Dr., San Diego, CA 92121.	General Partner	0

There is no owner of a ten (10) percent or more interest in the Applicant.

The applicant, a California limited partnership, will begin operations with $1,000,000 of private capital and conduct its activities principally in the State of California.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 30 days from the date of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street NW., Washington, DC 20416.

A copy of this notice will be published in a newspaper of general circulation in the San Diego, California area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 4, 1986.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 86-18215 Filed 8-12-86; 8:45 am]

BILLING CODE 8025-01-M

Application for a License To Operate as a Small Business Investment Company; Onondaga Venture Capital Fund, Inc.

[License Application No. 02/02-0498]

An application for a license to operate as a small business investment company (SBIC) under the provisions of section 301(c) of the Small Business Investment Act of 1958, as amended, (the Act), (15 U.S.C. 661 *et seq.*), has been filed by Onondaga Venture Capital Fund, Inc. (applicant), 327 State Tower Bldg., Syracuse, New York 13202, with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1986).

The officers and directors of the Applicant, and their percentages of shareholdings are a follows:

Name and address	Title	Percent of onership
Chris J. Witting, 518 Bradford Pkwy., Syracuse, NY 13224.	Chairman of the Board, Director.	1.41844
Alfred M. Lichtman, Apt. G-304, 7770 Lakeside Blvd., Boca Raton, FL 33434.	President, Director.	1.41844
Edward S. Green 5043 E. Lake Road, Cazenovia, NY 13035.	Treasurer, Director.	1.41844
John F. X. Mannion 7664 Hunt Lane, Fayetteville, NY 13066.	Secretary, Director.	1.41844
Robert F. Baldwin, 5109 Hoag Lane, Fayetteville, NY 13066.	Asst. Secretary	-0-
Irving W. Schwartz, 6 E. Shore Path, Cazenovia, NY 13035.	Executive Vice President.	0.70922
James F. Abbatiello, 108 Grenfell Road, DeWitt, NY 13214.	Director	1.41844
Irving J. Bronstein, 819 Kimry Moor, Fayetteville, NY 13061.	Director	1.41844
David H. Northrup, 1252 James Street, Syracuse, NY 13203.	Director	1.41844
Henry A. Panasci, Jr., 3000 Howlett Hill Road, Camillus, NY 13031.	Director	2.83688
Richard C. Pietrafesa, 104 Wendell Terrace, Syracuse, NY 13203.	Director	1.41844

Approximately sixty additional shareholders, none of whom will own as much as 10 percent, will own balance of the Applicant's issued and outstanding stock.

The Applicant, a New York corporation, will begin operations with a capitalization of $2,450,000 and will conduct its operations principally in the State of New York.

Matters involved in SBA's consideration of the Application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 30 days from the date of publication of this notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in Syracuse, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: August 5, 1986.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 86-18216 Filed 8-12-86; 8:45 am]

BILLING CODE 8225-01-M

[Declaration of Disaster Loan Area #2245]

Declaration of Disaster Loan Area; New York

Chautauqua County and the adjacent Counties of Cattaraugus and Erie in the State of New York constitute a disaster area because of flooding which occurred during the period July 18–20, 1986. Applications for loans for physical damage may be filed until the close of business on October 6, 1986, and for economic injury until the close of business on May 6, 1987, at the address listed below: Disaster Area 1 Office, Small Business Administration, 15–01 Broadway, Fair Lawn, New Jersey 07410. or other locally announced locations.

The filing periods specified above are subject to the availability of appropriated funds on and after October 1, 1986.

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 224506 for physical damage and for economic injury the number is 642400.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008).

Dated: August 6, 1986.

Robert A. Turnbull,

Acting Administrator.

[FR Doc. 86-18214 Filed 8-12-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aircraft Torso Restraint Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of technical standard order (TSO) and request for comments.

SUMMARY: The proposed TSO–C114 prescribes the minimum performance standards that aircraft torso restraint systems must meet to be identified with the marking "TSO–C114."

DATE: Comments must identify the TSO file number and be received on or before November 28, 1986.

ADDRESS: Send all comments on the proposed technical standard order to: Technical Analysis Branch, AWS–120, Aircraft Engineering Division, Office of Airworthiness—File No. TSO–C114, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

Or Deliver Comments To: Federal Aviation Administration, Room 335, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Bobbie J. Smith, Technical Analysis Branch, AWS–120, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 426–8395.

Comments received on the proposed technical standard order may be examined, before and after the comment closing date, in Room 335, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they desire to the above specified address. All communications received on or before the closing date for comments specified above will be considered by the Director of Airworthiness before issuing the final TSO.

Background

Proposed TSO–C114 is a new TSO to cover torso restraint systems consisting of pelvic restraints and upper torso restraints intended for use in rotorcraft and normal, utility, and acrobatic category airplanes. A pelvic restraint (safety belt) is that portion of a torso restraint system intended to restrain movement of the pelvis. An upper torso restraint (shoulder harness) is that portion of a torso restraint system intended to restrain movement of the chest and shoulders. In the new TSO, the rated strength of pelvic restraints has been set at 13.3 kN (3,000 lbs.), and the rated strength of upper torso restraints has been established and set at 11.1 kN (2,500 lbs.). Only synthetic materials are allowed for webbing, and the webbing width may not be less than 45.7 mm (1.8 inches) where it contacts an occupant. A single buckle for release has been proposed, and the proposed TSO requires fatigue testing of buckle latches, automatic locking retractors, and emergency locking retractors.

TSO–C22f will continue to cover safety belts (lap belts or seat belts for pelvic restraint only) intended for use in rotorcraft and airplanes not required to have shoulder harnesses. While the standards in TSO–C22f may be changed, those standards continue to apply to other safety belts, especially those manufactured for transport airplanes, even if all future rotorcraft and small, fixed-wing aircraft have torso restraint systems only. The rated strength of TSO–C22f safety belts remains at 6.65 kN (1,500 lbs.). The nominal width of TSO–C22f safety belt webbing is still 50 mm (2.0 inches); however, a minimum width of 47.4 mm (1.875 inches) has been acceptable under TSO–C22f.

How To Obtain Copies

A copy of the proposed TSO–C114 may be obtained by contacting the person under "For Further Information Contact." TSO–C114 references SAE AS 8043, dated March 1986, for the minimum performance standards. SAE AS 8043 may be purchased from the Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, PA 15096.

Issued in Washington, DC, August 4, 1986.

Thomas E. McSweeny,

Manager, Aircraft Engineering Division Office of Airworthiness.

[FR Doc. 86-18153 Filed 8-12-86; 8:45 am]

BILLING CODE 4910-13-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 156
Wednesday, August 13, 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).

CONTENTS

1

FEDERAL RESERVE SYSTEM, BOARD OF GOVERNORS

TIME AND DATE: 12:00 Noon, Monday, August 18, 1986.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Building proposals and budget regarding the Charlotte Branch of the Federal Reserve Bank of Richmond.
2. Proposed acquisition of real property by a Federal Reserve Bank.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. 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: August 8, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–18242 Filed 8–8–86; 4:39 pm]

BILLING CODE 6210–01–M

2

NUCLEAR REGULATORY COMMISSION.

DATE: Weeks of August 11, 18, 25, and September 1, 1986.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of August 11

Thursday, August 14

3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of August 18—Tentative

No Commission Meetings

Week of August 25—Tentative

Thursday, August 28.

2:00 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of September 1—Tentative

Wednesday, September 3.

2:00 p.m.
Briefing on IAEA Chermobyl Meeting (Open/Closed to be Determined)

Thursday, September 4.

2:00 p.m.
Discussion/Possible Vote on Kerr-McGee Sequoyah Facility (Public Meeting)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Comanche Peak Construction Permit Extension (*Postponed* from August 6)

Friday, September 5.

10:00 a.m.
Discussion/Possible Vote on Full Power Operating License for Perry-1 (Public Meeting)

ADDITIONAL INFORMATION: Affirmation of "Policy Statement on Radioactive Waste Below Regulatory Concern" (Public Meeting) was held on August 6.

TO VERIFY STATUS OF MEETINGS CALL (RECORDING): (202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Robert McOsker (202) 634–1410.

Andrew L. Bates,

Office of the Secretary.

August 7, 1986.

[FR Doc. 86–18261 Filed 8–8–86; 5:02 pm]

BILLING CODE 7590–01–M

federal register

Wednesday
August 13, 1986

Part II

Department of Commerce

International Trade Administration

19 CFR Part 353
Antidumping Duties; Proposed Rule

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 353

[Docket No. 60604-6104]

Antidumping Duties

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Proposed rule and request for comments.

SUMMARY: The International Trade Administration proposes to revise its regulations to implement the provisions in Title VI of the Trade and Tariff Act of 1984 concerning antidumping duties and modify in other respects provisions in the current version of Part 353. The modifications are intended to improve administration of the antidumping duty provisions of the Tariff Act of 1930.

DATE: Written comments must be received not later than October 14, 1986.

ADDRESS: Address wriltten comments (10 copies) to Gilbert B. Kaplan, Deputy Assistant Secretary for Import Administration, Room B-099, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Stephen J. Powell, Deputy Chief Counsel for Import Administration, Room B-099, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW., Washington, D.C. 20230. (202) 377-1411.

SUPPLEMENTARY INFORMATION:

Classification: Executive Order 12291. The International Trade Administration ("ITA") has determined that this proposed revision of the current antidumping duty regulations in 19 Code of Federal Regulations ("CFR") Part 353 is not a major rule as defined in section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981) because it will not: (1) have a major monetary effect on the economy; (2) result in a major increase in costs or prices; or (3) have a significant adverse effect on competition (domestic or foreign), employment, investment, productivity, or innovation.

Paperwork Reduction Act. The information collection requirement contained in 19 CFR Part 353 has been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and has been assigned OMB control number 0625-0105.

Regulatory Flexibility Act. The General Counsel of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small business entities because, to the extent it changes existing practices, the proposed rule simply improves the administration of the antidumping duty provisions of the Tariff Act of 1930, as amended. As a result, an initial Regulatory Flexibility Analysis was not prepared.

Background: The current antidumping duty regulations in subparts A, B, C, and D of 19 CFR Part 353 (45 FR 8182; February 6, 1980, as amended by 49 FR 22466, May 30, 1984) are based on Subtitles B, C, and D of Title I of the Trade Agreements Act of 1979 ("Trade Agreements Act"), which amended Title VII of the Tariff Act of 1930 (19 U.S.C. Subtitle IV, Parts II and IV) ("Tariff Act"). Title VI of the Trade and Tariff Act of 1984 (Pub. L. 98-573; October 30, 1984) ("1984 Act") amended those provisions, effective on the dates specified in the interim-final rule adding a new subpart D to 19 CFR Part 353 (50 FR 5746, February 12, 1985).

Some of the proposed changes to the current antidumping duty regulations are necessary to implement the amendments made by the 1984 Act. Other proposed changes (1) incorporate existing administrative interpretations and practices, not currently stated in the regulations, that will continue under the amended statute; (2) improve administrative efficiency in antidumping duty proceedings; or (3) simplify the language of existing regulations. The proposed text of Part 353 would replace the entire current text of Part 353.

Grammatical changes throughout the text of the proposed regulations are the use of the word "Secretary" in place of "administering authority," use of the active rather than passive voice, and simplification of sentence structure. When possible, cross references to other sections of this part replace references to the Tariff Act.

The provisions of subparts A, B, and C of this proposed rule are identical or very similar in most respects to the provisions of subparts A, B, and C of the proposed rule on countervailing duties (19 CFR Part 355), which was published in the **Federal Register** on June 10, 1985 (50 FR 24207). The Department is evaluating the public comments received on that proposed rule. Publication of subparts A, B, and C of the proposed rule on antidumping duties does not imply that the Department has rejected the earlier comments or that the Department will publish its final rule on countervailing duties without changing its proposed rule. To the extent that any member of the public desires to submit the same comment or comments on this proposed rule as submitted in response to the proposed rule on countervailing duties, the commenter should merely incorporate the earlier comment or comments by reference.

Other changes in the regulations incorporated in this proposed rule are described in the following section-by-section analysis.

1. *Section 353.1.* This section corresponds to section 353.0 of the current regulation. The paragraph on environmental impact statements is deleted. Reference to Title VI of the 1984 Act is added.

2. *Section 353.2* This section corresponds to §§ 353.11 and 353.12 of the current regulation.

Paragraphs (a), (b), (c), (d), (e), and (p) revise only for clarity the corresponding definitions of the current regulation.

The definition of "determination" in section 353.11 of the current regulation is deleted because it is not needed.

Paragraph (f), which defines "dumping margin" for the first time in the regulations, reflects current practice.

Paragraph (g) is a new definition of "factual information," a term used throughout the proposed rule, especially in § 353.31. Factual information and argument (written and oral) describe the submissions which may be made to the Department during a proceeding.

Paragraph (h), which defines "home market country" for the first time in the regulations, reflects current practice.

Paragraph (i), a new definition of "importer," reflects current practice.

The current definition of "industry" is clarified in paragraph (j) of the proposed rule to highlights those aspects of the statutory definition (section 771(4) of the Tariff Act) regarding whether the petitioner has filed "on behalf of" an industry, as required by section 732(b)(1) of the Tariff Act. The modification does not change current practice. The Department would consult with the International Trade Commission on the decision concerning the "like product."

Paragraph (k)(6) of the proposed rule is added to the definition of "interested party" to include coalitions of firms, unions, or trade associations that have individual standing, as defined in paragraph (k) (3), (4), or (5). The change conforms the definition to section 771(9) of the Tariff Act, as amended by section 612(a) of the 1984 Act. The word "seller" replaces "wholesaler" in paragraph (k)(3) to clarify that the provision includes all sellers (except retail sellers) rather than only sellers at the wholesale level of trade. This change is consistent

with current practice. Otherwise, the definition of "interested party" is changed for clarity only.

The definition of "investigation", in paragraph (1), is revised to include investigations that begin with a notice of continuation of an investigation under § 353.18(i), or a notice of resumption of an investigation under § 353.19 after the Secretary cancels a suspension agreement. It also includes a reference to investigations that end with a notice of suspension of investigation.

Paragraph (m), which is new, is a definition of "the merchandise." The definition avoids continual repetition throughout the proposed regulations of "the class or kind or merchandise subject to the proceeding which has either been imported or sold, or is likely to be sold, for importation."

The definition of "order" in § 353.11 of the current regulation is revised, because orders are sufficiently described in § 353.21. In paragraph (n) of the proposed rule, we note that the term includes "finding," the equivalent term used in the Antidumping Act of 1921, which was repealed by the Trade Agreements Act.

The definition of "party to the proceeding" in paragraph (o) requires, instead of the current written request, that an interested party actively participate in the particular segment of the proceeding that is judicially reviewable. In order to participate in litigation under section 516A(d) of the Tariff Act, an interested party must be a party to the proceeding. Active participation in the proceeding is a reasonable prerequisite for the right to participate in judicial review of the results.

The definition of "proceeding" in paragraph (q) is revised to cover dismissal of a petition prior to initiation of an investigation, rescission of an initiation, and termination of a suspended investigation.

The new definitions of "producer" and "production" in paragraph (r) are intended to simplify regulatory language by substituting a single word for the phrase "manufacturer or producer" or "manufacture and production" wherever it appears.

Paragraph (s) of the proposed rule defines for the first time the word "reseller." The definition is consistent with section 614 of the 1984 Act. Use of the word "reseller" rather than "exporter" in the proposed rule focuses attention on selling activity, which is important in calculating foreign market value, rather than on shipping activity, which is not. The word "exporter" is used in the sections of the proposed rule concerning suspension agreements (primarily §§ 353.18 and 353.19) to limit the term, consistent with the Tariff Act, only to a foreign producer or reseller that sells and ships to the United States. When used in reference to suspension agreements, "exporter" does not include an exporter who ships but does not sell. The word "exporter" also is used in § 353.41 (c) and (d) concerning "exporter's sales price," because in this context "exporter" has a limited statutory definition. See preamble comments on § 353.41 (c) and (d) of the proposed rule.

Paragraph (t) of the proposed rule includes for the first time definitions of "sale" and "likely sale." The definition of "likely sale" implements section 731(a) of the Tariff Act, as amended by section 602(b) of the 1984 Act. Only in the event that no sale has been consummated will the Secretary consider likely sales, as defined in this subsection. "Likely sale" means an offer that the seller has made irrevocable for a period of time. The definition of "sale" is based on current practice. A "sale" includes a contract to sell, even though during the proceeding the contract may be contingent on a future event or occurrence, may not have been reduced to writing, or may not yet be complete in every detail.

The definition of "Secretary" in paragraph (u) is amended to summarize current delegations of authority from the Secretary of Commerce and thereby clarify the references to "Secretary" throughout the regulations.

3. *Section 353.3.* Sections 353.25 through 352.31 of the current regulation are completely reorganized and modified, as explained below. Generally, the regulatory procedures for release of proprietary information under administrative protective order are simplified, in accordance with the amendments to section 777 of the Tariff Act made by the 1984 Act.

Rewritten under a new section title, § 353.3 describes in paragraphs (a) and (b) the two types of records of the proceeding, the official record and the public record. For the purposes of the judicial review, the official record under section 516A(b)(2) of the Tariff Act is the official record of the judicially reviewable segment of a proceeding. For example, the record we would file with the court in the event of a judicial challenge to the final results of administrative review issued by the Secretary under § 353.22(c) are the documents pertinent to that particular administrative review. Unless those documents had been used by the Department in the later review, we would not include documents pertinent to an earlier administrative review, or to the investigation, unless those documents had been resubmitted during the review being challenged, in accordance with these proposed rules, and were pertinent to the review. This reflects our current practice. The public record is available for inspection and copying, as described in the proposed rule.

Paragraph (c) of § 353.25 of the current regulation, concerning reports on the progress of investigations, is deleted because it is unnecessary. No report has ever been requested. The public file provides an accurate record of the progress of the investigation.

Paragraph (c) of the revised regulation retains the basic requirement for protection of the record that is stated in paragraph (d) of the current § 353.25. Submission of the official record to the court for the purpose of judicial review is addressed in section 516A(b)(2) of the Tariff Act and in court rules. Reference to submission to the court is deleted in the revised version of this paragraph (d), because these rules do not address procedures for judicial review.

4. *Section 353.4.* Section 353.4 defines each of the four types of information that may be contained in the official file of the proceeding: public, proprietary, privileged, and classified. The term "proprietary" is used throughout the revised regulation in place of the term "confidential" (the term used in the current regulations) to describe the type of business information defined in paragraph (b) of this section. "Proprietary" more accurately describes this category of information and eliminates possible confusion with the national security classification of "confidential."

Paragraph (a) of the proposed rule generally tracks the substance of the current regulation in § 353.29(b). Written argument, which is described in § 353.38 of the proposed rule, normally is public rather than proprietary.

Paragraph (b) of the proposed revision provides a more specific and complete list of information normally considered proprietary than does § 353.29(c) of the current regulation. The list reflects the agency's experience with the various types of proprietary and other information submitted in proceedings. We have found that many of the disagreements over disclosure may be traced to the inappropriate designation of information as proprietary.

Paragraphs (c) and (d) of the proposed revision are new, although they do not change Department practice. They are intended to complete the definition of the types of information in the official record. Factual information does not

acquire national security "classified" status merely because a foreign government submits it to the Secretary. The Department will continue its practice of ensuring that transmission of information through a foreign government is not used to avoid disclosure of publicly available information or of proprietary business information. Of course, during the Secretary's consideration of the request, a document submitted by a government with a request that it be held in confidence will be accorded such treatment, consistent with Executive Order 12356.

5. *Section 353.5.* This section, which corresponds to § 353.70 of the current regulation, concerns the effective dates of amendments to the Tariff Act made by the 1984 Act. Section 353.70 was published as an interim final rule on February 12, 1985 (50 FR 5746).

6. *Section 353.11.* This section corresponds to § 353.35 of the current regulation. By use of the term "the merchandise," paragraph (a) and later sections of the proposed rules incorporate the concept of likely sales for importation that was added explicitly to section 731(a) of the Tariff Act by section 602 of the 1984 Act. See preamble comment on § 353.2(m). The phrase "home country" is defined in § 353.2(h). As under § 353.35(b) of the current regulation, paragraph (a)(1) of the proposed rule provides for consultation with the Commission on the description of the merchandise. Commission access to information is governed by § 353.32(f)(3) of the proposed rule.

Paragraph (c) of the proposed rule implements section 609 of the 1984 Act.

7. *Section 353.12.* This section corresponds to § 353.36 of the current regulation. Paragraph (a) of the proposed rule states the general requirements for filing a petition found in § 353.36 of the current regulation. Coalitions of domestic interested parties have the ability to file petitions, consistent with section 612(a)(3) of the 1984 Act. See H.R. Rep. No. 98–1156, 98th Cong., 2d Sess. at 175 (1984) ("Conference Report").

Paragraph (b) of the proposed rule, entitled "Contents of Petition," corresponds to paragraphs (a)(1) through (a)(13) of § 353.36 of the current regulation, with some modifications. Paragraph (b)(2) of the proposed rule combines paragraphs (a)(2) and (a)(12) of the current regulation.

Paragraph (b)(4) clarifies that the petitioner's description of the merchandise does not necessarily determine the scope of an investigation initiated under § 353.13. In some instances the Secretary may expand or contract the class or kind of merchandise under investigation to conduct an adequate investigation.

Paragraph (b)(6) requires reasonable quantification of the share of total exports to the United States accounted for by each exporter or producer the petitioner believes is selling at less than fair value. This change is consistent with current practice.

Paragraph (b)(7) highlights the requirement that petitioner document allegations of sales at less than fair value. This includes information that sales are being made at less than the cost of production, which is the subject of paragraph (a)(9) of the current regulation. Such documentation helps the Department to judge quickly the adequacy of a petition and to prepare the questionnaires referred to in § 353.31 of the proposed rule.

Paragraph (b)(8) of the proposed rule, which corresponds to paragraph (a)(8) of the current regulation, is revised for clarity.

Paragraph (b)(9) of the proposed rule, which corresponds to paragraph (a)(10) of the current regulation, is revised for clarity.

Paragraph (b)(10), which corresponds to paragraph (a)(11) of the current regulation, reflects the new definition of likely sales for importation. See preamble comment on § 353.2(s).

The requirement at the end of paragraph (a) of the current regulation, concerning forms for submission of petitions, is deleted. The only form for petitions is stated in paragraph (b) of the proposed rule.

The requirement in paragraph (b) of the current regulation, concerning English translations, is stated in § 353.31(f) of the proposed rule.

Paragraphs (c) and (e) of the proposed rule clarify the simultaneous filing requirement for petitions and amendments to petitions contained in paragraphs (c) and (e) of the current regulation. Paragraphs (c) and (e) of the proposed rule also include a filing certification requirement and a reference to the time limits in § 353.31.

Paragraph (d) is revised for clarity.

Paragraph (f) of the proposed rule corresponds to portions of paragraph (a) and to paragraph (f) of the current regulation. It cross-references the requirements of paragraphs (d), (e), (f), and (g) of § 353.31 concerning where to file, time of delivery, format, and number of copies. Section 353.31(d) also states the time at which the Department considers a document filed.

Paragraph (g) is revised for clarity.

Paragraph (h), which is new, implements section 221 of the 1984 Act, which explicitly requires the Department to provide technical assistance to eligible small businesses in the preparation and filing of petitions under this section. Paragraph (h) (2) is revised to identify specifically the person to contact for additional information on filing any petition.

Paragraph (i), which is new, limits communication, before the Secretary determines whether or not to initiate an investigation under § 353.13, between the Secretary and persons that might be respondents in the investigation. The paragraph is consistent with the decision of the Court of Appeals for the Federal Circuit in *United States v. Roses, Inc.*, 706 F.2d 1563 (1983).

8. *Section 353.13.* This section corresponds to § 353.37 of the current regulation. Paragraph (a) of the proposed rule corresponds to paragraph (a) and portions of paragraph (b) of the current regulation. The last sentence of paragraph (a) of the current regulation is now incorporated in § 353.31(d) of the proposed rule.

Paragraph (b) of the proposed rule conforms the contents of the notice of initiation published under this section to that for notices of self-initiation under § 353.11.

Paragraph (c) reflects the Secretary's authority to dismiss a petition in whole or in part. An example of partial dismissal is the Secretary's decision not to initiate a cost of production investigation when the allegation of below-cost sales does not meet the Secretary's threshold requirements.

Paragraph (d) of the current regulation, which concerns notice to the Commission of the Secretary's decision, appears in paragraphs (b) and (c) of the proposed rule.

9. *Section 353.14.* This section corresponds to section 353.45 of the current regulation. It specifies the requirements for requests for exclusion from an order, including certifications. The Secretary will not extend the time limit for submission of requests for exclusion. Once submitted, a request for exclusion may not be withdrawn, because the Secretary's investigation will be structured to take account of the request for exclusion. The certification requirement is intended to eliminate frivolous requests.

Under paragraph (c), the Secretary will investigate requests for exclusion "to the extent practicable," which means that the Secretary will consider in each investigation the specific administrative burden created by the requests. Where the Secretary decides that the administrative burden of investigating each request for exclusion

is too great, given the statutory time limits, the Secretary may refuse to act on any or all of the requests.

10. *Section 353.15.* This section corresponds to section 353.39 of the current regulation. In paragraph (a)(1), the current reference to "best information available" is changed in the proposed rule to read "available information." "Available information" is not limited to the "best information available" within the meaning of § 353.37. The phrase "dumping margin" is defined in § 353.2. For purposes of establishing the amount of a bond or deposit of estimated dumping duties, the Department calculates a weighted-average for each person investigated. The Department also calculates an aggregate weighted average dumping margin to apply to all other persons, including producers and resellers that ship to the United States for the first time after the date of publication of the Secretary's preliminary determination.

Paragraphs (a)(2) and (a)(3) of the proposed rule, which describe the Secretary's preliminary determination, consolidate provisions in paragraph (a) and (e) of the current regulation and, in paragraph (a)(2)(iii), add a reference to a preliminary finding of critical circumstances. Provisional measures are limited to cash deposit or bond, the current practice.

Paragraph (a)(4) states that the notice will include an invitation for argument on the Secretary's preliminary determination.

Paragraph (a)(5) reflects the notice requirements of section 733(f) of the Tariff Act. This revision of section 353.39(a) of the current regulation does not change current practice.

Paragraphs (b) and (c) of the proposed rule correspond to paragraphs (c) and (b), respectively, of the current regulation, except that the notice and publication requirements in paragraphs (c)(3) and (b) of the current regulation appear in paragraph (e) of the proposed rule. Paragraph (c)(2)(i) is revised in paragraph (b)(2)(i) of the proposed rule to reflect current practice, and paragraphs (c)(2) (ii) and (iii) are revised in paragraphs (b)(2) (ii) and (iii) to conform to the similar test for "extraordinary circumstances" in § 353.18(d). Paragraph (c) states that the Secretary will grant a timely request from petitioner to postpone the preliminary determination, unless the Secretary finds compelling reasons to deny the request. This reflects current practice and Congressional intent.

Paragraph (d) of the proposed rule consolidates all notice requirements for the postponements of the preliminary determination described in this section.

Paragraph (e), concerning waiver of verification, corresponds to paragraph (d) of the current regulation. It is revised for clarity.

Paragraph (f), which corresponds to paragraph (f) of the current regulation, no longer contains the requirement that the Commission "confirm" the obligation not to disclose "confidential" (proprietary) information. Confirmation is unnecessary, given the limitations on disclosure stated in this paragraph and in § 353.32(f) of the proposed rule.

Paragraph (g) reflects current practice concerning the disclosure conference, a meeting with a party to the proceeding at which a knowledgeable employee of the Department reviews calculations illustrative of the preliminary determination.

11. *Section 353.16.* This section corresponds to § 353.40 of the current regulation. Paragraph (a) of the current regulation, reorganized for clarity, is incorporated in paragraphs (a) and (b) of the proposed rule. Paragraph (a) of the proposed rule states the general requirements concerning critical circumstances allegations and clarifies that the Secretary may investigate critical circumstances on the Secretary's own initiative in investigations self-initiated under § 353.11. Paragraph (b) of the proposed rule states the conditions for, and timing of, a preliminary finding of critical circumstances.

The word "finding" is used throughout the proposed rule to describe what in the Tariff Act and in the current regulation are called "determinations" of critical circumstances. The change is not substantive. It is intended to differentiate clearly in the regulation a determination regarding critical circumstances from a preliminary determination under § 353.15 or a final determination under § 353.20. The use of the term "finding" in this section should not be confused with a "finding" that is included in the definition of "order" in § 353.2. In the latter context, "finding" is a term of art used in the Antidumping Act of 1921 in the sense that the term "order" is used in § 353.21.

Paragraph (b)(2) of the proposed rule incorporates the notice and publication requirements of paragraphs (b) and (d) of the current regulation.

Paragraph (c), which corresponds to paragraph (c) of the current regulation, is revised for clarity only. If the Secretary makes an affirmative preliminary finding of critical circumstances after an affirmative preliminary determination under § 353.15, the Secretary will amend the order (referred to in this paragraph) suspending liquidation.

Paragraph (d) states that the Secretary will make a final finding of critical circumstances under certain conditions. The paragraph is based on portions of paragraph (a) of the current regulation and on section 735 (a)(3) and (c)(4) of the Tariff Act, as added by section 605(b) of the 1984 Act.

Paragraph (e), which is new, states that in making findings regarding critical circumstances in self-initiated investigations, the Secretary is not bound by the time limits that apply to findings in investigations based on a petition under § 353.12.

Paragraphs (f) and (g) describe what the Secretary normally will examine in deciding whether there have been "massive imports" in a "relatively short period," two of the statutory elements of the critical circumstances finding. The criteria described in the proposed rule are intended to clarify the bases for the Secretary's critical circumstances findings without adversely affecting the Secretary's administrative discretion. If the imports have accounted for a preponderance of the U.S. apparent consumption of the merchandise during the relatively short period, the Secretary might consider the imports massive, even if the increase is less than 15 percent over the base period described in this paragraph.

12. Section 353.17. This section corresponds to § 353.41 of the current regulation. Paragraph (a) implements section 734(a)(1) of the Tariff Act, as amended by section 604(b)(1) of the 1984 Act. The proposed rule clearly states the Secretary's authority to terminate self-initiated investigations.

Paragraph (b) is new. Paragraphs (b)(1) and (b)(2) implement section 734(a)(2) of the Tariff Act, as added by section 604(b)(1) of the 1984 Act. Under the 1984 Act, the Secretary must consider special "public interest" factors before terminating an investigation upon withdrawal of the petition based on the Secretary's acceptance of a quantitative restriction agreement.

Paragraph (c) revises paragraph (b) of the current regulation for clarity.

Paragraph (d), although a new provision, reflects section 734(f) of the Tariff Act and current practice.

13. Section 353.18. This section corresponds to section 353.42 of the current regulation. Paragraph (a) of the proposed rule states the public interest requirement in paragraph (f) of the current regulation, which is deleted as a separate paragraph. "Exporters" means producers or resellers that export the merchandise to the United States. See the definition of "reseller" in § 353.2(s).

Paragraph (b) of the proposed rule reorganizes for clarity the corresponding paragraph of the current regulation. Paragraph (b)(1) states the public interest requirement in paragraph (f) of the current regulation.

Paragraph (c) provides for measurement of "substantially all" of the imports based either on the volume or on the value of imports, an addition to the current regulation that is consistent with the language and purpose of the Tariff Act. The portion of paragraph (c) of the current regulation that concerns modification of agreements during administrative reviews is incorporated in § 353.22 of the proposed rule.

Paragraphs (d) and (e) are revised for clarity.

Paragraph (f) revises for clarity paragraph (g) of the current regulation.

Paragraph (g) of the proposed rule sets forth in more explicit detail than corresponding paragraph (h) of the current regulation the applicable procedures for suspension of investigation. Paragraph (g)(1), as revised, requires the exporters to submit a proposed suspension agreement not later than 45 days before the scheduled date for the final determination, a requirement intended to give the Secretary and domestic interested parties adequate time to review and, if appropriate, suggest revisions to the proposed agreement. Paragraph (g)(3) includes a time limit for submitting comments on a proposed suspension agreement. While time may be very restrictive for commenting on a proposed suspension agreement, nothing is served by the Secretary's receipt of comments too late to consider them.

Paragraph (h) provides for publication in the **Federal Register** of the text of the suspension agreement, which is the current practice. The third sentence of this paragraph, which is new, provides the Secretary with explicit authority to incorporate into a suspension agreement factural and legal conclusions reached after a preliminary determination including the results of a final determination in an investigation continued under paragraph (i). In addition, paragraph (h) of the proposed rule, which incorporates the substance of paragraphs (i), (j), and (k) of the current regulation, is revised for clarity.

Paragraph (i) corresponds to subsection (1) of the current regulation. The only substantive change is the reference to § 353.2(k)(6), the amended definition of interested party which is explained above under that section.

Paragraph (j) adds to paragraph (g) of the current regulation provisions for the treatment of excess entries of the merchandise under a suspension agreement, such as an agreement that exports will not increase during the interim period for elimination of sales at less than fair value.

14. *Section 355.19.* This section, which corresponds to § 353.43 of the current regulation, states the applicable procedures when the Secretary decides or has reason to believe either that any signatory exporter has violated a suspension agreement, or that the agreement is no longer in the public interest or no longer subject to effective monitoring.

Paragraph (a) of the proposed rule, like paragraph (a) of the current regulation, provides for an expedited determination without prior notice or opportunity for comment. The Secretary would use the "fast track" approach in paragraph (a) when the Secretary decides that the record shows clear evidence of violation by any signatory exporter and that notice and comment are unnecessary. Paragraph (a)(4) provides that, if appropriate, the Secretary will notify the Commissioner of Customs of the determination, in accordance with section 734(i)(1)(D) of the Tariff Act, as amended by section 604(b)(4)(C) of the 1984 Act. The Commissioner would take action, if appropriate, under section 734(i)(2) of the Tariff Act, if the violation was intentional.

Paragraph (b) establishes a procedure for notice and comment on suspected violations or when the Secretary has reason to believe that a suspension agreement no longer meets the public interest or monitoring requirements of the Tariff Act. After the comment period, the Secretary would take appropriate action, which would mean the steps outlined in paragraph (a) (issuing an antidumping duty order or resuming the investigation) if the Secretary finds a violation. If the Secretary does not determine that the agreement has been violated, the Secretary may nonetheless take action to correct any deficiencies in the agreement, including revising the agreement or cancelling it under paragraph (a). In revising an agreement under paragraph (a), the Secretary could for example, convert a suspension agreement eliminating injurious effect to one eliminating completely sales at less than foreign market value.

Paragraph (c), which is new, allows the Secretary to include in an agreement additional signatory exporters. It codifies current administrative practice.

Paragraph (d) of the proposed rule, which is new, defines "violation." References in the current regulation to "breach" and "intentional violation" are omitted from the proposed rule in favor of a straight-forward definition of a violation as significant noncompliance with an agreement's terms. If the Secretary finds an insignificant deviation, the Secretary would not consider the agreement to have been violated but could find the agreement is lacking under the public interest standards. Paragraph (c) of the current regulation (intentional violations), as noted above, is dealt with in proposed paragraph (a).

15. *Section 355.20.* This section corresponds to § 353.44 of the current regulation. Paragraph (a) of the proposed rule incorporates paragraphs (a), (c), (e), (f), and (g) of the current regulation but provides a more specific description, consistent with current practice, of the action the Secretary takes when the final determination is affirmative.

Paragraph (b) is revised to state that the Secretary will grant a timely request from the appropriate party to postpone the final determination, unless the Secretary finds compelling reasons to deny the request. This reflects current practice and Congressional intent.

Paragraph (c) of the proposed rule, which is new, provides the rates applicable to an individual producer or reseller that fails to satisfy the requirements for exclusion stated in §§ 353.14 and 353.21.

Paragraph (d) of the current regulation, concerning disclosure conferences, is covered in paragraph (h) of § 353.15 of the proposed rule. Paragraph (e) of the current regulation is covered in §§ 353.36 of the proposed rule, which concerns written argument and hearings.

Paragraph (d) of the proposed rule is new. It reflects current practice on sharing information with the Commission. See comment on proposed § 353.15(g).

Paragraph (e), which corresponds to paragraphs (h) and (i) of the current regulation, provides a more detailed explanation of the effect, under current practice, of negative final determinations.

16. *Section 355.21.* This section corresponds to § 353.48 of the current regulation, except as noted below. Paragraph (a) of the proposed rule modifies paragraph (a) of the current regulation to clarify the relationship between this section and section 751 of the Tariff Act, as amended by section 611(a)(2)(A) of the 1984 Act. Under current practice, the Secretary notifies the Customs Service of the amount of antidumping duty to assess at the

completion of each administrative review under section 751.

Paragraph (b) of the proposed rule, which corresponds to paragraph (a)(3) of the current regulation, is revised to state more accurately the amount of the cash deposit of estimated duty.

Paragraph (c) of the proposed rule corresponds to portions of § 353.45 of the current regulation.

Paragraph (d) implements section 736(b)(2) of the Tariff Act, which generally limits assessment to future entries only if the Commission's affirmative final determination finds threat of material injury or material retardation of the establishment of an industry. There is no corresponding provision in the current regulation.

17. *Section 353.22.* This section corresponds to § 353.53 of the antidumping regulations in effect prior to August 13, 1985. Paragraph (a) of the proposed rule implements section 751(a) of the Tariff Act, as amended by section 611(a)(2)(A) of the 1984 Act. These amendments provide for administrative reviews upon request rather than automatically in each proceeding on an annual basis.

On August 13, 1985, the agency published in the **Federal Register** (50 FR 32556) an interim-final and final rule to replace paragraphs (a), (c), and (d) of § 353.53 with a new § 353.53a. The interim-final rule provides procedures to control administrative review during the transition to full implementation of section 611(a)(2) of the 1984 Act. Full implementation will occur on the date that the agency publishes in the **Federal Register** the final rule for this part (19 CFR Part 353). The final rule published at 50 FR 32556 provides procedures to control administrative reviews of unreviewed entries of the merchandise during a period or periods ending prior to September 1, 1985, covered by orders, findings, and suspension agreements published in the **Federal Register** before September 1, 1984. See paragraphs (a)(5) and (b)(3) of § 353.53a (50 FR 32556; August 13, 1985). Both the interim-final and final rules remain in effect.

Paragraph (a) of the proposed rule is identical to paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of § 353.53a, the interim-final rule. Section 353.53a(a)(5) of the interim-final rule (which applies only to orders, findings, and suspension agreements published before September 1, 1984) and § 353.53a(b)(3) of the final rule, are not included because they are transition provisions.

Paragraph (b) of the proposed rule is identical to paragraphs (b)(1) and (b)(2) of § 353.53a(b)(3), the interim-final rule.

Paragraph (c) of the proposed rule is identical to paragraph (c) of § 353.53a, except for deletion of the transition provision in § 353.53a(c)(1) which established a special rule for initiating administrative review of periods prior to the most recent 12-month period. Paragraph (c) of the proposed rule also corresponds to paragraphs (c) and (d) of § 353.53 prior to the amendment published on August 13, 1985.

Paragraph (d) of the proposed rule cross-references § 353.19, concerning cancellation and revision of suspension agreements, and provides that the Secretary may delay publishing final results of administrative review while reviewing the status of the suspension agreement under § 353.19.

For suspended investigations, note that if the Secretary does not receive a timely request under paragraph (a)(4), the period reviewable under paragraph (b) will no longer be reviewable.

Paragraph (e) of the proposed rule corresponds to paragraph (d) of § 353.53a, except for deletion of the transition provision (§ 353.53a(d)(2)) relating to assessment of duty on entries made prior to the most recent 12-month period. Paragraph (e) provides for assessment of antidumping duties at the rate of the cash deposit of estimated antidumping duties required at the time of entry of the merchandise, when the Secretary has received no request, under subsection (a), for an administrative review. This implements Congressional intent that the Secretary provide by regulation for duty assessment on entries for which no review has been requested (Conference Report at 181). This provision also provides for continuation of the cash deposit of estimated antidumping duties at the latest determined rate.

Paragraph (e) of the current regulation, § 353.53(e), is not included in the proposed rule because this paragraph was deleted by a final rule published separately in the **Federal Register** (51 FR 25195; July 11, 1986).

Paragraph (f) of the proposed rule corresponds to § 353.53(b) of the current regulation but provides a more detailed statement of procedures applicable to changed circumstances reviews. The Secretary may initiate at any time (except as provided in paragraph (f)(2)) a review based on changed circumstances. At the beginning of the review, if the Secretary has information sufficient to form the basis for the preliminary results, and the Secretary concludes that expedited action is warranted, the Secretary under subsection (f)(3) may combine the notices of initiation and preliminary results.

Paragraph (g) corresponds to § 353.49 of the current regulation. Paragraph (g)(3) specifies each action the Secretary will take in an expedited review requested under paragraph (g)(1). This paragraph revises § 353.49 for clarity only.

18. *Section 353.23.* This section corresponds to § 353.50 of the current regulation. The title is changed to Provisional Measures Deposit Cap to describe the subject more accurately. The phrase "under the Secretary's affirmative preliminary or affirmative final determination," which is new, clarifies that the dumping margin established in the Secretary's final determination becomes the maximum amount which the Secretary may assess on entries made between publication of that determination and publication of the Commission's final affirmative determination. The dumping margin set by the Secretary's preliminary determination will be the assessment ceiling for entries made up to the date of publication of the Secretary's final determination.

19. *Section 353.24.* This section corresponds to section 353.52 of the current regulation. Paragraph (a) of the proposed rule implements section 778(a) of the Tariff Act, as amended by section 621 of the 1984 Act. It states that the requirement for interest applies to entries made on or after the date of publication of the Secretary's order.

Paragraph (b) implements section 778(b) of the Tariff Act, as amended by section 621 of the 1984 Act. That amendment makes interest payable at the Internal Revenue Code rates in effect while the particular entry remains unliquidated.

Paragraph (c), which reflects current practice, clarifies the period for which the Customs Service calculates interest on overpayments and underpayments.

20. *Section 353.25.* This section corresponds to section 353.54 of the current regulation but is rewritten to provide a detailed statement of the standards and procedures for revocation of orders and termination of suspended investigations. In the proposed rule, paragraph (a) provides for revocation or termination based on the absence of dumping, paragraph (d) provides for revocation or termination based on changed circumstances, and paragraph (e) provides for revocation or termination based on injury reconsideration by the Commission.

Paragraph (a) provides two separate standards for revocation based on the absence of dumping. Revocations under paragraph (a) would be based only on a demonstrated absence of dumping. Revocations under paragraph (a) could not be based on a period of no

shipments, unlike the practice under the current regulations. Our experience has shown that the absence of shipments may be a less reliable standard for determining whether the purposes of the antidumping law will be served than is the absence of sales at less than foreign market value. Periods of no shipments may, however, be considered under paragraph (d).

Paragraph (a)(1) provides for revocation or termination of an order or suspension agreement based on the absence of dumping, for a period of at least three years, by all producers and resellers covered by the order or suspension agreement at the time of revocation. Paragraph (a)(2) provides for partial revocation of an order based on the absence of dumping, for a period of at least three years, by one or more (but not all) producers or resellers covered by the order. Each type of revocation or termination under paragraph (a) also is premised on the Secretary's finding that it is not likely that the person or persons will in the future sell the merchandise at less than foreign market value. Under paragraph (a)(2), revocation for an individual producer or reseller which the Secretary previously has found to have sold the merchandise at less than fair market value is also contingent on an agreement to immediate reinstatement of the order if the Secretary later finds that the producer or reseller sold the merchandise at less than fair market value.

Paragraph (b) states the requirements for requests for each type of revocation or termination described in paragraph (a), including for each a certification requirement and, as appropriate, the agreement described in paragraph (a)(2)(iii). The individual producer or reseller submits the request for revocation. For revocation or termination under paragraph (a)(1), the certification of every producer and reseller is required.

Paragraph (c) describes the procedures applicable in the administrative review based on a request for revocation or termination under paragraph (b). The procedures add to or modify slightly those for an administrative review described in § 353.22(c) of the proposed rule. A revocation or termination under paragraph (a) is effective for all merchandise entered, or withdrawn from warehouse, for consumption, on or after the first day after the period of review.

Paragraph (d), concerning revocation or termination based on changed circumstances, is new. The subject is addressed only in passing in paragraph (c) of the current regulation. Paragraph (d)(1) states the criteria for revocation or termination under this paragraph.

Paragraph (d)(2) authorizes the Secretary to conduct an administrative review for the purpose of deciding whether the criteria for revocation or termination under paragraph (d)(1) are met. The Secretary may conduct the review at any time that the Secretary concludes from available information that the revocation or termination may be warranted. Consistent with the legislative history of the 1984 Act, paragraph (d)(2) also provides that an affirmative statement of no interest from the petitioner is sufficient for the Secretary to initiate a changed circumstances review to consider revocation. See Conference Report at 181.

Paragraph (d)(3) adds to or modifies slightly the procedures applicable to an administrative review described in § 353.22(f) of the proposed rule.

Paragraph (d)(4) provides for possible revocation of an order or termination of a suspended investigation based on an absence of interest (as demonstrated by the absence of requests for administrative review) for a period of five consecutive years. This "sunset" provision will eliminate old orders and suspended investigations no longer of interest to domestic interested parties. Prior to revoking or terminating under this subsection, the Secretary will, in addition to publishing notice in the **Federal Register**, write individually to each known producer and seller of the like product in the United States. If any producer or seller, or any other interested party, objected, the Secretary would not revoke the order or terminate the suspended investigation under paragraph (d)(4).

Paragraph (d)(5), concerning the ending of suspension of liquidation and refund of cash deposits, corresponds to paragraph (c)(3) of this section.

Paragraph (e) provides for revocation or termination based on injury reconsideration by the Commission. This provision was reserved in paragraph (d) of the current regulation.

21. *Section 353.26.* This section, which corresponds to section 353.55 of the current regulation, is changed only for clarity.

22. *Section 353.31.* This section, which corresponds to portions of § 353.46 of the current regulation, concerns submission of factual information. Submission of written argument, the other portion of section 353.46 of the current regulation, is addressed in proposed § 353.38.

Paragraphs (a) through (d) are new. The Secretary will consider only those submissions which conform to the timing and other requirements of this section. Paragraph (a)(1) establishes time limits for submission of factual information, and paragraph (a)(2) states the consequences of late submission. Paragraph (a)(2) is derived from paragraph (a)(1) of the current regulation. "Factual information" is defined in proposed section 353.2(g).

Paragraph (b) provides that the Secretary may request submission of factual information at any time during a proceeding. Paragraph (b)(2) addresses the subject of time limits for responses to the Secretary's questionnaire and other requests for factual information and, given the need for timely analysis of responses and planning of veritification activities, limits the Secretary's authority to consider unsolicited questionnaire responses. Paragraph (b)(3) provides that under certain conditions the Secretary may extend the time limit for responding to a request and lists the employees of the Department who may approve (in writing) such an extension.

Paragraph (c) establishes the time limit for submission of an allegation of sales below the cost of production that was not included in the original petition and provides for an extension of the time limit under certain conditions. It also bars submission after the preliminary determination of challenges to a petitioner's standing. Standing is important; however, it is also complex and the Department needs time to gather and evaluate the facts. Under paragraph (c)(3), only certain specified employees of the Department may authorize extensions. We expect the discretion to extend time limits under paragraphs (a), (b), and (c) to be exercised sparingly.

Paragraphs (d) and (e) correspond to paragraphs (a)(1) and (a)(2) of the current regulation, which was adopted as a final rule on May 30, 1984 (49 FR 22467). Paragraph (d) specifies, in accordance with current practice, when the Secretary considers a document received. Paragraph (e) includes minor modifications of the current regulation and, in addition, includes a new paragraph (3) on submission of computer tapes and printouts. Tape submissions may be required unless the Department finds the firm does not maintain records in computerized form or otherwise could not submit a computer tape response without unreasonable additional burden. As provided in this paragraph, the Department intends to reject nonconforming submissions.

Paragraph (f), which is new, contains the requirement for submission of an English translation of any document

submitted in a foreign language. The similar requirement in section 353.12(b) of the current regulations is limited to petitions.

Paragraph (g) of the proposed rule modifies the service requirements in paragraph (a)(3) of the current regulation by limiting service generally to interested parties on the Department's service list. The proposed rule also establishes a more specific certificate of service requirement.

Paragraph (h) establishes a service list for each proceeding that will be maintained and available to the public in the Import Administration's Central Records Unit. The corresponding provision concerning designation of agents appears in paragraph (b) of the current regulation.

23. Section 353.32. This section of the proposed rule covers the material in sections 353.27 and 353.28 of the current regulation, modified as explained below.

Paragraph (a) restates the requirement in the first three sentences of section 353.28(a) of the current regulation.

Paragraph (b) of the proposed rule covers other portions of § 353.28(a) of the current regulation. Section 619(3) of the 1984 Act amends section 777 of the Tariff Act to require the submitter requesting proprietary treatment either to summarize for public release each portion of the submitted information (in sufficient detail to permit a reasonable understanding of the substance of the information) or to justify specifically why, as to each portion, summarization is impossible. The proposed rule reflects this statutory amendment and includes a special provision concerning summaries of voluminous information. The "brief" nonproprietary statement, permitted by current section 353.28(a)(3) if the submitter agrees to release under administrative protective order, is no longer consistent with section 777 of the Tariff Act as amended by section 619(3) of the 1984 Act.

Paragraph (c) modifies the provision in paragraph (a) of the current regulation concerning the submitter's agreement to disclose proprietary information under administrative protective order. Section 619(3) of the 1984 Act amends section 777 of the Tariff Act to require that requests for proprietary treatment be accompanied by the submitter's statement either agreeing or objecting to disclosure. The proposed rule clarifies that an objection to disclosure must include supporting arguments. The submitter should include in the objection any argument against disclosure to particular individuals who have requested disclosure. The Secretary may permit subsequent argument from the submitter only when submission of a request for disclosure raises compelling issues that the submitter could not have anticipated—for example, the identity of the representative who submits the request for disclosure, as may be the case when the requester becomes a party to the proceeding after the information is submitted.

Paragraph (d) corresponds to § 353.28(b) and portions of § 353.28(e) in the current regulation. If the Secretary returns information because the submitter failed to provide an adequate summary, agreement to disclose, or the statements described in this revised section, the Secretary will give the submitter an additional 48 hours to return the information with a proper request for proprietary treatment. If the deadline for submitting the information has passed at the time the Secretary returns it, the Secretary will extend the deadline by 48 hours. If a conforming request is not submitted within 48 hours, however, the Secretary will not consider the information in the proceeding.

Paragraph (e) corresponds to § 353.28(c) of the current regulation.

Paragraph (f) incorporates the limitations on disclosure of proprietary information, under administrative protective order and otherwise, that are stated in § 353.27 and 353.28(d) of the current regulations. The Department does not intend to change its current practice of not disclosing proprietary information submitted by one foreign firm to its foreign competitor. Since § 353.32 of the proposed rule concerns only proprietary information of a business nature, references in the current regulations to classified information are deleted. Paragraph (f)(4) of the proposed rule, which is new, authorizes release of proprietary information to a Customs Service employee for use in a fraud investigation. The revision is required by section 619(2) of the 1984 Act, which amends section 777(b) of the Tariff Act.

Paragraph (g) incorporates without change most of the substance of § 353.28(e) of the current regulation.

24. Section 353.33. This section, which states that information which is classified or privileged is exempt from disclosure, consolidates in one place the similar statements in § 353.27, 353.28 (a) and (d), and 353.30(a) of the current regulation.

25. Section 353.34. The proposed rule revises current procedures for submission of requests for disclosure of proprietary information under administrative protective order, for the purpose of making the procedure more efficient and more responsive to the needs of parties to the proceeding. The revision is intended to ensure timely action on requests for disclosure and is more specific as to protection of information disclosed. This section replaces § 353.30 of the current regulation.

Paragraph (a) states the considerations relevant to the Secretary's decision whether or not to issue an administrative protective order. The Secretary will consider whether the requester has stated a sufficient need for the information, would protect adequately the information, and the probable effectiveness of the available sanctions in the event of a violation of the order. The Secretary will also consider whether disclosure will adversely affect the Secretary's ability to obtain proprietary information in subsequent proceedings. As under current practice, proprietary information is released under administrative protective order only to aid the requester's ability to assist the Department in reaching an accurate and reasoned result in the administrative decision process.

Paragraph (b) implements section 619(4) of the 1984 Act, which authorizes standing requests for discloure of information for the duration of each segment of a proceeding that culminates in a judicially reviewable decision. The interested party's representative must request disclosure at the earliest opportunity, which is defined in the proposed rule as 10 days after the later of the date the requesting interested party becomes a party to the proceeding or the date notice of initiation is published in the Federal Register. In addition, the Secretary will not consider requests received later than 10 days after the date of publication of the Secretary's preliminary determination or preliminary results of administrative review. The request must cover all proprietary information which the representative wants disclosed, whether or not in the record of the proceeding at the time the request is filed. The request must be submitted on the standard form provided by the Secretary (not a retyped copy or modified version of the form). The form (Form ITA–367) is drafted specifically to satisfy the requirements of section 777 of the Tariff Act. The regulation recognizes that the standard in section 777(c) for particularity of description of requested information must be read in light of the 1984 Act's provision for requesting information before the Department receives it, or even before the information exists. Consistent with the current practice, in-house (e.g., corporate) counsel are subject to the same rules as other

attorneys who request disclosure. The statement in current § 353.30(a)(3) that disclosure generally will be made only to attorneys subject ot disbarment for violation has been deleted. Economic and other consultants to a party's attorneys have played an increasingly significant role in recent years. We will continue to insist that the party's attorney (and the law firm) take responsibility for violation of an administrative protective order by consultants assisting the attorney in the proceeding.

Paragraph (b)(3) lists the obligations that are imposed on the representative to whom the Secretary discloses the information under administrative protective order. Paragraph (b)(4) lists possible sanctions for violation of the order. The representative must acknowledge those possibilities in the request. Paragraphs (b) (3) and (4) of the proposed rule correspond to paragraphs (b), (c), and (e) of the current regulation.

Paragraph (c) of the proposed rule is based on paragraph (a)(4) of the current regulation, with the addition of a 24-hour time limit on withdrawal of information that the Secretary decides, over the submitter's objection, to disclose under protective order.

Paragraph (d) permits the representative to retain the proprietary information, subject to the terms of the administrative protective order, after the Secretary has reached the judicially reviewable decision, for a limited period of time and under specific conditions. Before the administrative protective order lapses, the proposed rule requires that the proprietary information either be subject to the terms of an existing judicial protective order or that the representative destroy or return the proprietary information and certify to the Secretary full compliance with the terms of the order (including return or destruction of the information). The provisions of paragraph (d) are more specific and comprehensive than the corresponding provisions of paragraph (d) of the current regulation. They also take account of the potential for inefficiency in the current regulation that requires the representative to destroy notes based on proprietary information before any party decides to sue. We emphasize that this permission to retain proprietary information for a limited time after the Secretary has made the judicially reviewable decision may be withdrawn by the Secretary under the terms of paragraph (d)(1). In no event will the Secretary release additional proprietary information after making a judicially reviewable decision, because the need to prepare for judicial review is not an adequate reason for additional disclosure. As stated earlier, release under administrative protective order is intended to benefit the Secretary's administrative decision by full participation of parties—no such benefit can result once the administrative process is concluded.

Paragraph (e) states that the General Counsel of the Department will investigate each alleged violation of an administrative protective order and prepare a report to the Secretary. There is no corresponding provision in the current regulations. The Department intends firm and effective enforcement of administrative protective orders.

26. *Section 353.35.* The proposed rule retains the requirement in § 353.26 of the current regulation for preparation of memoranda of *ex parte* meetings during administrative reviews. Section 619(1) of the 1984 Act added this requirement to section 777(a)(3) of the Tariff Act, which previously appeared to limit the requirement to the investigation phase of a proceeding. The Secretary, rather than a party to the proceeding, prepares the memorandum. This is consistent with current practice.

27. *Section 353.36.* The proposed rule separates the provisions in § 353.51 of the current regulation into two separate sections. Section 353.36 covers verification of information, and § 353.37 covers the use of best information available, a concept not limited to the verification process.

Paragraphs (a) and (b) of the proposed rule implement section 776(a) of the Tariff Act, as amended by section 618 of the 1984 Act. In addition to the specific verification requirements in that amendment (paragraph (a)(1)(v)), the proposed rule includes in paragraph (a)(1)(iv) authority for verifications in administrative reviews whenever "the Secretary decides that there is good cause for verification." As noted by the Committee of Conference on page 177 of its report, section 618 of the 1984 Act generally codifies the current practice of verifying information relied upon in a final determination in an investigation and in later decisions which warrant verification. Specifically, the Secretary is to conduct a verification before revoking an order, in whole or in part, or if the Secretary decides that good cause to verify exists. In addition, the Secretary will carry out a verification if a timely written request for verification is submitted by a domestic interested party in a proceeding in which the Secretary has not conducted verification during either of the two immediately preceding reviews. Section 618 implicity overrule *Al Tech Specialty Steel Corp. v. United States*, 6 CIT ——, 575 F. Supp. 1277 (1983), *aff'd*, 745 F.2d 632 (Fed. Cir. 1984).

Paragraph (a)(2) implements for administrative reviews of orders and agreements the authority to use generally recognized sampling techniques, confirmed in section 777A of the Act, as added by section 620 of the 1984 Act.

Paragraph (b) corresponds to the second sentence of paragraph (a) of the current regulation as to notice of the methods and procedures used to verify.

Paragraph (c) of the proposed rule clarifies paragraph (c) of the current regulation and the current practice concerning verification procedures.

Paragraphs (d) and (e) of the current regulation are incorporated in §353.31 of the proposed rule.

28. *Section 353.37.* This section, which is new, corresponds to § 353.51(b) of the current regulation. The proposed rule reflects current administrative practice. Legislative history to the 1984 Act confirms the Congressional intent to apply the concept of "best information available" to administrative reviews and other portions of a proceeding in addition to investigations. Conference Report at 177.

29. *Section 353.38.* This section of the proposed rule concerns written arguments, addressed in § 353.46 of the current regulation, and also broadens and modifies substantially the current regulation on hearings in § 353.35.

Paragraph (a) of the proposed rule establishes the procedures and requirements for all written argument after the Secretary's preliminary determination or preliminary results of administrative review. "Written argument" means all written submissions after the preliminary determination or preliminary results of administrative review that are not "factual information" and includes legal and policy contentions concerning the proceeding. Under paragraph (a), any interested party and any agency of the U.S. Government may submit written arguments but must do so in the "Case brief" or the "rubuttal brief," as described in paragraphs (b) and (c), or in response to a request of the Secretary. As with factual information, the Secretary will not consider, or retain in the record, written argument which is untimely or otherwise does not follow these rules.

Paragraph (b) describes the case brief and establishes time limits for submission. The case brief is a complete presentation of each argument that the party or the agency wants the Secretary to consider in making a final

determination or the final results of administrative review. The case brief must also contain any request for a hearing the party wants on arguments raised in the brief. In an administrative review, an interested party may address only arguments specifically identified in the case brief for hearing presentation. The Department intends to implement this requirement by practice, to the extent possible, in investigations.

Paragraph (c) describes the rebuttal brief and establishes time limits for its submission. In the rebuttal brief, an interested party may request a hearing specifically to present rebuttal arguments on issues that are identified and discussed in the rebuttal brief. To the extent possible in investigations, and in all administrative reviews, rebuttal at the hearing is limited to arguments specifically identified in the rebuttal brief for such presentation.

Paragraph (d) states special service requirements for case and rebuttal briefs in recognition of the tight time frames for submission of briefs by the parties and decisions by the Department in the proceeding. The rebuttal brief will usually be due seven days after the case brief, which ordinarily is due 35 days (30 days in an administrative review) after publication of the Secretary's preliminary determination (or preliminary results).

Paragraph (e) states when the Secretary will hold a hearing, if requested, and the procedural rules that apply to hearings. Paragraph (1) concerns the availability of verbatim transcripts. Paragraph (2) specifies which employees of the Department may chair a hearing. Paragraph (3) states rules for conduct of the hearing. The chair may request post-hearing briefs on specific issues; these requests will be the exception, rather than the rule.

Paragraphs (f) and (g) cross-reference the filing requirements stated in § 353.31 (d) and (e) of the proposed rule.

30. *Subpart D.* Subpart D of the proposed rule collects in one subpart all of the provisions in the current regulations that explain the calculation of United States price and foreign market value. Except as indicated in the section-by-section analysis below, the current regulations are revised only for clarity and to conform the terminology with that used in other sections of the proposed rule. All changes not described in the section-by-section analysis below are stylistic and conforming changes only.

Section 353.2 of the current regulation ("Definition of foreign market value") is deleted because it is unnecessary. All of subpart D of the proposed rule, except §§ 353.41 and 353.42, describes how foreign market value is calculated.

Section 353.57 of the current regulation ("Entered value not controlling") also is deleted because it is unnecessary. Other sections of part 353, such as those on verification (section 353.36) and the use of best information available (section 33.37), clearly establish the Secretary's authority to disregard entered values claimed by importers.

31. *Section 353.41.* This section of the proposed rule is section 353.10 of the current regulations. Paragraph (a) is revised to include a reference to the definition of "sale" and "likely sale" in § 353.2(l). See preamble discussion of that section of the proposed rule.

Paragraph (b) implements in the regulations section 614 of the 1984 Act by adding a reference to "resellers" to the definition of purchase price. Conforming changes also are made in other sections of the proposed rule by use of the word "reseller" in place of the word "exporter." See preamble comments on § 353.2(s) of the proposed rule. The word "reseller" is sufficiently broad in meaning to include exporters (other than producers) that resell the merchandise. "Reseller" is defined in § 353.2(s) of the proposed rule.

As used in paragraphs (c) and (d) of § 353.41 of the proposed rule, the word "exporter" means the person or persons described in section 771(13) of the Tariff Act. This definition is incorporated by reference in paragraph (c) of the proposed rule, the first place in this section when the word "exporter" appears. Therefore, in paragraph (d) it is not necessary to employ the phrase "in the United States" to define what is meant by the phrase "by or for the account of the exporter." Deletion of the phrase "in the United States", which appears in the current regulation, does not change current administrative practice.

32. *Section 353.42.* Paragraphs (a) and (b) of the proposed rule are §§ 353.1 and 353.38, respectively, of the current regulations. The reference to "dollar volume of exports" in § 353.38(a) is changed in § 353.42(b)(1) of the proposed rule to "dollar value or volume" of the merchandise. The change provides the Secretary with necessary discretion to select appropriate comparison sales and is consistent with current practice.

33. *Section 353.43.* Paragraphs (a), (b), and (c) of the proposed rule are §§ 353.17, 353.18, and 353.3(b) of the current regulations. Paragraph (a) clarifies the situations in which the Secretary will base foreign market value on offers for sale. For purposes of calculating foreign market value, the Secretary may use a sale or offer for sale, as explained in paragraph (a) of this section. For purposes of calculating U.S. price, the Secretary may use a sale or likely sale, as explained in § 353.41(a).

34. *Section 353.44.* This section of the proposed rule is § 353.20 of the current regulations.

35. *Section 353.45.* This section of the proposed rule is § 353.22 of the current regulations. The word "reseller" is defined in § 353.2(s) of the proposed rule.

36. *Section 353.46.* Paragraphs (a) and (b) of the proposed rule correspond to § 353.3 of the current regulations. In paragraph (a)(1), the reference to "commercial" (rather than "wholesale") quantities implements section 615(2) of the 1984 Act. Portions of paragraph (a) of § 353.3 of the current regulations concerning the time of sale are replaced by paragraph (a)(2) of the proposed rule. Paragraph (a)(2) implements section 615(1) of the 1984 Act. The phrase "home market country" is defined in § 353.2(h) of the proposed rule.

Paragraph (c) of the proposed rule is § 353.21 of the current regulations.

37. *Section 353.47.* This section, which is new, implements section 615(3) of the 1984 Act. It applies under certain conditions when the merchandise enters the commerce of an intermediate country. The situation described in this section is not transshipment, which is covered in § 353.46(c) of the proposed rule.

38. *Section 353.48.* Paragraphs (a) and (b) of the proposed rule is § 353.4 of the current regulations. Paragraph (c) adds a definition of "third country," which reflects current practice.

39. *Section 353.49.* This section of the proposed rule is § 353.5 of the current regulations. Portions of paragraph (a) of the current regulation concerning the time of sale are replaced by paragraph (a)(2) of the proposed rule, which implements section 615(1) of the 1984 Act.

40. *Section 353.50.* This section of the proposed rule is § 353.6 of the current regulations. Portions of paragraph (a) of the current regulation, concerning the time of the calculation, are replaced by paragraph (b), which implements section 615(1) of the 1984 Act. The reference in paragraph (a)(2) to "commercial" (rather than "wholesale") quantities implements section 615(2) of the 1984 Act.

41. *Section 353.51.* This section of the proposed rule is § 353.7 of the current regulations. The last sentence of paragraph (b) of the current regulation

now appears as paragraph (c) of the proposed rule.

42. *Section 353.52.* This section of the proposed rule is § 353.8 of the current regulations.

43. *Section 353.53.* This section of the proposed rule is § 353.9 of the current regulations.

44. *Section 353.54.* This section of the proposed rule is § 353.13 of the current regulations.

45. *Section 353.55.* This section of the proposed rule is § 353.14 of the current regulations. Paragraph (c) of the current regulation is deleted because in substance it is identical to § 353.3(b) of the proposed rule and properly belongs in that section.

46. *Section 353.55.* This section of the proposed rule is § 353.16 of the current regulations.

47. *Section 353.57.* This section of the proposed rule is § 353.16 of the current regulations. The section is divided into paragraphs (a) and (b) for clarity only.

48. *Section 353.58.* This section of the proposed rule is § 353.19 of the current regulations.

49. *Section 353.59.* This section of the proposed rule is § 353.23 of the current regulations. The last sentence of paragraph (a) of the current regulation is deleted because it is redundant. The reference to "United States price" in paragraph (b) implements section 777A of the Tariff Act as added by section 620 of the 1984 Act.

50. *Section 353.60.* This section of the proposed rule is § 353.56 of the current regulations.

Drafting Information: The principal authors of this document are Stephen J. Powell and Robert F. Seely of the Office of General Counsel, U.S. Department of Commerce, and Leonard M. Shambon and Richard W. Moreland of the Import Administration, International Trade Administration, U.S. Department of Commerce. Other personnel in the Office of General Counsel and the Import Administration also provided valuable assistance.

List of Subjects in 19 CFR Part 353

Business and industry, Foreign trade, Imports, Trade practices.

Dated: August 5, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

1. For the reasons stated in the preamble, we proposed to revise 19 CFR Part 353 as follows:

PART 353—ANTIDUMPING DUTIES

Subpart A—Scope and Definitions

Subpart B—Antidumping Duty Procedures

Subpart C—Information and Argument

Subpart D—Calculation of United States Price, Fair Value, and Foreign Market Value

Authority: 5 U.S.C. 301; Subtitle IV Parts II, III, and IV of the Tariff Act of 1930, as amended by Title I the Trade Agreements Act of 1979, Pub. L. No. 96–39, 93 Stat. 150, 162, and Title VI of the Trade and Tariff Act of 1984, Pub. L. No. 98–573, 98 Stat. 2948, 3024 (19 U.S.C. 1673–1673g; 1675; 1677; and 1677a–1677h) and section 221 (19 U.S.C. 1339) of the Trade and Tariff Act of 1984, Pub. L. No. 98–573, 98 Stat. 2948, 2989 (19 U.S.C. 1339).

Subpart A—Scope and Definitions

§ 353.1 Scope.

This part sets forth procedures and rules applicable to proceedings under Title VII of the Tariff Act of 1930, as amended (19 U.S.C. 1516a and 1673–1677h (the "Act"), relating to the imposition of antidumping duties. This part incorporates the regulatory changes made pursuant to Title VI of the Trade and Tariff Act of 1984 (Pub. L. 98–573; October 30, 1984).

§ 353.2 Definitions.

(a) *Act.* "Act" means the Tariff Act of 1930, as amended.

(b) *Commission.* "Commission" means the United States International Trade Commission.

(c) *Country.* "Country" means a foreign country or a political subdivision, dependent territory or possession of a foreign county.

(d) *Customs Service.* "Customs Service" means the United States Customs Service of the United States Department of the Treasury.

(e) *Department.* "Department" means the United States Department of Commerce.

(F) *Dumping Margin.* "Dumping margin" means the difference between the United States price of the merchandise and the foreign market value of such or similar merchandise.

(g) *Factual Information.* "Factual information" means:

(1) Initial and supplemental questionnaire responses;

(2) Data or statements of fact in support of allegations;

(3) Other data or statements of facts; and

(4) Documentary evidence.

(h) *Home Market Country.* The "home market country" is the country in which the merchandise is produced.

(i) *Importer.* "Importer" means the person by whom, or for whose account, the merchandise is imported.

(j) *Industry.* "Industry" means the producers in the United States collectively of the like product, except those producers in the United States that the Secretary excludes under section 771(4) (B) of the Act on the grounds that they are also importers (or are related to importers, producers, or exporters) of the merchandise. Under section 771(4) (C) of the Act, an "industry" may mean producers in the United States, as defined above in this paragraph, in a particular market in the United States if such producers sell all or almost all of their production of the like product in that market and if the demand for the like product in that market is not supplied to any substantial degree by producers of the like product located elsewhere in the United States.

(k) *Interested Party.* "Interested party" means—

(1) A producer, exporter, or United States importer or the merchandise, or a trade or business association a majority of the members of which are importers of the merchandise;

(2) The government of the home market country;

(3) A producer or seller (other than a retailer) in the United States of the like product;

(4) A certified or recognized union or group of workers which is representative of the industry or of sellers (other than retailers) in the United States of the like product;

(5) A trade or business association a majority of the members of which are producers or sellers (other than retailers) in the United States of the like product; or

(6) An association a majority of the members of which are interested parties, as defined in paragraph 3, 4, or 5 above.

(l) *Investigation.* An "investigation" begins on the date of the publication of notice of initiation, resumption, or continuation of investigation and ends on the date of publication of the earliest of (1) notice of termination of investigation, (2) notice of rescission of investigation, (3) notice of a negative determination that has the effect of terminating the proceeding, (4) notice of suspension of investigation, or (5) an order.

(m) *The Merchandise.* "The merchandise" means the class or kind of merchandise imported or sold, or likely to be sold for importation into the United States, that is the subject of the proceeding.

(n) *Order.* An "order" is an order issued by the Secretary under § 352.21 or a finding under the Antidumping Act of 1921.

(o) *Party to the Proceeding.* "Party to the proceeding" means any interested party, within the meaning of paragraph (k) of this section which has actively participated, through written submissions of factual information or written argument, in a particular decision by the Secretary subject to judicial review. Participation in a prior reviewable decision will not confer on any interested party "party to the proceeding" status in a subsequent decision by the Secretary subject to judicial review.

(p) *Person.* "Person" includes any "interested party" as well as any other individual, enterprise, or entity, as appropriate.

(q) *Proceeding.* A "proceeding" begins on the date of the filing of a petition or publication of a notice of initiation under § 353.11, and ends on the date of the publication of the earliest of notice of (1) dismissal of petition, (2) rescission of initiation, (3) termination of investigation, (4) negative determination that has the effect of terminating the proceeding, (5) revocation of an order, or (6) termination of a suspended investigation.

(r) *Producer; Production.* "Producer" means a manufacturer or producer. "Production" means manufacture or production.

(s) *Reseller.* "Reseller" means the foreign reseller, exporter, or other person (other than the producer) whose sales the Secretary uses to calculate foreign market value.

(t) *Sale; Likely Sale.* A "sale" includes a contract to sell and a lease that is equivalent to a sale. A "likely sale" means a person's irrevocable offer to sell.

(u) *Secretary.* "Secretary" means the Secretary of Commerce or a designee. The Secretary has delegated to the Assistant Secretary for Trade Administration the authority to make final determinations under §§ 353.18(i) and 353.20. The Deputy Assistant Secretary for Import Administration has other delegated authority relating to antidumping duties.

§ 353.3 Record of proceedings.

(a) *Official record.* The Secretary will maintain in the Import Administration Central Records Unit, at the location stated in § 353.31(d), an official record of each proceeding. The Secretary will include in the record all factual information, written argument, or other material developed by, presented to, or obtained by the Secretary during the course of the proceeding which pertains to the proceeding. It will include governmental memoranda pertaining to the proceeding, memoranda of *ex parte* meetings, determinations, notices published in the **Federal Register**, and transcripts of hearings. It will not include any factual information, written argument, or other material which is not timely filed or which the Secretary returns to the submitter under § 353.32(d) or § 353.34(c). The record will contain material that is public, proprietary, privileged, and classified. For purposes of section 516A(b)(2) of the Act, the record is the official record of each judicially reviewable segment of the proceeding.

(b) *Public record.* The Secretary will maintain in the Central Records Unit a public record of each proceeding. The record will consist of all material described in paragraph (a) of this section that the Secretary decides may be disclosed to the general public. The public record will be available to the public for inspection and copying in the Central Records Unit, as provided in § 353.31(d). The Secretary will charge an appropriate fee for providing copies of documents.

(c) *Protection of records.* Unless ordered by the Secretary or required by law, no record or portion of a record will be removed from the Department.

§ 353.4 Public, proprietary, privileged, and classified information.

(a) *Public information.* The Secretary normally will consider the following to be public information:

(1) Factual information of a type that has been published or otherwise made available to the public by the person submitting it;

(2) Factual information that is not designated proprietary by the person submitting it;

(3) Factual information which, although designated proprietary by the person submitting it, is in a form which cannot be associated with or otherwise used to identify activities of a particular person;

(4) Laws, regulations, decrees, orders, and other official documents of a country, including English translations; and

(5) Written argument relating to the proceeding.

(b) *Proprietary information.* The Secretary normally will consider the

following factual information to be proprietary information, if so designated by the submitter:

(1) Business or trade secrets concerning the nature of a product or production process;

(2) Production costs (but not the identity of the production components unless a particular component is a trade secret);

(3) Distribution costs (but not channels of distribution);

(4) Terms of sale (but not terms of sale offered to the public);

(5) Prices of individuals sales, likely sales, or other offers (but not (i) components of prices, such as transportation, if based on published schedules, (ii) dates of sale, (iii) product description except as described in paragraph (b)(1), or (iv) order numbers);

(6) The names of particular customers, distributors, or suppliers (but not destination of sale or designation of type of customer, unless the destination or designation would reveal the name);

(7) The exact amount of the dumping margin on individual sales;

(8) The names of particular persons from whom proprietary information was obtained; and

(9) Any other specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter.

(c) *Privileged information.* The Secretary will consider information privileged if, based on principles of law concerning privileged information, the Secretary decides that the information should not be released to the public or to parties to the proceeding.

(d) *Classified information.* Classified information is information that is classified under Executive Order No. 12356 of April 2, 1982 (43 FR 28949) or successor executive order, if applicable.

§ 353.5 Trade and Tariff Act of 1984—effective date.

In accordance with section 626 of the Trade and Tariff Act of 1984 (Pub. L. 98–573) (for purposes of this subpart, referred to as "the 1984 Act"), the amendments to the Act made by Title VI of the 1984 Act are effective as follows:

(a) Except as provided in paragraphs (b), (c), and (d) of this section, all amendments made by Title VI of the 1984 Act which affect authorities administered by the Secretary are effective on October 30, 1984.

(b) Amendments made by sections 602, 609, 611, 612, and 620 of the 1984 Act which affect authorities administered by the Secretary take effect immediately with respect to all investigations and administrative reviews begun on or after October 30, 1984.

(c) Amendments made by section 623 of the 1984 Act, regarding judicial review, apply with respect to civil actions pending on, or filed on or after October 30, 1984.

(d) Nothwithstanding the provisions of paragraphs (a) and (b), the Secretary may implement the amendments of the 1984 Act at a date later than October 30, 1984, if the Secretary determines that implementation in accordance with paragraph (a) or (b) of this section would prevent the Department from complying with other requirements of law.

Subpart B—Antidumping Duty Procedures

§ 353.11 Self-initiation.

(a) In General. (1) If the Secretary determines from available information, including information obtained during a period of monitoring under paragraph (c) of this section, that an investigation is warranted with respect to the merchandise, the Secretary will initiate an investigation and publish in the **Federal Register** a notice of "Initiation of Antidumping Duty Investigation."

(2) The notice will include:

(i) A description of the merchandise, after consultation as appropriate with the Commission;

(ii) The name of the home market country and, if the merchandise is imported from a country other than the home market country, the name of the intermediate country (§ 353.47) or country through which the merchandise is transshipped (§ 353.46(c)); and

(iii) A summary of the available information that would, if accurate, support the imposition of antidumping duties.

(b) Information provided to the Commission. The Secretary will notify the Commission at the time of initiation of the investigation and will make available to it and to its employees directly involved in the proceeding all information upon which the Secretary based the initiation and which the Commission may consider relevant to its injury determinations.

(c) Persistent dumping monitoring. (1) The Secretary may monitor, for a period not to exceed one year, imports from an additional supplier country of the same class or kind as the merchandise which is subject to two or more orders under this part if the Secretary concludes from available information, including information in a request for monitoring under this paragraph, that:

(i) There is reason to believe or suspect an extraordinary pattern of persistent injurious dumping from one or more additional supplier countries; and

(ii) This extraordinary pattern is causing a serious commercial problem for the industry.

(2) For the purposes of this section, "additional supplier country" means a country regarding which no order is in effect and no investigation is pending under this part as to the class or kind of merchandise referred to in paragraph (c)(1) of this section.

(3) To the extent practicable, the Secretary will expedite any investigation initiated under paragraph (a) of this section as a result of monitoring under paragraph (c)(1) of this section.

§ 353.12 Petition requirements.

(a) *In general.* Any interested party, as defined in paragraphs (k) (3), (4), (5), or (6) of § 353.2, may file on behalf of an industry a petition under this section requesting the imposition of antidumping duties equal to the alleged amount of the dumping margin, if that person has reason to believe that:

(1) The merchandise is being, or is likely to be, sold at less than fair value; and

(2) That industry is materially injured, is threatened with material injury, or its establishment is materially retarded by the merchandise.

(b) *Contents of petition.* The petition shall contain the following, to the extent reasonably available to the petitioner:

(1) The name and address of the petitioner and any person the petitioner represents;

(2) The identity of the industry on behalf of which the petitioner is filing, including the names and addresses of other persons in the industry (If numerous, provide information at least for persons that individually accounted for two percent or more of the industry during the most recent 12-month period.);

(3) A statement indicating whether the petitioner has filed for import relief under sections 337 or 702 of the Act (19 U.S.C. 1337, 1671a), sections 201 or 301 of the Trade Act of 1974 (19 U.S.C. 2251 or 2411), or section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) with respect to the merchandise;

(4) A detailed description of the merchandise that defines the requested scope of the investigation, including technical characteristics and uses of the merchandise, and its current tariff classification under the Tariff Schedules of the United States;

(5) The name of the home market country and, if the merchandise is imported from a country other than the

home market country, the name of the intermediate country (§ 353.47) or the country through which the merchandise is transshipped (§ 353.46 (c));

(6) The names and addresses of each person the petitioner believes sells the merchandise at less than fair value and the proportion of total exports to the United States which each person accounted for during the most recent 12-month period (If numerous, provide information at least for persons that individually accounted for two percent or more of the exports.);

(7) All factual information (particularly documentary evidence) relevant to the calculation of the United States price of the merchandise and the foreign market value of such or similar merchandise, in accordance with Subpart D of this part. (If unable to furnish information on foreign sales or costs, provide information on production costs in the United States, adjusted to reflect production costs in the country of exportation of the merchandise.);

(8) If the merchandise is from a country that the Secretary has found to be a state-controlled-economy country, factual information relevant to the calculation of foreign market value, as provided in subpart D of this part, using a method described in § 353.52.

(9) The volume and value of the merchandise (including information on individual sales, customers, and prices) during the most recent two-year period, and any other recent period that the petitioner believes to be more representative, or, if the merchandise was not imported during the two-year period, information as to the likelihood of its sale for importation;

(10) The name and address of each person the petitioner believes imports or, if there were no importations, is likely to import the merchandise;

(11) Factual information regarding material injury, threat of material injury, or material retardation, as described in 19 CFR 207.11 and 207.26;

(12) If the petitioner alleges "critical circumstances" under § 353.16, factual information regarding:

(i) Material injury which is difficult to repair;

(ii) Massive imports is a relatively short period; and

(iii) Either: (A) A history of dumping; or

(B) The importer's knowledge that the reseller was selling the merchandise at less than its foreign market value, as described in § 353.16(a); and

(13) Any other factual information on which the petitioner relies.

(c) *Simultaneous filing with Commission.* The petitioner must file a copy of the petition with the Commission and the Secretary on the same day and so certify in submitting the petition to the Secretary.

(d) *Proprietary status of information.* The Secretary will not consider any petition which contains factual information for which the petitioner requests proprietary treatment unless the petitioner meets the requirements of § 353.32.

(e) *Amendment of petition.* The Secretary will allow timely amendment of the petition. The petitioner must file an amendment with the Commission and the Secretary on the same day and so certify in submitting the amendment to the Secretary. The timeliness of new allegations is controlled under § 353.31.

(f) *Where to file; time of filing; format and number of copies.* The requirements of § 353.31 (d), (e), (f) and (g) apply to this section.

(g) *Notification of representative of the home market country.* Upon receipt of a petition, the Secretary will deliver a public version of the petition, as described in § 353.31(e)(2), to a representative in Washington, D.C., of the government of the home market country.

(h) *Assistance to small businesses; additional information.* (1) The Secretary will provide technical assistance to eligible small businesses, as defined in section 339 of the Act, to enable them to prepare and file petitions. The Secretary may deny assistance if the Secretary concludes that the petition, if filed, could not satisfy the requirements of § 353.13.

(2) For additional information concerning petitions, contact the Director, Office of Investigations, Import Administration, International Trade Administration, Room 3065, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, N.W., Washington, D.C. 20230; (202) 377–5497.

(i) *Limitation of communication before initiation.* Before the Secretary decides whether to initiate an investigation, the Secretary will not accept from an interested party, as defined in paragraph (1) or (2) of § 353.2(k), oral or written communication regarding a petition except inquiries concerning the status of the proceeding.

[The information collection requirements in paragraph (b) of this section have been approved by the Office of Management and Budget under control number 0625–0105]

§ 353.13 Determination of sufficiency of petition.

(a) *Determination of sufficiency.* Not later than 20 days after a petition is filed under § 353.12, the Secretary will determine whether the petition properly alleges the basis on which an antidumping duty may be imposed under section 731(a) of the Act, contains information reasonably available to the petitioner supporting the allegations, and is filed by an interested party as defined in paragraph (3), (4), (5), or (6) of § 353.2(k).

(b) *Notice of initiation.* If the Secretary determines that the petition is sufficient under paragraph (a), the Secretary will initiate an investigation and publish in the **Federal Register** a notice of "Initiation of Antidumping Duty Investigation." The notice will include the information described in § 353.11(a). The Secretary will notify the Commission at the time of initiation of the investigation and will make available to it and to its employees directly involved in the proceeding all information upon which the Secretary based the initiation and which the Commission may consider relevant to its injury determinations.

(c) *Insufficiency of petition.* If the Secretary determines that a petition is insufficient under paragraph (a) of this section, the Secretary will dismiss the petition in whole or in part and, if appropriate, terminate the proceeding. The Secretary will notify the petitioner in writing of the reasons for dismissal, notify the Commission of the dismissal and publish in the **Federal Register** a notice of "Dismissal of Antidumpting Duty Petition", summarizing the reasons for dismissal.

§ 353.14 Request for exclusion from antidumping duty order.

(a) Any producer or reseller that desires exclusion from an antidumping duty order must submit to the Secretary, not later than 30 days after the date of publication of the notice of initiation under § 353.11 or § 353.13, an irrevocable written request for exclusion.

(b) The person must submit with the request: (1) The person's certification that:

(i) There is no dumping margin on the merchandise sold or likely to be sold, as defined in §353.2(t), by the person during the minimum period described in § 353.42(b)(1); and

(ii) The person will not in the future sell the merchandise at less than foreign market value; and

(2) If the person is not the producer of the merchandise, the certification under paragraph (b)(1) of this section of the suppliers and producers of the merchandise.

(c) The Secretary will investigate requests for exclusion to the extent practicable in each investigation.

§ 353.15 Preliminary determination.

(a) *In general.* (1) Not later than 160 days after the date of filing of a petition or the date of publication of a notice of initiation under § 353.11, the Secretary will make a determination based on the available information at the time whether there is a reasonable basis to believe that the merchandise is being sold at less than fair value. The Secretary will not make the determination unless the Commission has made an affirmative preliminary determination.

(2) The Secretary's determination will include:

(i) The factual and legal conclusions on which the determination is based;

(ii) The estimated weighted-average dumping margin, if any, for each person investigated; and

(iii) If appropriate, a preliminary finding on critical circumstances under § 353.16(b)(2)(i).

(3) If affirmative, the Secretary's determination will also:

(i) Order the suspension of liquidation of all entries of the merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the notice of the Secretary's preliminary determination; and

(ii) Impose provisional measures by instructing the Customs Service to require for each entry of the merchandise suspended under paragraph (a)(3)(i) of this section a cash deposit on bond equal to the estimated weighted-average dumping margin.

(4) The Secretary will publish in the **Federal Register** a notice of "Affirmative (Negative) Preliminary Antidumping Duty Determination," including the estimated weighted-average dumping margin, if any, and an invitation for argument consistent with § 353.38.

(5) The Secretary will notify all parties to the proceeding and the Commission.

(b) *Postponement in extraordinary complicated investigation.* If the Secretary decides the investigation is extraordinarily complicated, the Secretary may postpone the preliminary determination to not later than 210 days after the proceeding begins. The Secretary will base the decision on express findings that:

(1) The respondent parties to the proceeding are cooperating in the investigation;

(2) The investigation is extraordinarily complicated by reason of (i) the large number of complex nature of the transactions or adjustments under subpart D of this part, (ii) Novel issues raised, or (iii) the large number of producers and resellers; and

(3) Additional time is needed to make the preliminary determination.

(c) *Postponement at the request of the petitioner.* If, not later than 25 days before the scheduled date for the Secretary's preliminary determination, the petitioner requests a postponement and states the reasons for the request, the Secretary will postpone the preliminary determination to not later than 210 days after the date of filing of the petition, unless the Secretary finds compelling reasons to deny the request.

(d) *Notice of postponement.* If the Secretary decides to postpone the preliminary determination under paragraph (b) or (c) of this section, the Secretary will notify all parties to the proceeding not later than 20 days before the scheduled date for the Secretary's preliminary determination and will publish in the **Federal Register** a notice of "Postponement of Preliminary Antidumping Duty Determination," stating the reasons for the postponement.

(e) *Expedited preliminary determination.* Not later than 75 days after the initiation of an investigation under § 353.13, the Secretary will review the record of the first 60 days of the investigation. If the available information is sufficient for the Secretary to make a preliminary determination, the Secretary will disclose to the petitioner, and any interested party that has requested disclosure, all available public and proprietary information (subject to the requirements of § 353.34). If, not later than three government business days after disclosure, each party to whom disclosure was made furnishes an irrevocable written waiver of verification and agrees to a preliminary determination based on information in the record on the sixtieth day of the investigation, the Secretary will make an expedited preliminary determination not later than 90 days after initiation of the investigation.

(f) *Commission access to information.* The Secretary will make available to the Commission and to employees of the Commission directly involved in the proceeding all information upon which the Secretary based the determination and which the Commission may consider relevant to its injury determination.

(g) *Disclosure.* Promptly after making the preliminary determination, the Secretary will provide to parties to the proceeding which request disclosure a further explanation of the determination.

§ 353.16 Critical circumstances findings.

(a) *In general.* If a petitioner submits to the Secretary a written allegation of critical circumstances, with reasonably available factual information supporting the allegation, not later than 21 days before the scheduled date of the Secretary's final determination, or on the Secretary's own initiative in an investigation under § 353.11, the Secretary will make a finding whether:

(1)(i) There is a history of dumping in the United States or elsewhere of the same class or kind as the merchandise subject to the investigation; or

(ii) The importer knew or should have known that the exporter was selling the merchandise at less than its foreign market value; and

(2) There have been massive imports of the merchandise over a relatively short period.

(b) *Preliminary finding.* (1) If the petitioner submits the allegation of critical circumstances not later than 30 days before the scheduled date for the Secretary's final determination under § 353.20, the Secretary, based on the available information, will make a preliminary finding whether there is a reasonable basis to believe that critical circumstances as described in paragraph (a) of this section exist.

(2) The Secretary will issue the preliminary finding: (i) As part of the Secretary's preliminary determination under § 353.15, if the allegation is submitted not later than 20 days before the scheduled date for the preliminary determination; or

(ii) Not later than 30 days after the petitioner submits the allegation, if the allegation is submitted later than 20 days before the scheduled date for the Secretary's preliminary determination.

The Secretary will notify the Commission and publish in the **Federal Register** a notice of the preliminary finding.

(c) *Suspension of liquidation.* If the Secretary makes an affirmative preliminary finding of critical circumstances as part of an affirmative preliminary determination, the Secretary will order the suspension of liquidation of all entries of the merchandise. If the Secretary makes an affirmative preliminary finding of critical circumstances after an affirmative preliminary determination under § 353.15, the Secretary will amend the order suspending liquidation. Any suspension of liquidation that the Secretary orders at this time, or ordered previously under § 353.15, will apply to all entries of the merchandise entered, or withdrawn from warehouse, for

consumption on or after 90 days before the date of the order of suspension of liquidation.

(d) *Final finding.* For any allegation submitted not later than 21 days before the scheduled date for the Secretary's final determination under § 353.20, the Secretary will make a final finding on critical circumstances. If the final finding is affirmative and if the Secretary did not make an affirmative preliminary finding of critical circumstances, the Secretary will order the suspension of liquidation of all entries of the merchandise entered, or withdrawn from warehouse, for consumption on or after 90 days before the date the Secretary ordered suspension of liquidation either as part of an affirmative preliminary or final determination. If the final finding is negative and if the Secretary made an affirmative preliminary finding of critical circumstances, the Secretary will end the retroactive suspension of liquidation ordered under paragraph (c) of this section, and will instruct the Customs Service to release the cash deposit or bond.

(e) *Findings in self-initiated investigations.* In investigations initiated under § 353.11, the Secretary will make a preliminary and final finding on critical circumstances without regard to the time limits in paragraphs (b) and (d) of this section.

(f) *Massive imports.* (1) In determining for the purpose of paragraph (a) of this section whether imports of the merchandise have been massive, the Secretary normally will examine: (i) The volume and value of the imports;

(ii) Seasonal trends; and

(iii) the share of domestic consumption accounted for by the imports.

(2) In general, unless the imports during the period identified in paragraph (g) of this section have increased by at least 15 percent over the imports during an immediately preceding period of comparable duration, the Secretary will not consider the imports massive.

(g) *Relatively short period.* For the purpose of paragraph (a) of this section, the Secretary normally will consider the period beginning on the date the proceeding begins and ending on the date the Secretary orders suspension of liquidation. However, if the Secretary finds that importers, or exporting producers or resellers had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, then the Secretary may consider the period from that earlier time to the date the Secretary ordered suspension of liquidation.

§353.17 Termination of investigation.

(a) *Withdrawal of petition.* (1) Except as provided in paragraph (b), the Secretary may terminate an investigation upon withdrawal of the petition by the petitioner or on the Secretary's own initiative in an investigation initiated under § 353.11, after notifying all parties to the proceeding and after consultation with the Commission. The Secretary may not terminate an investigation unless the Secretary concludes the termination is in the public interest.

(2) If the Secretary terminates an investigation, the Secretary will publish in the **Federal Register** a notice of "Termination of Antidumping Duty Investigation" together with, when appropriate, a copy of any correspondence with the petitioner forming the basis of the withdrawal and the termination.

(b) *Withdrawal of petition based on acceptance of quantitative restriction agreements.* (1) The Secretary may not terminate under paragraph (a) of this section an investigation by accepting an understanding or other kind of agreement with the government of the affected country to restrict the volume of the merchandise unless the Secretary, taking into account the factors listed in section 734(a)(2)(B) of the Act, is satisfied that termination is in the public interest.

(2) In deciding for the purpose of paragraph (b)(1) of this section whether termination is in the public interest, the Secretary, to the extent practicable, will consult with representatives of potentially affected United States consuming industries and potentially affected persons in the industry, including persons not parties to the proceeding.

(c) *Negative determination.* An investigation terminates, without further comment or action, upon publication in the **Federal Register** of the Secretary's negative final determination or the Commission's negative preliminary or final determination.

(d) *End of suspension of liquidation.* If the Secretary previously ordered suspension of liquidation, the Secretary will order the suspension ended on the date of publication of the notice of termination under paragraph (a) of this section or on the date of publication of a negative determination referred to in paragraph (c) of this section and will instruct the Customs Service to release the cash deposit or bond.

§ 353.18 Suspension of investigation.

(a) *Agreement to eliminate completely sales at less than foreign market value or to cease exports.* If the Secretary is satisfied that suspension is in the public interest, the Secretary may suspend an investigation at any time before the Secretary's final determination by accepting an agreement with exporters (producers and resellers) that account for substantially all of the merchandise:

(1) To eliminate completely sales at less than foreign market value with respect to the merchandise, effective on the date of suspension of investigation; or

(2) To cease exports of the merchandise, not later than 180 days after the date of publication of the notice of suspension of investigation.

(b) *Agreement eliminating injurious effect.* (1) As provided in this paragraph and paragraph (b)(2) or (b)(3) of this section, the Secretary may suspend an investigation at any time before the Secretary's final determination if the Secretary:

(i) Is satisfied that the proposed suspension is in the public interest;

(ii) Finds that extraordinary circumstances are present; and

(iii) Finds that the agreement will eliminate completely the injurious effect of the merchandise.

(2) The Secretary may suspend an investigation under paragraph (b)(1) of this section by accepting an agreement with exporters that account for substantially all of the merchandise, if the Secretary finds that:

(i) The agreement will prevent the suppression or undercutting by the merchandise of prices or like products produced in the United States; and

(ii) The agreement will ensure that, for each entry of each exporter, the dumping margin will not exceed 15 percent of the weighted-average dumping margin stated in the Secretary's preliminary determination (or final determination in investigations continued under § 353.18(i)).

(c) *Definition of "substantially all".* For purposes of paragraphs (a) and (b)(2) of this section, exporters who account for "substantially all" of the merchandise means exporters that have accounted for not less than 85 percent by value or volume of the merchandise during the period for which the Department is measuring benefits in the investigation or other period that the Secretary considers representative.

(d) *Definition of "extraordinary circumstances".* For purposes of paragraph (b) of this section, "extraordinary circumstances" means circumstances in which:

(1) Suspension of the investigation will be more beneficial to the industry

than continuation of the investigation, and

(2) There are a large number of transactions or adjustments under Subpart D of this part, the issues raised are novel, or the number of producers and exporters is large.

(e) *Monitoring.* The Secretary will not accept an agreement unless effective monitoring of the agreement by the Secretary is practicable. In monitoring an agreement under paragraph (b) of this section, the Secretary will not be obliged to ascertain on a continuing basis the prices in the United States of the merchandise or of like products produced in the United States.

(f) *Exports not to increase during interim period.* The Secretary will not accept an agreement under paragraph (a)(2) of this section unless the agreement ensures that the quantity of the merchandise exported during the interim period for elimination of sales at less than fair value or cessation of exports does not exceed the quantity of the merchandise exported during a period of comparable duration that the Secretary considers representative.

(g) *Procedure for suspension of investigation.* (1) The exporters shall submit to the Secretary a proposed agreement not later than 45 days before the scheduled date for the Secretary's final determination under § 353.20.

(2) The Secretary will: (i) Not later than 30 days before the date the Secretary suspends the investigation, notify all parties to the proceeding of the proposed suspension and provide to the petitioner a copy of the agreement preliminarily accepted by the Secretary (The agreement shall contain the procedures for monitoring compliance and a statement of the compatibility of the agreement with the requirements of this section); and

(ii) Consult with the petitioner concerning the proposed suspension.

(3) The Secretary will provide all interested parties and United States government agencies an opportunity to submit, not later than five days before the scheduled date for the Secretary's final determination, written argument and factual information concerning the proposed suspension.

(h) *Acceptance of agreement.* If the Secretary accepts an agreement to suspend an investigation, the Secretary will publish in the **Federal Register** a notice of "Suspension of Antidumping Duty Investigation," including the text of the agreement. If the Secretary has not already published a notice of affirmative preliminary determination, the Secretary will include that notice. In accepting an agreement, the Secretary may rely on factual or legal conclusions the Secretary reached in or after the affirmative preliminary determination.

(1) If the Secretary suspends an investigation based on an agreement under paragraph (a) of this section, the Secretary will not order the suspension of liquidation of entries of the merchandise. If the Secretary previously order suspension of liquidation, the Secretary will order the suspension of liquidation ended on the effective date of notice of suspension of investigation and will instruct the Customs Service to release the cash deposit or bond.

(2) If the Secretary suspends an investigation based on an agreement under paragraph (b) of this section, the Secretary will order the suspension of liquidation to continue or begin, as appropriate. The suspension of liquidation will not end until the Commission completes any requested review, under section 734(h) of the Act, of the agreement. If the Commission receives no request for review within 20 days after the date of publication of the notice of suspension of investigation, the Secretary will order the suspension of liquidation ended on the 21st day after the date of publication, and will instruct the Customs Service to release the cash deposit or bond.

(3) If the Commission undertakes a review under section 734(h) of the Act of an agreement and determines that the agreement will not eliminate the injurious effect, the Secretary will resume the investigation on the date of publication of the Commission's determination as if the Secretary's affirmative preliminary determination had been made on that date. If the Commission determines that the agreement will eliminate the injurious effect, the Secretary will continue the suspension of investigation and order the suspension of liquidation ended on the date of publication of the Commission's determination, and will instruct the Customs Service to release the cash deposit bond.

(i) *Continuation of investigation.* (1) Not later than 20 days after the date of publication of the notice of suspension of investigation, an exporter or exporters accounting for a significant proportion of exports of the merchandise or an interested party, as defined in paragraph (k) (3), (4), (5), or (6) of § 353.2, may request in writing that the Secretary continue the investigation. The party shall simultaneously file a request with the Commission to continue its investigation.

(2) Upon receiving the request, the Secretary and the Commission will continue the investigation. If the Secretary and the Commission make affirmative final determinations, the suspension agreement will remain in effect in accordance with the factual and legal conclusions in the Secretary's final determination. This paragraph (i) does not affect the provisions of paragraph (h) of this section regarding suspension of liquidation.

(j) *Merchandise imported in excess of allowed quantity.* (1) The Secretary may instruct the Customs Service not to accept entries, or withdrawals from warehouse, for consumption of the merchandise in excess of any quantity allowed by paragraph (f) or by an agreement under paragraph (a) of this section.

(2) Imports in excess of the quantity allowed by paragraph (f) or by an agreement under paragraph (a) of this section may be exported or destroyed under Customs supervision.

§ 353.19 Violation of agreement.

(a) *Immediate determination.* If the Secretary determines that a signatory exporter has violated a suspension agreement, the Secretary, without right of comment, will take the following action:

(1) Order the suspension of liquidation of all entries of the merchandise entered, or withdrawn from warehouse, for consumption on or after:

(i) Ninety days before the date of publication of the notice of cancellation of agreement, or

(ii) If later, the date of first entry, or withdrawal from warehouse, for consumption of the merchandise the sale or export of which was in violation of the agreement;

(2) If the investigation was not completed under § 353.18(i), resume the investigation as if the Secretary made an affirmative preliminary determination on the date of publication of the notice of cancellation and impose provisional measures by instructing the Customs Service to require for each entry of the merchandise suspended under paragraph (a)(1) of this section a cash deposit equal to the estimated weighted-average dumping margin determined in the affirmative final determination;

(3) If the investigation was completed under § 353.18(i), issue an antidumping duty order for all entries subject to suspension of liquidation under paragraph (a)(1) of this section and instruct the Customs Service to require for each entry of the merchandise suspended under this paragraph a cash deposit or bond equal to the estimated weighted-average dumping margin determined in the affirmative preliminary determination;

(4) Notify all persons who are or were parties to the proceeding, the Commission, and, if appropriate, the Commissioner of Customs; and

(5) Publish in the **Federal Register** a notice of "Antidumping Duty Order

(Resumption of Antidumping Duty Investigation); Cancellation of Suspension Agreement."

(b) *Determination after notice and comment.* (1) Notwithstanding paragraph (a) of this section, if the Secretary has reason to believe that a signatory exporter has violated an agreement or that an agreement no longer meets the requirements of section 734(d) of the Act, the Secretary will publish in the **Federal Register** a notice of "Invitation for Comment on Antidumping Duty Suspension Agreement."

(2) After publication of the notice inviting comment the Secretary will:

(i) If the Secretary determines that any signatory exporter has violated the agreement, take appropriate action as described in paragraphs (a) (1) through (5) of this section; or

(ii) If the Secretary determines that the agreement no longer meets the requirements of section 734(d)(1) of the Act:

(A) Take appropriate action as described in paragraphs (a) (1) through (5) of this section, except that, for paragraph (a)(1)(ii) of this section, the date shall be the date of first entry of the merchandise under the agreement;

(B) Continue the suspension of investigation by accepting a revised suspension agreement under § 353.18(a) (whether or not the Secretary accepted the original agreement under that section and paragraph) that, at the time the Secretary accepts the revised agreement, meets the applicable requirements of section 734(d)(1) of the Act, and publish in the **Federal Register** a notice of "Revision of Agreement Suspending Antidumping Duty Investigation;" or

(C) Continue the suspension of investigation by accepting a revised suspension agreement under § 353.18(b) (whether or not the Secretary accepted the original agreement under that section and paragraph) that, at the time the Secretary accepts the revised agreement, meets the applicable requirements of section 734(d)(1) of the Act, and publish in the **Federal Register** a notice of "Revision of Agreement Suspending Antidumping Duty Investigation." If the Secretary continues to suspend an investigation based on a revised agreement accepted under § 353.18(b), the Secretary will order suspension of liquidation to begin. The suspension will not end until the Commission completes any requested review, under section 734(h) of the Act, of the agreement. If the Commission receives no request for review within 20 days after the date of publication of the notice of the revision, the Secretary will order the suspension of liquidation ended on the 21st day after the date of publication, and will instruct the Customs Service to release the cash deposit or bond. If the Commission undertakes a review under section 734(h) of the Act, the provisions of § 353.18(h)(3) will apply.

(iii) If the Secretary decides neither to consider the order violated nor to revise the agreement, the Secretary will publish in the **Federal Register** a notice of the Secretary's decision under paragraph (b)(2) of this section, including a statement of the factual and legal conclusions on which the decision is based.

(c) If the Secretary decides that the agreement no longer meets the requirements of § 353.18(b)(1)(iii) or that the signatory exporters no longer account for substantially all of the merchandise, the Secretary may revise the agreement to include additional signatory exporters.

(d) *Definition of "Violation."* For the purpose of this section, "violation" means significant noncompliance with the terms of a suspension agreement caused by an act or omission of a signatory exporter.

§ 353.20 Final determination.

(a) *In general.* (1) Not later than 75 days after the date of publication of the Secretary's preliminary determination, the Secretary will make a final determination whether the merchandise is being sold at less than fair value.

(2) The Secretary's determination will include:

(i) The factual and legal conclusions on which the determination is based;

(ii) The estimated weighted-average dumping margin, if any, for each person investigated; and

(iii) If appropriate, a final finding on critical circumstances under § 353.16.

(3) If affirmative, the Secretary's determination will also:

(i) Unless previously ordered by the Secretary, order the suspension of liquidation of all entries of the merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the notice of the Secretary's final determination; and

(ii) Instruct the Customs Service to require, for each suspended entry of the merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the Secretary's final determination, a cash deposit or bond equal to the estimated weighted-average dumping margin determined under this paragraph (a) of this section.

(4) The Secretary will publishing in the **Federal Register** a notice of "Affirmative (Negative) Final Antidumping Duty Determination," including the estimated weighted-average dumping margins, if any.

(5) The Secretary will notify all parties to the proceeding and the Commission.

(b) *Postponement of final determination.* If, not later than the scheduled date for the Secretary's final determination, the petitioner in a proceeding in which the Secretary issued a negative preliminary determination, or the producers or resellers of a significant proportion of the merchandise in a proceeding in which the Secretary issued an affirmative preliminary determination, request in writing a postponement and state the reasons for the request, the Secretary will postpone the final determination to not later than 135 days after the date of the preliminary determination, unless the Secretary finds compelling reasons to deny the request.

(c) *Effect of decision not to exclude from order.* If the Secretary finds that a producer or reseller requesting exclusion under § 353.14 sold the merchandise at less than fair value, the Secretary will state in the affirmative final determination the estimated weighted-average dumping margin for that producer or reseller.

(d) *Commission access to information.* The Secretary will make available to the Commission and to employees of the Commission directly involved in the proceeding all information upon which the Secretary based the final determination and which the Commission may consider relevant to its injury determination.

(e) *Effect of negative final determination.* An investigation terminates, without further comment or action, upon publication in the **Federal Register** of the Secretary's or the Commission's negative final determination. If the Secretary previously ordered suspension of liquidation, the Secretary will order the suspension ended on the date of publication of the notice of negative final determination and will instruct the Customs Service to release the cash deposit or bond.

§ 353.21 Antidumping duty order.

Not later than seven days after receipt of the notice of the Commission's affirmative final determination under section 735 of the Act, the Secretary will publish in the **Federal Register** an "Antidumping Duty Order" that:

(a) Instructs the Customs Service to assess antidumping duties on the merchandise, in accordance with the Secretary's instructions at the completion of each administrative review requested under § 353.22(a) or, if not requested, in accordance with the Secretary's instructions under § 353.22(g);

(b) For each entry of the merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the order, instructs the Customs Service to require a cash deposit of estimated antidumping duties equal to the amount of the estimated weighted-average dumping margin stated in the Secretary's final determination;

(c) Excludes from the application of the order any producer or reseller that complies with the requirements of § 353.14 and for whom the Secretary finds that there was no weighted-average dumping margin during the period for which the Department measured dumping in the investigation; and

(d) Orders the suspension of liquidation ended for all entries of the merchandise entered, or withdrawn from warehouse, for consumption before the date of publication of the Commission's final determination, and instructs the Customs Service to release the cash deposit or bond on those entries, if in its final determination, the Commission found a threat of material injury or material retardation of the establishment of an industry, unless the Commission in its final determination also found that, absent the suspension of liquidation ordered under § 353.15(a), it would have found material injury.

§ 353.22 Administrative review of orders and suspension agreements.

(a) *Request for administrative review.* (1) Each year during the anniversary month of the publication of an order (the calendar month in which the anniversary of the date of publication of the order or finding occurred), an interested party, as defined in paragraph (k) (2), (3), (4), (5), or (6) of § 353.2, may request in writing that the Secretary conduct an administrative review of specified individual producers or resellers covered by an order, if the requesting person states why the person desires the Secretary to review those particular producers or resellers.

(2) During the same month, a producer or reseller covered by an order may request in writing that the Secretary conduct an administrative review of only that person.

(3) During the same month, an importer of the merchandise may request in writing that the Secretary conduct an administrative review of only a producer or reseller of the merchandise imported by that importer.

(4) Each year during the anniversary month of the publication of a suspension of investigation (the calendar month in which the anniversary of the date of publication of the suspension of investigation occurred), an interested party, as defined in § 353.2(k), may request in writing that the Secretary conduct an administrative review of all exporters covered by an agreement on which suspension of investigation was based.

(b) *Period under review.* (1) Except as provided in paragraph (b)(2) of this section, an administrative review under paragraph (a) normally will cover, as appropriate, entries, exports, or sales of the merchandise during the 12 months immediately preceding the most recent anniversary month.

(2) For requests received during the first anniversary month after publication of an order or suspension of investigation, the review under paragraph (a) of this section will cover, as appropriate, entries, exports, or sales during the period from the date of suspension of liquidation under this part or suspension of investigation to the end of the month immediately preceding the first anniversary month.

(c) *Procedures.* After receipt of a timely request under paragraph (a), or on the Secretary's own initiative when appropriate, the Secretary will:

(1) Not later than 10 days after the anniversary month, publish in the **Federal Register** a notice of "Initiation of Antidumping Duty Administrative Review;"

(2) Normally not later than 30 days after the date of publication of the notice of initiation, send to appropriate interested parties or a sample of interested parties questionnaires requesting factual information for the review;

(3) Conduct, if appropriate, a verification under § 353.36(a)(1) (iii) or (iv);

(4) Issue preliminary results of review, based on the available information, that include:

(i) The factual and legal conclusion on which the preliminary results are based;

(ii) The weighted-average dumping margin, if any, during the period of review for each person reviewed; and

(iii) For an agreement, the Secretary's preliminary conclusions with respect to the status of, and compliance with, the agreement;

(5) Publish in the **Federal Register** a notice of "Preliminary Results of Antidumping Duty Administrative Review," including the weighted-average dumping margins, if any, and an invitation for argument consistent with § 353.38, and notify all parties to the proceeding;

(6) Promptly after issuing the preliminary results, provide to parties to the proceeding which request disclosure a further explanation of the preliminary results;

(7) Not later than 365 days after the month of the Secretary's initiation of the review, issue final results of review that include: (i) The factual and legal conclusions on which the final results are based;

(ii) The weighted-average dumping margin, if any, during the period of review for each person reviewed; and

(iii) For an agreement, the Secretary's conclusions with respect to the status of, and compliance with, the agreement;

(8) Publish in the **Federal Register** a notice of "Final Results of Antidumping Duty Administrative Review," including the weighted-average dumping margins, if any, and notify all parties to the proceeding;

(9) Promptly after publication of the notice of final results, instruct the Customs Service to assess antidumping duties on the merchandise described in paragraph (b) of this section and to collect a cash deposit of estimated antidumping duties on future entries.

(d) *Possible cancellation or revision of suspension agreement.* If during an administrative review, the Secretary determines or has reason to believe that a signatory exporter has violated a suspension agreement or that the agreement no longer meets the requirements of § 353.18, the Secretary will take appropriate action under § 353.19. The Secretary may toll the time limit in paragraph (c)(7) of this section while taking action under § 353.19(b).

(e) *Automatic assessment of duty.* (1) For orders, if the Secretary does not receive a timely request under paragraph (a)(1), (a)(2) or (a)(3) of this section, the Secretary, without additional notice, will instruct the Customs Service to assess antidumping duties on the merchandise described in paragraph (b) of this section, at rates equal to the cash deposit of (or bond for) estimated antidumping duties required on that merchandise at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposits previously ordered.

(2) If the Secretary receives a timely request under paragraph (a)(1), (a)(2) or (a)(3) of this section, the Secretary in accordance with paragraph (d)(1) of this section will instruct the Customs Service to assess antidumping duties, and to

continue to collect the cash deposits, on the merchandise not covered by the request.

(f) *Changed circumstances review.* (1) If the Secretary concludes from available information, including information in a request under this paragraph for an administrative review, that changed circumstances sufficient to warrant a review exist, the Secretary will:

(i) Publish in the **Federal Register** a notice of "Initiation of Changed Circumstances Antidumping Duty Administrataive Review";

(ii) If necessary, send to appropriate interested parties or a sample of interested parties questionnaires requesting factual information for the review;

(iii) Issue preliminary results of review based on the available information that include the factual and legal conclusions on which the preliminary results are based and any action the Secretary proposes based on the preliminary results;

(iv) Publish in the **Federal Register** a notice of "Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review," including an invitation for argument consistent with § 353.38;

(v) Notify all parties to the proceeding of the preliminary results;

(vi) If appropriate, promptly after issuing the preliminary results, provide to parties to the proceeding which request disclosure a further explanation of the preliminany results;

(vii) Not later than 270 days after the date of the Secretary's initiation of the review, issue final results of review that include the factual and legal conclusions on which the final results are based and any action, including action under paragraph (c)(9) of this section and § 353.25(d), that the Secretary will take based on the final results;

(viii) Publish in the **Federal Register** a notice of "Final Results of Changed Circumstances Antidumping Duty Administrative Review;" and

(ix) Notify all parties to the proceeding.

(2) The Secretary will not initiate an administrative review under paragraph (f)(1) of this section before the end of the second annual anniversary month after the date of publication of the Secretary's affirmative preliminary determination or suspension of investigation, unless the Secretary finds that good cause exists.

(3) If the Secretary concludes that expedited action is warranted, the Secretary may combine the notices identified in paragraphs (e)(1)(i) and (e)(1)(iv) of this section in a notice of "Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review." In that event, the notification required in paragraph (e)(1)(v) of this section will be given to all interested parties included on the Department's service list described in § 353.31(h).

(g) *Expedited review.* (1) Not later than seven days after publication of an antidumping duty order, a producer or reseller may request in writing that the Secretary conduct an expedited administrative review for that producer's or reseller's shipments of the merchandise entered, or withdrawn from warehouse, for consumption:

(i) On or after the date of publication of the Secretary's affirmative preliminary determination or, if the Secretary's preliminary determination was negative, the Secretary's final determination, and

(ii) Before the date of publication of the Commission's final determination.

(2) The request must be accompanied by information the Secretary deems necessary to calculate the dumping margin, if any.

(3) If, based upon the information submitted with the request, the Secretary concludes that the dumping margin may be determined not later than 90 days after the date of publication of the order, the Secretary may conduct an expedited administrative review of the requesting producer or reseller.

(4) If the Secretary decides to conduct an expedited review, the Secretary will:

(i) Publish in the **Federal Register** a notice of "Initiation of Expedited Antidumping Duty Administrative Review," which will include an invitation for argument consistent with § 353.38, and notify all parties to the proceeding;

(ii) Instruct the Customs Service to accept, in lieu of the cash deposit of estimated antidumping duties under § 353.21(b), a bond for each entry of the merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the notice of initiation and through the date not later than 90 days after the date of publication of the order;

(iii) Conduct a verification under § 353.36(a)(1)(ii);

(iv) Provide to parties to the proceeding which request disclosure an explanation of the Secretary's analysis;

(v) Issue final results of review that include:

(A) The factual and legal conclusions on which the final results are based; and

(B) The weighted-average dumping margin, if any, during the period of review for each person reviewed;

(vii) Publish in the **Federal Register** a notice of "Final Results of Expedited Antidumping Duty Administrative Review," including the weighted-average dumping margins, if any, and notify all parties to the proceeding;

(viii) Promptly after publication of the notice of final results, instruct the Customs Service to assess antidumping duties on the merchandise described in paragraph (g)(1) and to collect a cash deposit of estimated antidumping duties on future entries.

§ 353.23 Provisional measures deposit cap.

This section applies to the merchandise entered, or withdrawn from warehouse, for consumption before the date of publication of the Commission's notice of affirmative final determination. If the cash deposit or bond required under the Secretary's affirmative preliminary or affirmative final determination is different from the dumping margin the Secretary calculates under § 353.22, the Secretary will instruct the Customs Service to disregard the difference to the extent that the cash deposit or bond is less than the dumping margin and to assess antidumping duties equal to the dumping margin calculated under § 353.22 if the cash deposit or bond is more than the dumping margin.

§ 353.24 Interest on certain overpayments and underpayments.

(a) *In general.* The Secretary will instruct the Customs Service to pay or collect, as appropriate, interest on the difference between the cash deposit of estimated antidumping duties and the assessed antidumping duties on entries of the merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of an antidumping duty order.

(b) *Rate.* The rate or rates of interest payable or collectible under paragraph (a) for any period of time are the rates established under paragraph 6621 of the Internal Revenue Code of 1954.

(c) *Period.* The Secretary will instruct the Customs Service to calculate interest for each entry from the date that a cash deposit is required to be deposited for the entry through the date of liquidation of the entry.

§ 353.25 Revocation of order; termination of suspended investigation.

(a) *Revocation or termination based on absence of dumping.* (1) The Secretary may revoke an order or terminate a suspended investigation if the Secretary concludes that:

(i) All producers and resellers covered at the time of revocation by the order or the suspension agreement have sold the merchandise at not less than foreign market value for a period of at least three consecutive years; and

(ii) It is not likely that those persons will in the future sell the merchandise at less than foreign market value.

(2) The Secretary may revoke an order in part if the Secretary concludes that:

(i) One or more producers or resellers covered by the order have sold the merchandise at not less than foreign market value for a period of at least three consecutive years;

(ii) It is not likely that those persons will in the future sell the merchandise at less than foreign market value; and

(iii) For producers or resellers that the Secretary previously has determined to have sold the merchandise at less than fair value or foreign market value, the producers or resellers agree in writing to the immediate reinstatement of the order, as long as any producer or reseller is subject to the order, if the Secretary concludes under § 353.22(f) that the producer or reseller, subsequent to the revocation, sold the merchandise at less than foreign market value.

(b) *Request for revocation or termination.* During the third and subsequent annual anniversary months of the publication of an order or suspension of investigation (the calendar month in which the anniversary of the date of publication of the order or suspension occurred), a producer or reseller may request in writing that the Secretary revoke under paragraph (a) of this section an order or terminate a suspended investigation with regard to that person if the person submits with the request:

(1) The person's certification that the person sold the merchandise at not less than foreign market value during the period described in § 353.22(b), and that in the future the person will not sell the merchandise at less than foreign market value; and

(2) If applicable, the agreement described in paragraph (a)(2)(iii) of this section.

(c) *Procedures.* (1) After receipt of a timely request under paragraph (b) of this section, the Secretary will consider the request as including a request for an administrative review and will conduct a review under § 353.22(c).

(2) In addition to the requirements of § 353.22(c), the Secretary will:

(i) Publish with the notice of initiation, under § 353.22(c)(1), a notice of "Request for Revocation of Order (in Part)" or, if appropriate, "Request for Termination of Suspended Investigation;"

(ii) Conduct a verification, under § 353.36(a)(1)(iii);

(iii) Include in the preliminary results of review, under § 355.22(c)(4), the Secretary's decision whether there is a reasonable basis to believe that the requirements for revocation or termination are met;

(iv) If the Secretary's preliminary decision under paragraph (c)(2)(iii) of this section is affirmative, publish with the notice of preliminary results of review, under § 353.22(c)(5), a notice of "Intent to Revoke Order (in Part)" or, if appropriate, "Intent to Terminate Suspended Investigation;"

(v) Include in the final results of review, under § 353.22(c)(7), the Secretary's final decision whether the requirements for revocation or termination are met; and

(vi) If the Secretary's final decision under paragraph (c)(2)(v) of this section is affirmative, publish with the notice of final results of review, under § 353.22(c)(8), a notice of "Revocation of Order (in Part)" or, if appropriate, "Termination of Suspended Investigation."

(3) If the Secretary revokes an order or revokes an order in part, the Secretary will order the suspension of liquidation ended for the merchandise covered by the revocation on the first day after the period under review, and will instruct the Customs Service to release the cash deposit or bond, if any.

(d) *Revocation or termination based on changed circumstances.* (1) The Secretary may revoke an order, revoke an order in part, or terminate a suspended investigation if the Secretary concludes that:

(i) The order or suspended investigation is no longer of interest to interested parties, as defined in paragraphs (3), (4), (5), and (6) of § 353.2(k); or

(ii) Other changed circumstances sufficient to warrant revocation or termination exist.

(2) If at any time the Secretary concludes from the available information, including an affirmative statement of no interest from the petitioner in the proceeding, that changed circumstances sufficient to warrant revocation or termination may exist, the Secretary will conduct an administrative review under § 353.22(f).

(3) In addition to the requirements of § 353.22(f), the Secretary will:

(i) Publish with the notice of initiation, under § 353.22(f)(1)(i), a notice of "Consideration of Revocation of Order (in Part)" or, if appropriate, "Consideration of Termination of Suspended Investigation;"

(ii) Conduct a verification, if appropriate, under § 353.36(a)(1)(iv);

(iii) Include in the preliminary results of review, under § 353.22 (f)(1)(iii), the Secretary's decision whether there is a reasonable basis to believe that the requirements for revocation or termination based on changed circumstances are met;

(iv) If the Secretary's preliminary decision under paragraph (d)(3)(iii) of this section is affirmative, publish with the notice of preliminary results of review, under § 353.22(f)(1)(iv), a notice of "Intent to Revoke Order (in Part)" or, if appropriate, "Intent to Terminate Suspended Investigation;"

(v) Include in the final results of review, under § 353.22(f)(1)(vii), the Secretary's final decision whether the requirements for revocation or termination based on changed circumstances are met; and

(vi) If the Secretary's final decision under paragraph (d)(3)(v) is affirmative, publish with the notice of final results of review, under § 353.22(f)(1)(viii), a notice of "Revocation of Order (in Part)" or, if appropriate, "Termination of Suspended Investigation."

(4)(i) If for four consecutive annual anniversay months no interested party requested an administrative review, under § 353.22(a), of an order or suspended investigation, not later than the first day of the fifth consecutive annual anniversary month, the Secretary will publish in the **Federal Register**, a notice of "Intent to Revoke Order" or, if appropriate, "Intent to Terminate Suspended Investigation."

(ii) Not later than the date of publication of the notice described in paragraph (d)(4)(i), the Secretary will serve written notice of the intent to revoke or terminate on each party to the proceeding listed on the Department's service list and on any other person which the Secretary has reason to believe produces or sells a like product in the United States.

(iii) If by the last day of that fifth annual anniversary month no interested party objects, or requests an administrative review under § 353.22(a), the Secretary at that time will conclude that the requirements of paragraph (d)(1)(i) for revocation or termination are met, revoke the order or terminate the suspended investigation, and publish in the **Federal Register** the notice described in paragraph (d)(3)(vi).

(5) If the Secretary under paragraph (d) revokes an order or revokes an order in part, the Secretary will order the suspension of liquidation ended for the merchandise covered by the revocation on the effective date of the notice of

revocation, and will instruct the Customs Service to release the cash deposit or bond, if any.

(e) *Revocation or termination based on injury reconsideration.* If the Commission issues negative final results of administrative review under section 751(b) of the Act, the Secretary will revoke the order or terminate the suspended investigation, and will publish in the **Federal Register** a notice of "Revocation of Antidumping Duty Order" or, if appropriate, "Termination of Suspended Antidumping Duty Investigation."

§ 353.26 Reimbursement of antidumping duties.

(a) *In general.* (1) In calculating the United States price, the Secretary will deduct the amount of any antidumping duty which the producer or reseller:

(i) Paid directly on behalf of the importer; or

(ii) Reimbursed to the importer.

(2) The Secretary will not deduct the amount of the antidumping duty paid or reimbursed if the producer or reseller granted to the importer before initiation of the investigation a warranty of nonapplicability of antidumping duties with respect to merchandise which was:

(i) Sold before the date of publication of the Secretary's order suspending liquidation; and

(ii) Exported before the date of publication of the Secretary's final determination.

Ordinarily, the Secretary will deduct for reimbursement of antidumping duties only once in the calculation of the United States price.

(b) *Certificate.* The importer shall file prior to liquidation a certificate in the following form with the appropriate District Director of Customs:

I hereby certify that I (have) (have not) entered into any agreement or understanding for the payment or for the refunding to me, by the manufacturer, producer, seller, or exporter, of all or any part of the antidumping duties assessed upon the following importations of _____ (commodity) from _____ (country): (List entry numbers) which have been purchasd on or after _____ (date of publication of notice suspending liquidation in **Federal Register**) or purchased before _____ (same date) but exported on or after _____ (date of final determination of sales at less than fair value).

(c) *Presumption.* The Secretary may presume from an importer's failure to file the certificate required in paragraph (b) that the producer or reseller paid or reimbursed the antidumping duties.

Subpart C—Information and Argument

§ 353.31 Submission of factual information.

(a) *Time limits in general.* (1) All submissions of factual information for the Secretary's consideration shall be submitted not later than:

(i) For the Secretary's final determination, seven days before the scheduled date on which the verification is to commence;

(ii) For the Secretary's final results of an administrative review under § 353.22 (c) or (f), the earlier of the date of publication of the notice of preliminary results of review or 180 days after the date of publication of the notice of initiation of the review; or

(iii) For the Secretary's final results of an expedited review under § 353.22(g), a date specified by the Secretary.

(2) The Secretary will not consider in the final determination or the final results, or retain in the record of the proceeding, any factual information submitted after the applicable time limit.

(b) *Questionnaire responses and other submissions on request.* (1) Notwithstanding paragraph (a), the Secretary may request any person to submit factual information at any time during a proceeding.

(2) In the Secretary's written request to an interested party for a response to a questionnaire or for other factual information, the Secretary will specify the time limit for response. The Secretary normally will not consider or retain in the record of the proceeding unsolicited questionnaire responses, and in no event will the Secretary consider unsolicited questionnaire responses submitted after the date of publication of the Secretary's preliminary determination.

(3) Ordinarily, the Secretary will not extend the time limit stated in the questionnaire or request for other factual information. Before the time limit expires, the recipient of the Secretary's request may request an extension. The request must be in writing and state the reasons for the request. Only the following employees of the Department may approve an extension: the Deputy Assistant Secretary for Import Administration, the Director of the Office of Investigations, the Director of the Office of Compliance, and the division director responsible for the proceeding. An extension must be approved in writing.

(4) Subject to the other provisions of paragraphs (b)(1) through (b)(3), questionnaire responses in administrative reviews must be submitted not later than 60 days after the date of receipt of the questionnaire.

(c) *Time limits for certain allegations.* (1) The Secretary will not consider any allegation of sales below the cost of production that is submitted by the petitioner or other interested party described in paragraph (k) (3), (4), (5), or (6) of § 353.32, later than:

(i) In an investigation, 45 days before the scheduled date for the Secretary's preliminary determination, unless a relevant response is, in the Secretary's view, untimely or incomplete;

(ii) In an administrative review under § 353.22 (c) or (f), 120 days after the date of publication of the notice of initiation of the review; or

(iii) In an expedited review under § 353.22(g), 10 days after the date of publication of the notice of initiation of the review.

(2) The Secretary will not consider any allegation in an investigation that the petitioner lacks standing unless the allegation is submitted, together with supporting factual information, not later than 10 days before the scheduled date for the Secretary's preliminary determination.

(3) Any interested party may request in writing not later than the time limits specified in paragraph (c) (1) or (2) an extension of those time limits. If the Assistant Secretary for Trade Administration in an investigation, or the Deputy Assistant Secretary for Import Administration in an administrative review, concludes that an extension would facilitate the proper administration of the law, the Assistant Secretary or Deputy Assistant Secretary may grant an extension of not longer than 10 days in an investigation or 30 days in an administrative review.

(d) *Where to file; time of filing.* Address and submit documents to the Secretary of Commerce, Attention: Import Administration, Central Records Unit, Room B-099, U.S. Department of Commerce, Pennsylvania Avenue and 14th St., NW., Washington, DC 20230, between the hours of 8:30 a.m. and 5:00 p.m. on government business days. For all time limits in this part, the Secretary will consider documents received when stamped by the Central Records Unit with the date and time of receipt. If the time limit expires on a non-business day, the Secretary will accept documents that are filed on the next following government business day.

(e) *Format and Number of Copies.*— (1) *In general.* Unless the Secretary alters the requirements of paragraphs (e) (1) through (3), submitters shall make all submissions in the format specified in this paragraph (e). The Secretary may refuse to accept for the record of the proceeding any submission that does not

conform to the requirements of this paragraph (e).

(2) *Documents.* In an investigation, submit 10 copies of any document, except a computer printout, and, if a person has requested that the Secretary treat portions of the document as proprietary information, submit five copies of a public version of the document, including the public summary required under § 353.32(b), as a substitute for the portions for which the person has requested proprietary treatment. In an administrative review submit five copies and three copies respectively. In all proceedings, submit documents on letter-size paper, double-spaced, and securely bind each copy as a single document with any letter of transmittal as the first page of the document. Mark the first page of each document in the upper right hand corner with the following information in the following format:

(i) On the first line, except for a petition, the Department case number;

(ii) On the second line, the total number of pages in the document including cover pages, appendices, and any unnumbered pages;

(iii) On the third line, state whether the document is for an investigation or an administrative review and, if the latter, the period of review; and

(iv) On the fourth and subsequent lines, state whether or not the document contains classified, privileged, or proprietary information and the applicable page numbers.

(3) *Computer tapes and printout.* The Secretary may require submission of factual information on computer tape unless the Secretary decides that the submitter does not maintain records in computerized form or otherwise cannot supply the requested information on computer tape without unreasonable additional burden in time and expense. In an investigation or administrative review, submit three copies of any computer printout and public version of the printout.

(f) *Translation to English.* Unless the Secretary waives in writing this requirement for an individual document, any document submitted which is in a foreign language must be accompanied by an English translation.

(g) *Service of copies on other parties.* The submitter of a document shall serve a copy, by mail or personal service, on any interested party on the Department's service list. The submitter shall attach to each document a certificate of service listing the parties served and, for each, the date and method of service.

(h) *Service list.* The Central Records Unit will maintain and make available a service list for each proceeding. Each interested party who asks to be on the service list shall designate a person to receive service of documents filed in a proceeding.

§ 353.32 Request for proprietary treatment of information.

(a) *Submission and content of request.* (1) Any person who submits factual information to the Secretary in connection with a proceeding may request that the Secretary treat that information, or any specified part, as proprietary.

(2) The submitter shall identify proprietary information on each page by placing brackets around the proprietary information and clearly stating at the top of each page "Proprietary Treatment Requested." The submitter shall provide a full explanation why each piece of factual information subject to the request is entitled to proprietary treatment under § 353.4. The request and explanation shall be a part of or securely bound with the document containing the information.

(b) *Public summary.* All requests for proprietary treatment shall include or be accompanied by:

(1) An adequate public summary of all proprietary information, incorporated in the public version of the document, (Generally, numeric data are adequately summarized if grouped or presented in terms of indices or figures within 10 percent of the actual figure and, if an individual portion of the data is voluminous, at least one percent of that portion is individually summarized in this manner.); or

(2) A statement itemizing those portions of the proprietary information which cannot be summarized adequately and all arguments supporting that conclusion for each portion.

(c) *Agreement to release.* All requests for proprietary treatment shall include either an agreement to permit disclosure under administrative protective order, or a statement itemizing which portions of the proprietary information should not be released under administrative protective order and all arguments supporting that conclusion for each portion. The Secretary ordinarily will not provide the submitter further opportunity for argument on whether to grant a request for disclosure under administrative protective order.

(d) *Return of information as a result of nonconforming request.* The Secretary may return to the submitter any factual information for which the submitter requested proprietary treatment when the request does not conform to the requirements of this section. If the Secretary returns the information, the Secretary will provide an explanation of the reasons why it does not conform and will not consider it unless it is resubmitted with a new request which complies with the requirements of this section not later than 48 hours after the return.

(e) *Status during consideration of request.* While considering whether to grant a request for proprietary treatment, the Secretary will not disclose or make public the information. The Secretary normally will decide not later than 14 days after the Secretary receives the request.

(f) *Treatment of proprietary information.* Unless the Secretary otherwise provides, the person to whom the Secretary discloses information shall not disclose the information to any other person. The Secretary may disclose factual information which the Secretary decides is proprietary only to:

(1) A representative of an interested party who requests and is granted an administrative protective order under § 353.34;

(2) An employee of the Department of Commerce directly involved in the proceeding for which the information is submitted;

(3) An employee of the Commission directly involved in the proceeding for which the information is submitted;

(4) An employee of the Customs Service for use in connection with a fraud investigation concerning the merchandise; and

(5) Any person to whom the submitter specifically authorizes (in writing) disclosure.

(g) *Denial of request for proprietary treatment.* If the Secretary decides that the factual information does not warrant proprietary treatment in whole or in part, the Secretary will notify the submitter. Unless the submitter agrees that the information be considered public, the Secretary will return it and not consider it in the proceeding.

§ 353.33 Information exempt from disclosure.

Privileged or classified information is exempt from disclosure to the public or to representatives of interested parties.

§ 353.34 Disclosure of proprietary information under administrative protective order.

(a) *In general.* The Secretary may disclose proprietary information under an administrative protective order to an attorney or other representative of an interested party if the Secretary decides that the representative has stated a sufficient need for disclosure and would adequately protect the proprietary

status of the information disclosed. In deciding whether to disclose information under administrative protective order, the Secretary will consider the probable effectiveness of sanctions for violation of the order, including those described in paragraph (b)(4). The Secretary will also consider the ability of the Secretary to obtain factual information in the future.

(b) *Request for disclosure.* (1) A representative must file a request for disclosure under administrative protective order not later than 10 days after the later of:

(i) The date of publication in the **Federal Register** of the notice of initiation under § 353.11 or § 353.13, or the notice of initiation of administrative review under § 353.22; or

(ii) The date the representative's client or employer becomes a party to the proceeding, but in no event later than 10 days after the date of publication of the Secretary's preliminary determination or preliminary results of administrative review.

(2) The representative must file the request for disclosure on the standard form provided by the Secretary (Form ITA–367). The standard form will require only such particularity in the description of the requested information as is consistent with both the criteria the Secretary uses to decide whether to disclose, and with the fact that a request may be made for factual information not yet submitted.

(3) The request shall obligate the representative:

(i) Not to disclose the proprietary information to anyone other than the submitter and other persons authorized by an administrative protective order to have access to the information;

(ii) To use the information solely for the segment of the proceeding then in progress;

(iii) To ensure the security of the proprietary information at all times; and

(iv) To report promptly to the Secretary any apparent violation of the terms of the protective order.

(4) The request shall contain an acknowledgment by the representative that violation of the order may:

(i) Subject the following persons to prohibition from practice before the Department for up to seven years following the Secretary's decision that a violation has occurred:

(A) The representative;

(B) Any firm or business of which the representative is a partner, associate, or employee; and

(C) The representative's partners, associates, employer, and employees;

(ii) In the case of an attorney, lead to the Secretary's referral of the violation to the disciplinary panel of appropriate bar associations; and

(iii) Subject the representative and the client or employer to other administrative sanctions, including removal from the official record of any factual information or written argument submitted on behalf of the interested party.

(c) *Opportunity to withdraw proprietary information.* If the Secretary decides to disclose proprietary information under administrative protective order without the consent of the submitter, the Secretary will notify the submitter of the decision and permit the submitter to withdraw the information from the official record within 24 hours. The Secretary will not consider withdrawn information.

(d) *Disposition of proprietary information disclosed under administrative protective order.* (1) At the expiration of the time for filing for judicial review of a decision by the Secretary, if there is no filing by any party to the proceeding, or at an earlier date the Secretary decides appropriate, the representative must return or destroy all proprietary information released under this section and all other materials containing the proprietary information (such as notes or memoranda). The representative at that time must certify to the Secretary full compliance with the terms of the protective order and the return or destruction of all proprietary information.

(2) The representative of a party to the proceeding that files for judicial review or intervenes in the judicial review may retain the proprietary information, provided that the party applies for a court protective order for the information not later than 15 days after the Secretary files the administrative record with the court. If the court denies the party's application for a court protective order, the representative must return or destroy the proprietary information and all other materials containing the proprietary information not later than 48 hours after the court's decision and certify to the Secretary as provided under paragraph (d)(1).

(e) *Violation of administrative protective order.* The Secretary will refer to the General Counsel of the Department any allegation of a violation of an administrative protective order, and the General Counsel will then investigate the allegation and prepare a report and recommendation (including recommended sanctions, if appropriate) for the Secretary, who will decide.

§ 353.35 Ex Parte Meeting.

The Secretary will prepare for the official record a written memorandum of an *ex parte* meeting between any person providing factual information in connection with a proceeding and the person to whom the Secretary has delegated the authority to make determinations or the person making a final recommendation to that person. The memorandum will include the date, time, and place of the meeting, the identity and affiliation of all persons present, and a public summary of the factual information submitted.

§ 353.36 Verification of information.

(a) *In General.* (1) The Secretary will verify all factual information the Secretary relies on in:

(i) A final determination under § 353.18(i) or § 353.20;

(ii) The final results of an expedited review under § 353.22(g);

(iii) A revocation under § 353.25;

(iv) The final results of an administrative review under § 353.22 (c) or (f) if the Secretary decides that good cause for verification exists; and

(v) The final results of an administrative review under § 353.22(c) if:

(A) An interested party, as defined in paragraph (3), (4), (5), or (6) of § 353.2(k), not later than 120 days after the date of publication of the notice of initiation of review, submits a written request for verification; and

(B) The Secretary conducted no verification under this paragraph during either of the two immediately preceding administrative reviews.

(2) If the Secretary decides that, because of the large number of producers and resellers included in an administrative review, it is impractical to verify relevant factual information for each person, the Secretary may select and verify a sample. The Secretary will apply the results of the verification of the sample to all producers and resellers included in the review.

(b) *Notice of verification.* In publishing a notice of final determination, revocation, or final results of administrative review, the Secretary will report the methods and procedures used to verify under this section.

(c) *Procedures for verification.* In verifying under this section, the Secretary will notify the government of the foreign country in which verification takes place that employees of the Department will visit with producers or resellers in order to verify the accuracy of submitted factual information. As part of the verification, employees of the

Department will request access to all files, records, and personnel of the producers, resellers, importers, or unrelated purchasers which the Secretary considers relevant to factual information submitted.

§ 353.37 Best information available.

(a) *Use of best information available.* The Secretary may use the best information available whenever the Secretary:

(1) Does not receive a complete, accurate, and timely response to the Secretary's request for factual information; or

(2) Is unable to verify, within the time specified, the accuracy and completeness of the factual information submitted.

(b) *What is best information available.* The best information available includes the factual information submitted in support of the petition or subsequently submitted by interested parties, as defined in paragraph (k), (3), (4), (5), or (6) of § 353.2. If an interested party refuses to provide factual information requested by the Secretary or otherwise impedes the proceeding, the Secretary may take that into account in determining what is the best information available.

§ 353.38 Written argument and hearings.

(a) *Written argument.* The Secretary will consider in making the final determination under § 353.18(i) or § 353.20 or final results under § 353.22 only written arguments in case or rebuttal briefs filed within the time limits in this section. The Secretary will not consider or retain in the record of the proceeding any written argument, unless requested by the Secretary, that is submitted after the time limits specified in this section. At any time during the proceeding, the Secretary may request written argument on any issue from any interested party or United States government agency.

(b) *Case brief; request for hearing.* (1) Any interested party or United States government agency may submit a "case brief":

(i) not later than 35 days after the date of publication of the Secretary's preliminary determination in an investigation, unless the Secretary alters this time limit;

(ii) Not later than 30 days after the date of publication of the preliminary results of administrative review under § 353.22 (c) or (f); or

(iii) At any time specified by the Secretary in an expedited review under § 353.22(g).

(2) The case brief shall: (i) Separately identify and present in full all arguments that continue in the submitter's view to be relevant to the Secretary's final determination or final results, including any arguments presented before the date of publication and the preliminary determination or preliminary results; and

(ii) Include any request for the Secretary to hold a public hearing on any of the arguments raised in the case brief. At a hearing in an administrative review, an interested party or agency may make an affirmative presentation only on arguments included in that party's case brief and identified in the brief for affirmative presentation at the hearing.

(c) *Rebuttal brief; request for hearing.* Not later than the time limit stated in the notice of the Secretary's preliminary determination or preliminary results (or otherwise specified by the Secretary for an expedited review under § 353.22(g)), ordinarily seven days after the time limit for filing the case brief, any interested party or United States government agency may submit a "rebuttal brief." The rebuttal brief shall:

(1) Only respond to arguments raised in case briefs and shall separately identify and present in full all rebuttal arguments; and

(2) Include any request for the Secretary to hold a public hearing on any of the arguments raised in the rebuttal brief. At a hearing in an administrative review, an interested party or agency may make a rebuttal presentation only on arguments included in that party's rebuttal brief and identified in the brief for rebuttal presentation at the hearing.

(d) *Service of briefs.* The submitter of either a case or rebuttal brief shall serve a copy of that brief on any interested party on the Department's service list. If the party has designated under § 353.31(h) an agent in the United States, serve that agent either by personal service on the same day the brief is filed with the Secretary or by overnight mail or courier on the next day and, if the party has designated an agent outside the United States, serve that agent by first class airmail. The submitter shall attach to each brief a certificate of service listing the parties (including agents) served and, for each, the date and method of service.

(e) *Hearings.* If an interested party submits a request under paragraph (b) or (c), the Secretary will hold a public hearing on the date stated in the notice of the Secretary's preliminary determination or preliminary results of administrative review (or otherwise specified by the Secretary in an expedited review under § 353.22(g)), unless the Secretary alters the date. Ordinarily, the hearing will be held, in an investigation, seven days after the scheduled date for submission of rebuttal briefs and, in an administrative review, 14 days after the scheduled date for submission of rebuttal briefs.

(1) The Secretary will place a verbatim transcript of the hearing in the public and official records of the proceeding and will announce at the hearing how interested parties may obtain copies of the transcript.

(2) One of the following employees of the Department will chair the hearing: the Deputy Assistant Secretary for Import Administration, the Director of the Office of Investigations, the Director of the Office of Compliance, or another supervisory employee of the Department responsible for the proceeding.

(3) The hearing is not subject to the Administrative Procedure Act. Witness testimony, if any, shall not be under oath or subject to cross-examination by another interested party or witness. During the hearing, the chair may question any interested party or witness and may permit interested parties to present an additional round of rebuttal argument.

(f) *Where to file; time of filing.* The requirements in § 353.31(d) apply to this section.

(g) *Format and number of copies.* The requirements in § 353.31(e) apply to this section, except that in an administrative review submit 10 copies of each brief and five copies of the public version, including the public summary required under § 353.32(b).

Subpart D—Calculation of United States Price, Fair Value, and Foreign Market Value

§ 353.41 Calculation of United States price.

(a) *In general.* "United States price" means the purchase price or the exporter's sales price of the merchandise, as appropriate. In calculating the United States price, the Secretary will use sales or, in the absence of sales, likely sales, as defined in § 353.2(t).

(b) *Purchase price.* "Purchase price" means the price at which the merchandise is sold or likely to be sold prior to the date of importation, by the producer or a reseller of the merchandise for exportation to the United States. The Secretary will make appropriate adjustments for costs and expenses under paragraph (d) of this section if they are not reflected in the sales price to the importer. Whenever purchase price is used and there is reason to believe that the sales price to

the importer does not reflect the cost and expenses incident to bringing the merchandise from the country of exportation, then the Secretary will make appropriate adjustments for such cost and expenses under paragraph (d) of this section.

(c) *Exporter's sales price.* "Exporter's sales price" means the price at which merchandise is sold or likely to be sold in the United States, before or after the time of importation, by or for the account of the exporter (defined in section 771(13) of the Act), as adjusted under paragraphs (d) and (e).

(d) *Adjustments to United States price.* (1) The Secretary will increase the United States price by:

(i) When not included in the price, the cost of containers, coverings, and other expenses incident to placing the merchandise in condition packed ready for shipment to the United States;

(ii) The amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of exportation of the merchandise;

(iii) The amount of any taxes imposed in the country of exportation directly on the exported merchandise or components thereof, which have been rebated, or which have not been collected, by reason of the exportation of the merchandise, but only to the extent that such taxes are added to or included in the price of such or similar merchandise sold in the country of exportation; and

(iv) The amount of any countervailing duty imposed on the merchandise to offset an export subsidy.

(2) The Secretary will reduce the United States price by the amount, if included in the price, of:

(i) Except as provided in paragraph (d)(1)(iv), any cost and expenses, and United States import duties incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States; and

(ii) Any export tax, duty, or other charge imposed by the country of exportation on the exportation of the merchandise, other than an export tax, duty, or other charge described in section 771(6)(C) of the Act.

(e) *Additional adjustments to exporter's sales price.* The Secretary also will reduce the exporter's sales price by the amount of:

(1) Commissions for selling in the United States the merchandise.

(2) Expenses generally incurred by or for the account of the exporter in selling the merchandise, or attributable under generally accepted accounting principles to the merchandise; and

(3) Any increased value resulting from a process of production or assembly performed on the merchandise after importation and before sale to a person who is not the exporter of the merchandise, which value the Secretary generally will determine from the cost of material, fabrication and other expenses incurred in such production or assembly.

§ 353.42 Fair value.

(a) *Relationship to foreign market value.* Fair value, used during the investigation phase of a proceeding, is an estimate of foreign market value. Except as otherwise specifically noted, a reference in this subpart to "foreign market value" applies to "fair value," but a reference to "fair value" in this subpart does not necessarily apply to "foreign market value."

(b) *Sales examined.* (1) The Secretary normally will examine not less than 60 percent of the dollar value or volume of the merchandise sold during a period of at least 150 days prior to and 30 days after the first day of the month during which the petition was filed or the Secretary initiated the investigation under § 353.11, but the Secretary may examine the merchandise for any additional or alternative period the Secretary concludes is appropriate.

(2) If the Secretary examines less than 85 percent of the dollar value or volume of the merchandise sold during the period described in paragraph (b)(1), the Secretary will notify the affected foreign government what percentage of total sales are being examined.

§ 353.43 Sales used in calculating foreign market value.

(a) *Sales and offers for sale.* In calculating foreign market value, the Secretary will use sales, as defined in § 353.2(t), and offers for sale, but the Secretary normally will consider offers only in the absence of sales and only if the Secretary concludes that acceptance of the offer can be reasonably expected.

(b) *Fictitious sales and offers.* In calculating foreign market value, the Secretary will reject any fictitious sale or offer.

(c) *Restricted sales.* When sales used to calculate foreign market value are restricted, the Secretary will adjust the price, as appropriate, to compensate for restrictions that affect the value of the merchandise to the purchasers.

§ 353.44 Sales at varying prices.

(a) *Weighted average price or prices.* If the sales which the Secretary may use to calculate foreign market value vary in price (after allowances provided for in §§ 353.55, 353.56, 353.57, and 353.58), the Secretary normally will calculate foreign market value based on the weighted average of those prices.

(b) *Preponderant price.* If not less than 80 percent of the sales which the Secretary may use to calculate foreign market value during the period under examination were made at the same price, the Secretary will calculate foreign market value based on the sales at that price.

(c) *Other reasonable method.* If the Secretary decides that paragraph (b) does not apply and that paragraph (a) is inappropriate, the Secretary will use any other method for calculating foreign market value which the Secretary deems appropriate.

(d) *Sales below cost of production.* For purposes of paragraph (a) or (b), the Secretary will not use sales disregarded under § 353.51.

§ 353.45 Transactions between related persons.

(a) *Sales to a related person.* If a producer or reseller sold such or similar merchandise to a person related as described in section 771(13) of the Act, the Secretary ordinarily will calculate foreign market value based on that sale only if satisfied that the price is comparable to the price at which the producer or reseller sold such or similar merchandise to a person not related to the seller.

(b) *Sales through a related person.* If a producer or reseller sold such or similar merchandise through a person related as described in section 771(13) of the Act, the Secretary may calculate foreign market value based on the sale by such related person.

§ 353.46 Calculation of foreign market value based on price in the home market country.

(a) *In general.* (1) The Secretary ordinarily will calculate the foreign market value of the merchandise based on the price at which such or similar merchandise is sold or offered for sale in the principal markets of the home market country, in the usual commercial quantities and in the ordinary course of trade for home consumption, plus, when not included in the price, the cost of containers, coverings, and other expenses incident to placing the merchandise in condition packed ready for shipment to the United States.

(2) When United States price is based on purchase price, under § 353.41(b), the Secretary will calculate foreign market value, under paragraph (a)(1), based on the price at the time the producer or reseller sells the merchandise for exportation to the United States.

(3) When United States price is based on exporter's sales price, under § 353.41(c), the Secretary will calculate foreign market value, under paragraph (a)(1), based on the price at the time the importer sells the merchandise in the United States to a person not related under section 773(e)(3) of the Act.

(b) *Ordinary course of trade.* In determining the ordinary course of trade, the Secretary will consider the conditions and practices which, for a reasonable period prior to the time described in paragraph (a)(2), have been normal in the trade of merchandise of the same class or kind in the home market country.

(c) *Transshipments.* If the merchandise is not imported directly from the home market country but is merely transshipped through another country, the Secretary will not, except under § 353.47, calculate foreign market value based on the price at which such or similar merchandise is sold in the country of transshipment.

§ 353.47 Exportation from an intermediate country.

The Secretary will calculate the foreign market value of such or similar merchandise based on sales in the intermediate country rather than sales in the home market country if:

(a) A reseller in an intermediate country purchases the merchandise from the producer;

(b) The producer of the merchandise does not know (at the time of the sale to that reseller) the country to which such reseller intends to export the merchandise;

(c) The merchandise enters the commerce of the intermediate country but is not substantially transformed in that country; and

(d) The merchandise subsequently is exported to the United States.

§ 353.48 Calculation of foreign market value if sales in the home market country are inadequate.

(a) *In general.* Except as provided in § 353.53, if the quantity of such or similar merchandise sold during the period being examined for consumption in the home market country is so small in relation to the quantity sold for exportation to third countries (normally, less than five percent of the amount sold to third countries) that it is an inadequate basis for the foreign market value of the merchandise, the Secretary will calculate the foreign market value of the merchandise under either § 353.49 or § 353.50.

(b) *Preference for third country sales.* The Secretary normally will prefer foreign market value based on sales to a third country rather than on constructed value if adequate information is available and can be verified within the time required.

(c) *Definition of "third country."* For purposes of this section and of § 353.49, a "third country" means any country other than the home market country or the United States.

§ 353.49 Calculation of foreign market value based on sales to a third country.

(a) *In general.* (1) If foreign market value is based on sales to a third country, the Secretary will calculate the foreign market value based on the price at which such or similar merchandise is sold or offered for sale to a third country, plus, when not included in the price, the cost of containers, coverings, and other expenses incident to placing the merchandise in condition packed ready for shipment to the United States.

(2) When United States price is based on purchase price, under § 353.41(b), the Secretary will calculate foreign market value, under paragraph (a)(1), based on the price at the time the producer or a reseller sells the merchandise for exportation to the United States.

(3) When United States price is based on exporter's sales price, under § 353.41(c), the Secretary will calculate foreign market value, under paragraph (a)(1), based on the price at the time the importer sells the merchandise in the United States to a person not related under section 773(e)(3) of the Act.

(b) *Selection of third country.* The Secretary generally will select the third country based on the following criteria:

(1) Such or similar merchandise exported to the country is more similar to the merchandise exported to the United States than is such or similar merchandise exported to other countries, and the Secretary decides that the volume of sales to the country is adequate;

(2) The volume of sales to the country is the largest to any country other than the home market country or the United States; and

(3) The market in the country, in terms of organization and development, is most like the United States market.

(c) *Selection of more than one third country.* In order to find adequate sales under paragraph (b), the Secretary may aggregate sales to more than a single third country.

§ 353.50 Calculation of foreign market value based on constructed value.

(a) *Method of calculating constructed value.* If foreign market value is based on constructed value, the Secretary will calculate the foreign market value by adding:

(1) The cost of materials used in producing such or similar merchandise (exclusive of any internal tax in the home market country applied directly to the materials or their disposition, but remitted or refunded upon exportation) and the cost of fabrication or other processing of any kind used in producing such or similar merchandise, at a time specified in paragraph (b) which would ordinarily permit the production of that particular merchandise in the ordinary course of business;

(2) General expenses and profit usually reflected in sales of merchandise of the same class or kind as the merchandise by producers in the home market country, in the usual commercial quantities and in the ordinary course of trade, except that the amount for general expenses shall not be less than 10 percent of the cost under paragraph (a)(1) and the amount for profit shall not be less than 8 percent of the sum of the amount for general expenses and the cost under paragraph (a)(1); and

(3) The cost of containers, coverings, and other expenses incident to placing the merchandise in condition packed ready for shipment to the United States.

(b) *Time for calculating constructed value.* (1) When United States price is based on purchase price, under § 353.41(b), the Secretary will calculate constructed value, under paragraph (a), based on the relevant costs and expenses at a time preceding the time the producer or a reseller sells the merchandise for exportation to the United States.

(2) When United States price is based on exporter's sales price, under § 353.41(c), the Secretary will calculate constructed value, under paragraph (a), based on the relevant costs and expenses at a time preceding the time the importer sells the merchandise in the United States to a person not related under section 773(e)(3) of the Act.

(c) *Transactions with related parties.* In calculating constructed value under paragraph (a), the Secretary may disregard any direct or indirect transaction between persons related under section 773(e)(3) of the Act for any element of value required to be considered under paragraph (a) that does not fairly reflect the usual amount for sales in that market of that element. If the Secretary disregards a transaction and there are no other transactions available for consideration, the Secretary will calculate the amount based on available information as to what the amount would have been if the transaction had occurred between persons not related.

§ 353.51 Calculation of foreign market value if sales are made at less than cost of production.

(a) *Disregarding sales at less than cost.* If the Secretary has reasonable grounds to believe or suspect that the sales on which the Secretary could base the calculation of foreign market value under § 353.46, 353.49, or 353.53 are at prices less than the cost of production, the Secretary, in calculating foreign market value, will disregard such sales if they:

(1) Have been made over an extended period and in substantial quantities, and

(2) Are not at prices which permit recovery of all costs within a reasonable period in the normal course of trade.

(b) *Use of constructed value if above cost sales are inadequate.* If the Secretary disregards sales under paragraph (a), and concludes that the remaining sales at not less than the cost of production are inadequate for calculating foreign market value, the Secretary will calculate foreign market value based on constructed value under § 353.50.

(c) *Calculation of cost of production.* The Secretary will calculate the cost of production based on the cost of materials, fabrication, and general expenses, but excluding profit, incurred in producing such or similar merchandise.

§ 353.52 Calculation of foreign market value of merchandise from state-controlled-economy countries.

(a) *In general.* If the Secretary determines that the economy of the home market country is state-controlled to the extent that sales or offers of sales of such or similar merchandise in that country or to a third country do not permit calculation of foreign market value under § 353.46, § 353.49, or § 353.53, the Secretary will calculate foreign market value based on, in order of preference:

(1) The prices, calculated in accordance with § 353.46 or § 353.49, at which such or similar merchandise produced in a non-state-controlled-economy country is sold either:

(i) For consumption in that country; or

(ii) To another country, including the United States; or

(2) The constructed value of such or similar merchandise in a non-state-controlled-economy country, calculated in accordance with § 353.50.

(b) *Comparability of economies.* For purposes of paragraph (a), the Secretary will select, in order of preference, prices or costs in:

(1) A non-state-controlled-economy country other than the United States at a stage of economic development that the Secretary concludes is comparable to that of the home market country, based on generally recognized criteria, including per capita gross national product and infrastructure development (particularly in the industry producing such or similar merchandise);

(2) A non-state-controlled-economy country other than the United States that is not at a stage of economic development comparable to that of the home market country (in which case the Secretary will adjust the foreign market value for known differences in the costs of material and fabrication); or

(3) The United States.

(c) *Use of factors of production.*—If such or similar merchandise is not produced in a non-state-controlled-economy country which the Secretary concludes to be comparable in terms of economic development to the home market country, the Secretary may calculate the foreign market value using constructed value based on factors of production incurred in the home market country in producing the merchandise, including, but not limited to, hours of labor required, quantities of raw materials employed, and amounts of energy consumed, if the Secretary obtains and verifies such information from the producer of the merchandise in the home market country. The Secretary will value the factors of production in a non-state-controlled-economy country which the Secretary considers comparable in economic development to the home market country. The Secretary will include in this calculation of constructed value an amount for general expenses and profit, as required by section 773(e)(1)(B) of the Act, and the cost of containers, coverings, and other expenses, as required by section 773(e)(1)(C) of the Act.

§ 353.53 Calculation of foreign market value based on sales by a multinational corporation.

The Secretary will calculate the foreign market value of merchandise sold by certain multinational corporations described in section 773(d) of the Act in accordance with provisions of that section.

§ 353.54 Claims for adjustment to foreign market value.

Any interested party that claims an adjustment under §§ 353.55 through 353.58 must establish the claim to the satisfaction of the Secretary.

§ 353.55 Differences in quantities.

(a) *In general.* In comparing the United States price with foreign market value, the Secretary normally will use sales of comparable quantities of merchandise. The Secretary will make a reasonable allowance for any difference in quantities, to the extent that the Secretary is satisfied that the amount of any price differential is wholly or partly due to that difference in quantities. In making the allowance, the Secretary will consider, among other things, the practice of the industry in the relevant country with respect to affording quantity discounts to those who purchase in the ordinary course of trade.

(b) *Sales with quantity discount in calculating foreign market value.* The Secretary will calculate foreign market value based on sales with quantity discounts if:

(1) During the period examined or during a more representative period, the producer or reseller granted quantity discounts of at least the same magnitude on 20 percent or more of sales of such or similar merchandise for the relevant country; or

(2) The producer demonstrates to the Secretary's satisfaction that the discounts reflect savings specifically attributable to the production of the different quantities.

(c) *Sales with quantity discounts in calculating weighted-average foreign market value.* If the producer or reseller does not satisfy the conditions in paragraph (b), the Secretary will calculate foreign market value based on a weighted average price or prices that include sales at a discount.

§ 353.56 Differences in circumstances of sale.

(a) *In general.* (1) In calculating foreign market value, the Secretary will make a reasonable allowance for a bona fide difference in the circumstances of the sales compared if the Secretary is satisfied that the amount of any price differential is wholly or partly due to such difference. In general, the Secretary will limit allowances to those circumstances which bear a direct relationship to the sales compared.

(2) Differences in circumstances of sale for which the Secretary will make reasonable allowances normally are those involving differences in commission, credit terms, guarantees, warranties, technical assistance, and servicing. The Secretary also will make reasonable allowances for differences in selling costs (such as advertising) incurred by the producer or reseller but normally only to the extent that such costs are assumed by the producer or reseller on behalf of the purchaser from that producer or reseller.

(b) *Special rule.* (1) Notwithstanding paragraph (a), the Secretary normally will make a reasonable allowance for other selling expenses if the Secretary

makes a reasonable allowance for commissions in one of the markets under consideration and no commission is paid in the other market under consideration, but the Secretary will limit the amount of such allowance to the amount of the other selling expenses incurred in the one market or the commissions allowed in the other market, whichever is less.

(2) In comparisons with exporter's sales price, the Secretary will make a reasonable deduction from foreign market value for all selling expenses, other than those described in paragraph (a) (1) or (2), incurred in the relevant country up to the amount of the selling expenses, other than those described in paragraph (a) (1) or (2), incurred in the United States.

(c) *Reasonable allowance.* In deciding what is a reasonable allowance for any difference in circumstances of sale, the Secretary normally will consider the cost of such difference to the producer or reseller but, if appropriate, may also consider the effect of such difference on the market value of the merchandise.

§ 353.57 Differences in Physical Characteristics.

(a) *In General.* In calculating foreign market value, the Secretary will make a reasonable allowance for differences in the physical characteristics of merchandise compared to the extent that the Secretary is satisfied that the amount of any price differential is wholly or partly due to such difference.

(b) *Reasonable Allowance.* In deciding what is a reasonable allowance for any difference in physical characteristics, the Secretary normally will consider differences in the cost of production but, where appropriate, may also consider differences in the market value. The Secretary will not consider differences in cost of production when compared merchandise has identical physical characteristics.

§ 353.58 Level of Trade.

The Secretary normally will calculate foreign market value and United States price based on sales at the same commercial level of trade. If sales at the same commercial level of trade are insufficient in number to permit an adequate comparison, the Secretary will calculate foreign market value based on sales of such or similar merchandise at the most comparable commercial level of trade as the sales of the merchandise and make appropriate adjustments for differences affecting price comparability.

§ 353.59 Disregarding insignificant adjustments; use of averaging and sampling.

(a) *Insignificant Adjustments.* The Secretary may disregard adjustments to foreign market value which are insignificant. Ordinarily, the Secretary will disregard individual adjustments having an ad valorem effect of less than 0.33 percent, or any group of adjustments having an ad valorem effect of less than 1.0 percent, of the foreign market value. Groups of adjustments are differences in circumstances of sale, differences in the physical characteristics of the merchandise, and differences in the levels of trade.

(b) *Averaging or Sampling.* (1) In calculating United States price or foreign market value, the Secretary may use averaging or generally recognized sampling techniques whenever a significant volume of sales or number of adjustments are involved.

(2) The Secretary will select the appropriate representative samples.

§ 353.60 Conversion of currency.

(a) *Rule for conversion.* The Secretary will convert, under section 522 of the Act (31 U.S.C. 5151(c)), a foreign currency into the equivalent amount of United States currency at the rates in effect on the dates described in §§ 353.46, 353.49, or 353.50, as appropriate

(b) *Special rules for investigation.* For purposes of investigations, producers, resellers, and importers will be expected to act within a reasonable period of time to take into account price differences resulting from sustained changes in prevailing exchange rates. Where the price of the merchandise is affected by temporary exchange rate fluctuations, the Secretary will not take into account in fair value comparisons any difference between United States price and foreign market value resulting solely from such exchange rate fluctuation.

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Part III

Legal Services Corporation

45 CFR Part 1630

Costs Standards and Procedures; Final Rule

LEGAL SERVICES CORPORATION

45 CFR Part 1630

Costs Standards and Procedures

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: This final rule establishes a new Part 1630 prescribing standards and procedures for determining allowable costs for grants and contracts under sections 1006(a)(1) and 1006(a)(3) of the Legal Services Corporation Act (Act), and for recovering disallowed costs. The Legal Services Corporation ("Corporation" or "LSC") has not previously promulgated regulations establishing a comprehensive set of costs standards and procedures, except to the extent that they were contained in the Audit and Accounting Guide for Recipients and Auditors (Audit Guide) and in LSC Instruction 83–8. This new rule is intended to provide recipients with clear and simple standards and procedures so recipients can determine which costs are allowable, which costs require prior approval, how such approval is obtained, and how review of disallowed costs is obtained.

EFFECTIVE DATE: September 12, 1986.

FOR FURTHER INFORMATION CONTACT: John H. Bayly, Jr., General Counsel, Legal Services Corporation, 400 Virginia Avenue, SW., Washington, DC 20024–2751, (202) 863–1820.

SUPPLEMENTARY INFORMATION: On February 20, 1985, the Corporation published a revision of the Audit Guide for comment (50 FR 7150). As comments were received and reviewed and revision progressed, it became evident that separate regulations establishing costs standards and procedures for resolution of questioned costs issues should be developed. Accordingly, on August 29, 1985, the Corporation published in the **Federal Register** a proposed new Part 1630 on costs standards and procedures (50 FR 35102). The revised Audit Guide was published on November 29, 1985 (50 FR 49276). After review of comments received and further study, the Corporation, on April 21, 1986, published a revised Part 1630 for further comment (51 FR 13532). Eighty-two timely comments were received and an additional forty-two thereafter. All comments were considered. In addition, two Committees of LSC's Board of Directors ("Board"), the Committee on Operations and Regulations, and the Committee on Audit and Appropriations, heard comments at several meetings. During the same period, Corporation staff has had informal discussions with commenters. After carefully considering all oral and written comments, the Board on June 27, 1986, adopted a final rule. This final rule establishes a new Part 1630 to prescribe standards and procedures for determining allowable costs for recipients of grants and contracts under sections 1006(a)(1) and 1006(a)(3) of the Legal Services Corporation Act ("Act"), (42 U.S.C. 2996 et seq.), and for recovering disallowed costs.

For some time the Corporation, through the Board Committees on Audit and Appropriations, and on Operations and Regulations, has been working with Corporate staff to improve Corporate and recipient accountability for the federal funds entrusted to the Corporation. The need for clear and concise standards governing the determination of allowable costs, and for recovery of misspent tax dollars, became abundantly clear in the process of developing a comprehensive revision of the Audit Guide and in the processing of costs disputes. Numerous items of questioned costs had remained unresolved for several years, and had occasioned sporadic adversarial activity which left programs uncertain of what to expect. Many of the pending items resulted from failure of various programs to obtain prior approval of certain obviously necessary expenditures, even though such programs had requested approval repeatedly from an LSC regional office for more than a year. Some programs had good reason to believe that the Corporation's regional offices would not give approval in a reasonable and timely manner, and simply ignored the prior approval requirement so that they could continue to serve clients in a business-like manner.

As these understandable problems with regional offices (especially the Southern Regional Office) came to the attention of new Corporate managers, priority was given to resolving back issues and to approving many pending items in situations where it was clear that the expenditure was reasonable and necessary for the service of clients, even though prior approval had not been obtained as required. As a means of eliminating future problems of this type, Corporate staff proposed new language for this regulation to prevent the Corporation from challenging costs because of lack of prior approval, unless the Corporation had made timely objection to the request for approval. The Corporation intends to give priority to ensuring prompt response to all such requests, especially those needing expedited action. This concern is explained further under § 1630.6 below.

The Corporation has utilized the wealth of guidance and experience developed by federal agencies in their efforts to safeguard tax dollars granted to a wide variety of entities. Various Circulars of the Office of Management and Budget (OMB) reflect the wisdom and experience accumulated over time by federal entities. Circular A–122 ("Cost Principles for Non-profit Organizations") was particularly instructive and many sections of Part 1630 were patterned on its provisions. Although the Corporation has adopted, adapted, or incorporated by reference many of the standards and policies of the Circulars, it has, nevertheless, taken care to make such modifications and changes as it felt necessary to meet the needs of providers of legal services and to ensure accountability for federal grant funds under the Act.

The following provisions are of particular significance:

Section 1630.2 Definitions.

Section 1630.2 defines "questioned costs", "allowed costs" and "disallowed costs".

As proposed, these definitions and several other sections could have been interpreted to reach private as well as federal funds beyond the mandate of section 1010(c) of the LSC Act. That section forbids recipients from expending private funds for any purpose forbidden by the Act. Many commenters questioned our approach. Some questioned our authority to examine any expenditure of private funds. The Board has no doubt about its authority to carry out the Congressional purpose concerning section 1010(c), or any other provision of the Act. It recognizes, however, that the across-the-board approach of applying section 1010(c) to the entire regulation could present unforeseeable situations and uncertainties. Accordingly, the Board decided to address section 1010(c) in a completely new section of the regulations and make clear that the restrictions of the other sections of this part apply only to LSC funds. Accordingly, a new section 1630.12 has been added to address private funds in relation to section 1010(c). All other references to such funds, in the definitions or elsewhere in the regulations, have been deleted.

Section 1630.2 also defines "recipient". A "recipient" under this part is not the same as a "recipient" under section 1600.1 of the regulations or as defined in section 1002(6) of the Act. Both of those definitions deal only with

a "recipient" under section 1006(a)(1)(A) of the Act. Since this part sets costs standards and procedures for all grants and contracts under sections 1006(a)(1) and 1006(a)(3) of the Act, the definition of "recipient" for purposes of this part is expanded to reach all those receiving grants or contracts under these provisions.

Section 1630.3 Burden of Proof.

Paragraph (a) of the section places the burden of proof on the recipient at all times. This is appropriate since the recipient is responsible for the activities and expenditures involved, as well as for all supporting documentation. Paragraph (b) clarifies that where a recipient claims that the funds used to pay for a questioned cost are not subject to a particular restriction, the recipient has the burden of showing that the funds were not subject to the restriction. A recurring problem has been caused where recipients have accumulated fund balances from successive years' fundings, and have claimed that payments for activities forbidden by particular appropriations riders or other restrictions were made from fund balances of earlier years when the particular prohibitions or restrictions were not applicable.

Many comments focused on proposed § 1630.3(b)(2) which established a presumption in situations where funds having different restrictions are held or are accounted for in such a manner that auditors have difficulty tracking funds and determining if all restrictions have been obeyed. Many commenters appeared concerned that the prohibition against commingling funds in the same account would be too great a burden for programs. The Corporation decided that since the section requires the program to bear the burden of proof, a specific prohibition against commingling unrestricted funds in the same account with funds subject to a statutory restriction was unnecessary. If a recipient has ever commingled funds, its burden would be difficult to meet.

Section 1630.4 Standards governing allowability of costs under Corporation grants or contracts.

Section 1630.4 sets forth the basic standards and criteria which govern the allowability of costs for grants and contracts under sections 1006(a)(1) and 1006(a)(3) of the Act.

Several comments complained about the clarity of the terminology used in this section. Words such as "total costs," "direct costs," "indirect costs," "allowable costs," "unallowable costs," and "allocable costs" were cited as examples of uncertain meaning. These terms are taken from the circulars and are words of art used consistently when discussing federal costs principles. They are the subject of authoritative and neutral interpretations and rulings by numerous courts and agencies and can be interpreted by reference to relevant literature and consultation with experts. Reliance on standard language and interpretations to the extent practicable should give maximum consistency and predictability of result to recipient decision-makers.

Paragraph (a) establishes nine general criteria governing allowability of costs. These criteria do not apply to non-LSC funds.

Paragraph (a)(1) provides that the expenditure must actually have been incurred during the term of the grant or contract. Some commenters were concerned that the paragraph could forbid the use of funds carried over to the next year pursuant to Part 1628. The paragraph makes specific reference to Part 1628 to clarify that there is no intent to change the scope of that Part. Several commenters were also concerned that the paragraph could forbid accrual accounting. There is no such intention. The phrase "actually incurred after the effective date of the grant or contract" is consistent with the accrual method of recording expenses and revenues.

Paragraph (a)(2) provides that the cost must be reasonable and necessary for (1) the provision of legal services to eligible clients, or (2) the accomplishment of another function specified in the grant or contract application as approved by the Corporation. Although the language as originally proposed was quite similar to the pertinent federal circular language from which it was derived, commenters were concerned that the reference to "another function" could be construed to exclude activities now being performed because they were not "legal services for eligible clients." Accordingly, the second half of the provision has been revised to specify that where an activity is identified and supported in the application and specifically approved by the Corporation it is allowable.

Paragraphs (a)(5) and (a)(6) are not redundant, as some commenters may have believed. Paragraph (5) means that a recipient cannot have two standards, one for Corporation work and one for non-Corporation work. The purpose is simple: to prevent "gold-plating" of those activities funded by tax funds, whether as a way of shifting costs to those activities (e.g., paying staff a much higher rate on LSC work than on other work) or from misguided generosity or lax management. Paragraph (5) does permit a recipient to use LSC funds to pay for overhead for activities that could be charged to LSC funds where the grant from non-LSC sources does not provide for overhead. The provision deals only with business, managerial, accounting, and similar policies. It does not address programmatic or legal strategy decisions. Paragraph (6) means that accounting practices must be consistent over time. For example, a recipient could not change allocations as follows: allocate the salary costs of its administrative staff to an LSC-funded activity as opposed to a non-LSC eligible activity such as criminal defense work, for the first time period (e.g., month, quarter) on the basis of the number of active LSC eligible versus non-LSC eligible cases, for the second period allocate on the number that are closed during the period, and for the third period allocate on the number of attorneys in respective divisions, each time using a basis that maximizes the allocation of costs to the LSC-supported activity. Changes in accounting practices should be infrequent, well-justified, noted in financial reports, and, when significant, discussed in advance with LSC.

Paragraph (a)(8) is a standard federal provision to ensure that, where a federal program requires the grantee to raise matching funds to expand the services provided with limited federal funds, these funds must be raised from a source other than the federal treasury and taxpayer. The paragraph provides that a cost allowed against a grant or contract of the Corporation may not also be used as matching funds to meet the non-federal share of another federal program. Various commenters were concerned that other program funds, such as those from Administration on Aging, could be affected by the provision. Accordingly, the proviso "unless permitted by law" has been replaced with a requirement that the agency whose funds are being matched shall determine in writing that Corporation funds may be used for the non-federal matching requirements of the laws the agency enforces. Where a *bona fide* written determination is made by the federal, state, or local agency providing funding to the recipient, the use of LSC funds for matching purposes will not be questioned by LSC pursuant to this provision.

Paragraph (a)(9) provides for adequate and contemporaneous documentation of records and for their availability during normal business hours. As published for comment, this provision also sought to ensure that there would be no opportunity for alteration between the

time records are requested and the time an auditor or other LSC representative is given access to the records. This proposal was made to avoid situations where records might be changed to avoid discovery of violations or unallowable costs. Many commenters noted that it is common for mistakes, and other changes and corrections, to be made at the end of a fiscal period to balance the books, and that this is normal accounting practice. Some noted that they have to delete confidential client information before opening their books and noted that such deletions could be considered "alterations". The Corporation's sole concern was with the danger of deliberate alteration for improper purpose, e.g. deception. Routine corrections of errors and of mistakes, which are generally accepted in accounting and auditing, and removal of client names, and other information to protect client rights, were not our concern. It is fundamental to an audit that the auditor must be able to assure that there is no opportunity for alteration or creation of records between the time the auditor indicates interest in particular records or transactions by making specific requests and the time access to such records is provided. In addition, materials properly subject to the attorney-client privilege should not be intermingled with fiscal records. A recipient could violate section 1006(b)(3) of the Act through a breach in client confidentiality if it does not generally restrict a client's secrets to that client's case file but scatters them through other records. Where an auditor seeks records, such as those relating to client trust funds or to expenditures in support of particular cases, it is acceptable if the records are pulled from their normal file and privileged information is obscured or redacted in the presence of the auditor.

It was suggested that the phrase "upon reasonable notice" be inserted before the words "during normal business hours". Notice that is reasonable under the circumstances is now provided as a matter of course on all visits, and this practice will continue. In instances where there are indications of some kind of misconduct, routine notice procedures could provide time and opportunity to create, alter, hide or destroy records. An unannounced visit during normal business hours would be "reasonable" under such circumstances. Consequently, the suggested language could not properly be used to deny access. It could be an excuse, however, to delay or otherwise frustrate access. Accordingly, the proposal was rejected.

Section 1630.4(b) deals with reasonableness of costs. The test is the behavior of a prudent person under the circumstances. The section notes that in the case of recipients which receive the bulk of their funds from the Corporation or other federal sources, where there is no competitive market or business test, particular care must be taken in determining the reasonableness of expenditures.

Several commenters were concerned about the reference and suggestions were made that the language be changed or modified. No change has been made, however, because the Corporation does not believe that change would improve the Provision. The language recognizes that where a recipient does not have a continuing competitive obligation to control costs, it may not expend sufficient energy in that area. It is the obligation of the auditor or monitor to recognize this possible tendency and to be particularly alert in this area.

Several commenters were also concerned about the directive in paragraph (3) of section 1630.4(b) to look at whether the individuals concerned acted with prudence, considering their responsibilities to the clients, the recipients, the public at large, the Corporation, and the federal government. Several commenters suggested that the individuals involved have no obligations to the public at large or to the federal government. The Corporation disagrees. Congress has made very clear that the Corporation is responsible directly to it. H.Rep.No. 95–310, 95th Congress, lst Sess., May 13, 1977, p.6; S. Rep.No. 95–172, 95th Cong., lst Sess., May 16, 1977, p.3. The Corporation is required to assure that recipients comply with the provisions of relevant laws and regulations, and with the terms of the awards. Consequently, it seems clear that those who work for recipients or carry out program objectives for them are responsible to the taxpayers through the Corporation and the Congress. No change has been made in the provision.

Section 4(c) deals with allocable costs. A cost is allocable to a particular cost objective in Proportion to the relative benefits received. An allocable cost must also be treated consistently with other costs incurred for the same purpose in like circumstances. Consistent treatment in allocating among cost objectives is a basic goal.

Paragraphs (c)(1) (i), (ii) and (iii) provide specific guidelines for allocating costs. Paragraph (c)(1)(i) states that if a cost is incurred specifically for a grant or contract the cost must be allocated to that grant or contract. The attorney exclusively serving LSC clients is an example where costs are incurred specifically for the LSC grant or contract. Paragraph (c)(1)(ii) applies to cases where costs benefit more than one cost objective and can be allocated in reasonable proportion to the benefits received. An attorney serving eligible clients 60% of the time and participating in non-LSC activities 40% of the time must have his or her salary and benefits allocated accordingly. Paragraph (c)(1)(iii) provides for the allowability of costs having no direct relationship to any particular cost objective. Overhead, continuing legal education, and subscriptions may be examples of necessary costs which in some circumstances may not have a direct relationship to any particular cost objective. These costs must be allocated on a reasonable basis, in accordance with the relative benefits received, to the various cost objectives.
For example, the cost of electricity may be allocated to cost objectives based on the percentage of staff time devoted to each cost objective.

Paragraph (c)(2) states that costs allocable to a particular cost objective may not be shifted to other Corporation grants or contracts to overcome funding deficiencies, or to avoid restrictions imposed by law or by the terms or conditions of the grant or contract. This paragraph does not restrict the allocation of costs to particular cost objectives. An activity may be proper under a number of cost objectives, and an allocation of costs to any one of these cost objectives is permissible. However, allocation of costs to cost objectives which are restricted with respect to such funds is impermissible. This paragraph is consistent with the principles in paragraph (1) of this section and ensures an accurate accounting and proper cost allocation for every cost objective. It forbids a grantee or contractor from shifting costs from a grant or contract awarded by a non-LSC source to a a Corporation grant or contract when the costs could not have been borne by the Corporation award in the first place. A recipient could not meet a funding deficiency in a non-LSC account with LSC funds if the activities funded in the non-LSC account could not be undertaken with LSC funds. Thus, a recipient could not shift costs from a public funding source to a Corporation grant or contract if the non-LSC grant was awarded to provide criminal representation or to undertake activities restricted by Part 1612. This paragraph does not require a program to reject funding from any source that did

not include funds sufficient to cover all indirect costs associated with the activity funded so long as the activity funded serves LSC-eligible clients and cases. This paragraph permits a program to charge the basic LSC field grant for activities partially, but not wholly, funded by other sources, so long as the activities funded consist of services for LSC-eligible clients.

There will usually not be a serious "allocation" problem regarding LSC funds if all of a recipient's activity is eligible for LSC funding under its grant or contract, even though a recipient may receive other funds. When a recipient has both an LSC function and a non-LSC function (e.g., criminal defense work), all or some of its costs must be "allocated" between these two functions. For example, if a staff attorney works exclusively serving eligible LSC clients, the attorney's salary and benefits would be allocable to the LSC grant or contract. On the other hand, if an attorney works 60% of the time serving eligible LSC clients and 40% of the time in non-LSC activities, the attorney's salary and benefits must be allocated proportionately between the LSC grant or contract and some other cost objective (grant, project, service or other activity). Section 1630.4(c) repeats in standard grant accounting terms, the general principle that this division must be done on some kind of rational basis reflecting the benefits of the work performed for each cost objective. If the recipient has two divisions, such as an LSC division and a criminal division, and neither works in the other's area, all direct costs of the LSC division would be charged to LSC without the need for allocation; only "joint" costs, such as rent, utilities, or the salaries of administrative employees who perform management and accounting work for both divisions, would have to the "allocated". Whenever possible, costs should be charged directly. Thus, if the two divisions are housed in separately rented buildings, each could be charged its own rent. Some phone systems have the capacity to charge all long-distance calls to the division of the employee making that call, or even to the particular case being worked upon. Depending upon actual circumstances, accountants may agree upon a number of ways of making allocations, such as attorney hours, number of cases, number of employees, total direct costs, etc. For instance, if the LSC division of a program incurred $200,000 in directly chargeable costs and the criminal division of that program incurred $100,000 in such costs, LSC's share of a total of $90,000 in general overhead (e.g., program director's salary, administrative staff) would be $60,000, were the allocation based on the proportion of direct costs.

Paragraph (e) defines program income in terms consistent with Attachment D to Circular A-110 ("Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations—Uniform Administrative Requirements"). Some commenters were concerned about the effect of the new definition on fund balance calculations. Section 1628.2(a) of the regulations defines LSC "support" for fund balance calculation purposes as including (1) the basic award, (2) any income (including interest) derived from it, and (3) attorneys' fees, proceeds from sale of assets, and any other compensation or income attributable to the award. Paragraph (e) defines "program income" as including attorneys fees, proceeds from the sale of assets, service fees, and interest income. In effect, it defines "program income" as including all the items added to the basic award by § 1628.2(a) in arriving at LSC "support". This definition should have no effect on fund balance calculations.

A number of commenters were critical of the inclusion in program income of attorneys' fees awarded in cases funded with LSC grant funds. When the grant or contract pays all the costs of a particular activity, it is to be expected that revenue from that activity is treated as derived from the grant or contract and subject to all the current LSC restrictions. Since the definition is completely consistent with the definition of LSC "support" in § 1628.2(a), and with the fund balance calculation process, we do not believe that the criticisms raise valid concerns.

In order to ensure that such revenue need not be recognized before payment was assured, the proposed paragraph (e) provided that program income was to be applied as a credit against grant or contract costs charged the Corporation at the time of actual receipt. Although the net result would not have been affected, this would have changed the method of calculating the fund balance. We have deleted the provision to eliminate any confusion concerning the calculation process and will rely upon generally accepted accounting practices which do not require the recognition of speculative revenue.

Advance Understandings

Paragraph (2) of § 1630.4(f) is a revision of proposed paragraphs (b) and (c) of § 1630.5 as published April 21, 1986. New paragraph (2) recommends that recipients try to enter into advance understandings in the sensitive areas of expenditures for travel and fees for training, for conferences, meetings where political activity is encouraged, or where staff of other LSC recipients are the primary participants, and for branch offices where a primary use is lobbying, legislative advocacy or formal rulemaking.

As originally proposed, § 1630.5 (b) and (c) would have required prior approval by the Corporation for certain travel, meetings and conferences, and office expense associated with lobbying, legislative advocacy, and formal rulemaking. Commenters were very concerned about the administrative and other burdens which such prior approvals would have placed on recipients and on the Corporation. A number of commenters noted that they had had delays of various lengths getting approvals under existing prior approval provisions. In the past, such approval authority was delegated to regional offices and there were, all too often, unreasonable delays. The Corporation has corrected these management problems and could now handle the requests for approval efficiently and on a timely basis. It decided, however, to place the proposed provisions of §§ 1630.5 (b) and (c) in the advance understanding section to express the Corporation's concern that recipients should ensure that all such expenditures are reasonable, necessary, and in full compliance with all applicable restrictions on the use of LSC funds. Due attention to these concerns will be exercised during audits and monitoring of recipients. The requirements for prior approval of these expenditures were accordingly deleted.

Guidance

Section 1630.4(g) provides that the OMB Circulars will be used for guidance in resolving cost questions to the extent that they are not inconsistent with applicable laws, rules, regulations, guidelines, and instructions and with the Audit Guide. These Circulars have already benefited from review and comment, have been in operation for many years, and have been the subject of extended interpretation and implementation. They are an excellent and neutral source of cost and accounting principles and decisions that can resolve many issues that will arise under this part but which the Corporation cannot now reasonably foresee.

Unallowable Costs and Prior Approvals

Section 1630.5(b) provides for prior approval of certain expenditures. In

response to comments, language was inserted to state that approval will not be denied unless the cost would be inconsistent with the standards and policies of this part, including the criteria set forth or incorporated by reference in §§ 1630.4 and 1630.5 or elsewhere in Part 1630. Normally, prior approval will be valid for only one year. For example, where a program obtains approval of a purchase on January 21, 1986, and does not complete the purchase by January 21, 1987, it must seek approval again. If the approval is for a lease which would last for several years or a contract for the purchase of property, then the approval allows compliance with the lease or contract if executed within a year; extensions, renewals, or modifications, of course, require approval if such actions, standing alone, would so require.

Cost of Counsel

For many years the Corporation has required recipients to get prior approval for costs of consultants and outside counsel in all matters (including those in which the Corporation has an adverse interest) in which the recipient—rather than an eligible client—is represented and the cost exceeds a set minimum. It was originally proposed that cost of counsel in a matter in which the Corporation is an opposing party or has an opposing interest should be unallowable. The rationale was that it was illogical to provide funds for others to litigate against the Corportion and that other grant programs do not allow such costs. Many commenters vigorously opposed the proposal. Some claimed that it would create ethical problems and cited Rule 3.7 of the Model Rules of Professional Conduct and DR 5–101(B) and DR 5–102 of the Code of Professional Responsibility of the American Bar Association. We do not agree that the cited provisions necessarily posed ethical problems. See, e.g., ANNOTATED CODE OF PROFESSIONAL RESPONSIBILITY, DR 5–101(B) and DR 5–102 (1979), comment, pages 212–221, and D.C. Bar Legal Ethics Committee, Op. 44 (1978) and Op.125 (1983).

Commenters also pointed out that under the Circulars and interpretations of them, costs of counsel may be charged against an award for services associated with protests or appeals within the administrative agency process up to and including any decision by the head of the agency. Litigation against the granting agency, however, is not chargeable against the award. The Corporation has concluded that it should rely upon the precedent of general federal grant law, incorporated by reference in § 1630.4(g), and permit programs to use in-house staff or retained counsel, and charge their costs to LSC funds, for all stages of negotiations and proceedings which are within the internal administrative structure of the Corporation. Thus, programs can charge LSC funds for costs of counsel and expenses in all proceedings brought by the Corporation to suspend, terminate, or deny refunding. This approach was adopted because it addressed many of the concerns raised by programs about the more restrictive requirement and was generally consistent with the approach used by other federal agencies in dealing with grantees. Under current practice, the Corporation has not exercised its prior approval authority for contracts entered into by programs with attorneys for such representation. Corporate practice will not be modified to insist upon prior approval pursuant to § 1630.5(b)(3) for such contracts except through formal issuance of an instruction pursuant to section 1008(e) of the Act.

Although cost of counsel in these situations will not be subject to prior approval, it will, like any other cost, be subject to later audit. The Project Advisory Group, for instance, recognized in its June 20, 1986 memorandum to the Board that "LSC retains full ability to review costs incurred in retaining counsel in disputes with LSC after the fact. Sections 1630.4 and 1630.5(a) still apply to all funds which did not receive prior approval."

Section 1630.6 Effect of absence of prior approval.

Under § 1630.6, the Corporation cannot claim lack of prior approval where it fails to act on time. The principal criticism of this section was that it contained no separate criteria for prior approval. In response to comments, language has been inserted in § 1630.5(b) as discussed above.

Several commenters were concerned about the time intervals provided for in this section, particularly where a quick response would be needed to avoid harm or loss. The Corporation intends to make every reasonable effort to respond promptly to all program requests for approval, especially if the program presents information which indicates that a quick response is necessary. For example, if a program would incur substantial harm from a delayed response to a request for approval of a consultant contract, the Corporation will attempt to respond in a timely manner so that the loss or harm can be avoided. While the Corporation must make a written request for additional information within 45 days after receipt, it will endeavor to request such additional information as soon as possible, both orally and in writing.

Section 1630.8 Recovery of disallowed costs.

Under § 1630.8, disallowed funds are recovered from future checks or by direct payment or otherwise. Comments criticized the version of this provision that was published in the **Federal Register** because it could be construed to prevent a program from seeking equitable or other relief from recovery of a disallowed cost where it chooses to appeal to the President under § 1630.7(c). The final rule has eliminated the problem by moving the relevant provisions of former § 1630.8 into § 1630.7. Other comments raised concern about the policy of recovering income derived from a disallowed cost. Generally, we believe that derivative income will not occur in most disallowed costs cases. Where such income can be identified and traced, however, we think it should be recovered so that there is no monetary incentive to spend funds on unallowable items.

Comments have also questioned our authority to recover income derived from disallowed expenditures. No basis has been given for this contention. It is a basic principle of statutory construction that express authority to administer a program carries with it implied authority to do what is necessary to implement the express authority. SUTHERLAND, STATUTORY CONSTRUCTION. Section 55.04 (4th ed. 1973) and cases cited thereat; *Chevron, U.S.A., Inc.* v. *National Resources Defense Council, Inc.*, 104 S. Ct 2778 (1984).

Section 1630.9 Other remedies; effect on other parts.

This section provides that the Corporation will require necessary steps by recipients to correct deficiencies. In addition, action pursuant to Parts 1606, 1623, and 1625 may be required. Referrals may also be made to law enforcement agencies and bar associations, as appropriate. This section also provides that recovery of a questioned cost is not to be construed as a termination or a denial of refunding under Parts 1606 or 1625.

Some commenters have stated that any recovery of a questioned cost is subject to section 1011 of the Act and an appropriate proceeding thereunder. They cited *East Arkansas Legal*

Services v. *LSC*, 742 F.2d 1472 (D.C. Cir. 1984) but did not explain in detail application of its reasoning to proceedings under this Part. *East Arkansas Legal Services* v. *L.S.C., supra.* involved reduction of a recipient's grant to offset part of a fund balance carried over from a prior year. The circuit court concluded that reduction was subject to a Section 1011 proceeding. Because of the vastly different considerations at issue here, we do not think that Congress intended to require section 1011 proceedings for the recovery of misspent funds or that the language of the cited case governs the concerns here addressed or precludes the Corporation from adopting the interpretation of Section 1011 set forth in this section.

Section 1630.12 Non-public funds.

This section provides that if an activity is in violation of section 1010(c) of the Act, which forbids recipients from doing anything prohibited by the Act, the cost of the activity cannot be charged to nonpublic funds. It also provides that the Corporation will take from Corporation funds an amount not to exceed the amount disallowed. Congress has prohibited certain uses of non-public funds and empowered the Corporation to enforce this prohibition; for small violations, a proportionate and reasonable monetary penalty is preferable to termination or denial of refunding.

Many comments criticized various aspects of the way former versions of Part 1630 handled non-public funds. Many comments asserted that the Corporation has no authority to deduct from Corporation funds an amount equal to the disallowance. They contended that our implementation of section 1010(c) of the Act was limited to Part 1610 of the Corporation's regulations. Many commenters noted that it did not seem clear in several sections of the regulation (1630.4(b); 1630.5(c); 1630.5(e)) whether the same criteria were used for Corporation and non-public funds.

In response to the comments, the Board decided to treat non-public funds in a separate new § 1630.12. Conforming changes were made to §§ 1630.4, 1630.5, and 1630.6 to eliminate any confusion.

List of Subjects in 45 CFR Part 1630

Accounting, Government contracts, Grant programs, Legal services, Questioned costs.

For the reasons set out in the preamble, a new Part 1630 is added to 45 CFR, Chapter XVI, as follows:

PART 1630—COSTS STANDARDS AND PROCEDURES

Sec.

Authority: 42 U.S.C. 2996e, 2996f, 2996g, 2996h(c)(1), and 2996i(c).

§ 1630.1 Purpose.

This part is intended to provide uniform standards for allowability of costs and to provide a comprehensive, fair, timely, and flexible process for the resolution of questioned costs incurred by recipients of the Corporation. The Corporation has considered the standardized policies developed over years of federal experience with assistance to nonprofit organizations, and has adopted, or adapted, many of these policies where appropriate for the funding of legal services for eligible clients.

§ 1630.2 Definitions.

(a) A "questioned cost" is a charge or proposed charge to a recipient's Corporation funds which could be determined to be ineligible.

(b) An "allowed cost" is a cost that, after investigation, the Corporation has determined to be eligible for payment from a recipient's Corporation funds.

(c) A "disallowed cost" is a cost which has been determined to be ineligible for payment from a recipient's Corporation funds and includes any income the recipient may have derived from activities supported by that cost, including proceeds from the sale of assets and interest.

(d) "Recipient" as used in this part means any grantee or contractor receiving funds from the Corporation under sections 1006(a)(1) or 1006(a)(3) of the Act.

§ 1630.3 Burden of proof.

(a) The recipient shall at all times have the burden of proof under this Part.

(b) If a recipient defends a questioned cost on the basis that the funds used were not subject to the restriction cited by the Corporation, the recipient has the burden of proving that the funds actually expended were not in fact subject to that restriction.

§ 1630.4 Standards governing allowability of costs under Corporation grants or contracts.

(a) *General criteria.* Expenditures by a recipient are allowable under the recipient's grant or contract only if the recipient can demonstrate that the cost was:

(1) Actually incurred during the effective term of the grant or contract (unless allowed by Part 1628) and the recipient was liable for payment;

(2) Reasonable and necessary for the provision of legal services for eligible clients or for the accomplishment of another function specified in the grant or contract application as approved by the Corporation;

(3) Allocable to such function(s);

(4) In compliance with the Act, applicable appropriation acts, Corporation rules, regulations, guidelines, and instructions, the Corporation Audit and Accounting Guide for Recipients and Auditors, and the terms and conditions of the grant or contract;

(5) Consistent with policies and procedures that apply uniformly to both Corporation-financed and other activities of the recipient;

(6) Accorded consistent treatment;

(7) Determined in accordance with generally accepted accounting principles;

(8) Not included as a cost or used to meet cost sharing or matching requirements of any other federally financed program, unless the agency whose funds are being matched determines in writing that Corporation funds may be used for federal matching purposes; and

(9) Adequately and contemporaneously documented and the Corporation was given access during normal business hours to the documentation as filed in the recipient's normal business records.

(b) *Reasonable costs.* A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. If a cost is disallowed solely on the ground that it is excessive, only the amount that is larger than reasonable shall be disallowed. The question of the reasonableness of specific costs must be scrutinized with particular care in connection with recipients, or separate divisions thereof, which receive the preponderance of their support from grants or contracts with the Corporation

or federal agencies, rather than through the sale of goods and services in free markets. In determining the reasonableness of a given cost, consideration shall be given to:

(1) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the recipient or the performance of the grant or contract;

(2) The restraints or requirements imposed by such factors as generally accepted sound business practices, arms-length bargaining, federal and state laws and regulations, and the terms and conditions of the grant or contract;

(3) Whether the individuals concerned acted with prudence under the circumstances, considering their responsibilities to the recipient, its clients and employees, the public at large, the Corporation, and the federal government; and

(4) Significant deviations from the established practices of the recipient which may unjustifiably increase the grant or contract costs.

(c) *Allocable costs.* (1) A cost is allocable to a particular cost objective, such as a grant, project, service, or other activity, in accordance with the relative benefits received. A cost is allocable to a Corporation grant or contract if it is treated consistently with other costs incurred for the same purpose in like circumstances and if it:

(i) Is incurred specifically for the grant or contract;

(ii) Benefits both the grant or contract and other work and can be distributed in reasonable proportion to the benefits received; or

(iii) Is necessary to the overall operation of the recipient, although a direct relationship to any particular cost objective cannot be shown.

(2) Any cost allocable to a particular grant or contract or other cost objective under these principles may not be shifted to other Corporation grants or contracts to overcome funding deficiencies, or to avoid restrictions imposed by law or by the terms or conditions of the grant or contract.

(d) *Applicable credits.* (1) A recipient must deduct all applicable credits, as defined in paragraph (2) below, from the costs it charges to a grant or contract from the Corporation.

(2) The term "applicable credits" refers to those receipts or reductions of expenditures which operate to offset or reduce expense items that are allocable to grants or contracts as direct or indirect costs. Typical examples of such transactions are purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds, and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to or received by the recipient relate to allowable costs they shall be credited to the grant or contract either as a cost reduction or cash refund, as appropriate.

(e) *Program income.* Program income represents gross income earned by the recipient from Corporation-supported activities, and includes, but is not limited to, income from service fees (including attorneys' fees and costs), sales of commodities and property, and interest earned on grant or contract advances or other funds.

(f) *Advance understandings.* (1) Under any given grant or contract the reasonableness and allocability of certain items of costs may be difficult to determine. This is particularly true in connection with recipients that receive a preponderance of their support from the Corporation. In order to avoid subsequent disallowance or dispute based on unreasonableness or nonallocability, it is often desirable to seek a written agreement with the Office of Monitoring, Audit, and Compliance in advance of incurring special or unusual costs. The absence of an advance agreement on any element of cost will not, in itself, affect the reasonableness or allocability of that element. Acceptance of the annual budget as part of the renewal of funding does not constitute an "advance understanding" or "approval", unless the cost or expenditure is identified and specifications of the purpose, amount, and all other information necessary to evaluate the necessity and reasonableness of the cost are included and explicit approval of the specific transaction is included with approval of the grant application.

(2) Because there is significant potential for disagreement regarding the reasonableness, necessity, or allowability of costs allocable to the following activities, recipients are encouraged to seek advance understandings regarding—

(i) Conduct of or attendance at meetings (attended primarily by employees of other LSC recipients or a purpose of which is to encourage political activity), conferences, symposia, or training projects by participants, trainees, trainers, or employees;

(ii) Maintenance or occupancy of a branch office if a primary use of that office is to support legislative advocacy, formal rulemaking, or lobbying.

(g) *Guidance.* The Circulars of the Office of Management and Budget shall provide guidance for all allowable cost questions arising under this part when relevant policies or criteria therein are not inconsistent with the provisions of the Act, applicable appropriations acts, this part, the Audit and Accounting Guide for Recipients and Auditors, and Corporation rules, regulations, guidelines, and instructions.

§ 1630.5 Costs specifically unallowable under Corporation grants and contracts.

(a) No cost allocable to an activity that violates the Act, other provisions of law, Corporation rules, regulations, guidelines, instructions, or the terms of a recipient's grant or contract agreement may be charged to Corporation funds.

(b) Without prior approval of the Corporation (which approval shall not be withheld unless the Corporation determines that the cost would be inconsistent with the standards and policies of this part and which shall be valid for no more than one year), no cost allocable to any of the following may be charged to Corporation funds:

(1) The cost of a lease or purchase of equipment, furniture, books or similar personal property if the single item or combined purchase price is in excess of $10,000. In the case of a lease, the purchase price is determined by the prevailing market rate for purchase of the property leased, not by the lease price. "Combined purchase price" means the total cost of all the components of a system, such as a computer or telephone system, in which the components are planned as integral parts of the system or lease process. The addition of books to an existing library purchased during a prior audit year, of new printers to an existing computer system purchased during a prior audit year, or of new furniture to office furniture purchased during a prior audit year would not require prior approval unless the additions had a combined purchase price in excess of $10,000. When purchases or leases are made for more than one office, the "combined purchase price" includes the cost of all new system components for all offices affected;

(2) Purchases of real property;

(3) Consultant contracts in excess of $5,000 or consultant fees in excess of $261 per eight-hour day or $35 per hour except that (i) the retention of expert witnesses or other consultants or attorneys secured on behalf of eligible clients shall not be considered consultant services, and (ii) audit services shall not be considered as consultant services, but other services that may be provided by a recipient's auditor, such as the preparation of interim financial reports or tax reports, shall be considered consultant services

and shall require approval if the fees exceed the limits established by this subparagraph.

§ 1630.6 Effect of absence of prior approval.

The Corporation may not assert the absence of its approval as a basis for disallowance of a cost if it has not provided written notice to a recipient that it objects to a proposed cost expenditure involving Corporation funds, or to a proposed action that could result in a cost expenditure that the recipient will charge to Corporation funds, within sixty (60) days of receipt by the Office of Monitoring, Audit, and Compliance of a request for such approval, or within thirty (30) days of the receipt by that Office of all requested information about the proposal. The Corporation must make written request for additional information within forty five (45) days of the receipt by the Office of Monitoring, Audit, and Compliance of the request for approval. This section does not apply to requests for approval made prior to the effective date of this regulation. If the request for prior approval is denied, the Corporation will provide the recipient with an explanation and statement of the grounds for denial.

§ 1630.7 Review and appeal process.

(a) When it questions a cost incurred by a recipient, the Corporation shall give written notice to the recipient and the Chairperson of its governing body stating the dollar amount of the cost and the factual and legal basis for questioning it. Such notice must be provided no more than six (6) years after the recipient incurred the cost or expended the funds.

(b) The recipient may respond with written evidence and argument to show that the cost was allowable, that the Corporation, for equitable, practical, or other reasons, should not recover all, or part of the amount, or that the recovery should be made in installments. If the recipient fails to respond within thirty (30) days of its receipt of notice, the cost shall be disallowed.

(c) Within forty-five (45) days of receiving the recipient's written response to the notice of questioned cost, the Corporation shall issue a determination that the cost has been allowed or disallowed and advise the recipient of the method and schedule for collection of any disallowed costs.

(d) Within thirty (30) days after it receives a determination from the Corporation that a questioned cost has been disallowed, a recipient may send a written request for review to the President of the Corporation, stating its reasons in detail.

(e) Within thirty (30) days after receipt of the written request for review, the President shall either adopt, modify, or reverse the determination. The decision shall be based on the written record, consisting of the notice, the recipient's response, the Corporation's determination, the recipient's request for review, and any response and analysis sent to the President by Corporate staff. The decision of the President, or his or her designee, shall become final upon receipt by the recipient of written notice of the decision. The Corporation shall send a copy of the staff's response and analysis to the recipient at the time it sends the President's decision.

(f) If the President has had prior involvement in the consideration of the issue, another executive employee who has had no prior involvement shall be designated to hear and decide the request for review.

§ 1630.8 Recovery of disallowed costs.

After completion of all action under § 1630.7, the Corporation shall recover, in the form of a reduction in future grant checks or direct payment or otherwise, an amount not to exceed the total disallowed cost and any additional income derived from activities supported or assets purchased by means of the disallowed cost.

§ 1630.9 Other remedies; effect on other parts.

(a) In all cases in which a cost has been disallowed by the Corporation, the Corporation shall require that the recipient take the action needed to prevent recurrence of the activity that gave rise to such disallowed cost. In cases of serious financial mismanagement, fraud, or defalcation of funds, the Corporation may take appropriate action pursuant to Parts 1606, 1623, and 1625 of its regulations and shall make such referrals and recommendations as the circumstances warrant.

(b) Recovery of questioned costs by any means under this part is not to be construed to affect permanently the annualized funding level of the recipient, or to constitute a termination of financial assistance under Part 1606, a suspension of funding under Part 1623, or a denial of refunding under Part 1625.

§ 1630.10 Responsibility of subgrantees and subcontractors.

When disallowed costs arise from expenditures incurred under a subgrant or subcontract of Corporation funds, the recipient and the subrecipient or subcontractor will be held jointly and severally responsible for the actions of the subrecipient or subcontractor, as provided in 45 CFR Part 1627, and will be subject to all remedies available under this Part.

§ 1630.11 Time.

(a) *Computation.* Time limits specified in this Part shall be computed in accordance with Rules 6(a) and 6(e) of the Federal Rules of Civil Procedure.

(b) *Enlargement.* The President of the Corporation may, on written request for good cause shown, grant an enlargement of time and shall so notify the recipient in writing.

§ 1630.12 Non-public funds.

(a) No cost allocable to an activity that violates section 1010(c) of the Act or Part 1610 of these regulations may be charged to non-public funds.

(b) The Corporation shall, pursuant to this part, collect from the recipient's Corporation funds an amount not to exceed the amount of non-public funds allocated to such violation and any additional income derived therefrom.

Dated: August 6, 1986.

John H. Bayly, Jr.,

General Counsel.

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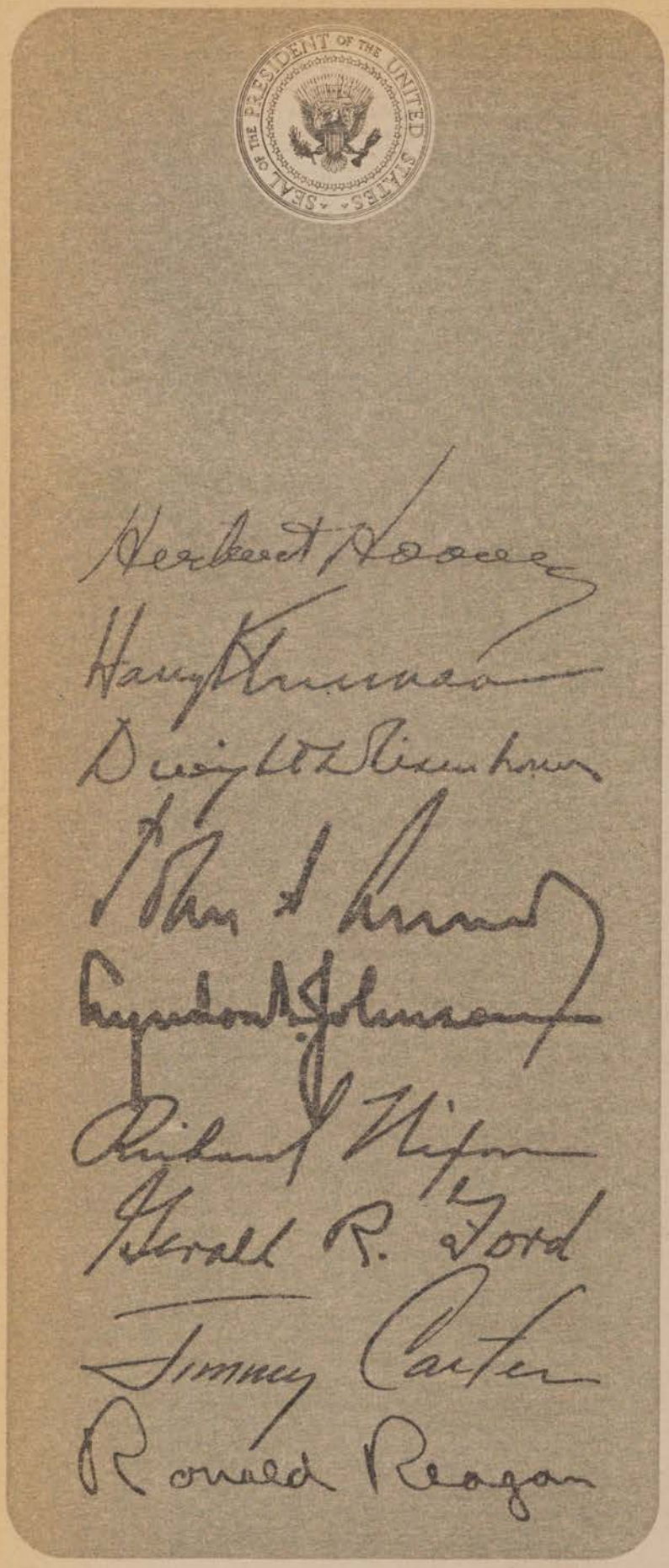
H.R. 1904/Pub. L. 99-377

To provide for the use and distribution of funds appropriated in satisfaction of judgments awarded to the Chippewas of the Mississippi in Docket Numbered 18-S before the Indian Claims Commission, and for other purposes. (Aug. 8, 1986; 100 Stat. 805; 2 pages) Price: $1.00

S.J. 356/Pub. L. 99-378

To recognize and support the efforts of the United States Committee for the Battle of Normandy Museum to encourage American awareness and participation in development of a memorial to the Battle of Normandy. (Aug. 8, 1986; 100 Stat. 807; 1 page) Price: $1.00



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